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ORIGINAL: ENGLISH

SIXTH COMMITTEE: ORGANIZATION

SUB-COMMITTEE ON ARTICLE 81 (THE TARIFF COMMITTEE)

SUMMARY RECORD OF THE SECOND MEETING

Held 30 December 1947 at 10.30 a.m.

Chairman: Mr. MACHADO (Cuba)

Mr. BENDA (Czechoslovakia) said that several important problems arose in connection with paragraph 2 of Article 17 which was bound up with Article 81. The first problem concerned the membership of the Tariff Committee. It was possible that a Member had negotiated mutually advantageous tariff concessions with certain other Members before joining the Organization. Would this Member, before being entitled to membership of the Tariff Committee, be required to re-negotiate these concessions. The second problem was concerned with the jurisdiction of the Tariff Committee. If one Member failed to conclude negotiations with another Member under Article 17, the Tariff Committee might authorize the second Member to withhold certain benefits from the first Member. However, the first Member would still be bound by the provisions of the Charter to extend benefits to the second Member although receiving nothing in return. Although this situation was unfair, nothing could be done. It seemed only just that there should be a provision for appeal from the decisions of the Tariff Committee to the Conference in such a case. There should be no recourse to the International Court of Justice as such questions would generally be economic. Decisions of the Tariff Committee to withhold benefits from a Member should be the subject of a qualified majority vote. In view of the close connection between Articles 17 and 81 he suggested that either the discussion of Article 81 should be postponed until Article 17 had been drafted or a joint sub-committee should be set up.

Mr. KOJEVE (France) agreed that it was impossible to separate Article 81 from Article 17 and from other articles. He had already reserved his position upon Article 81 until he could compare the text of the Charter with the text of the General Agreement on Tariffs and Trade.

Mr. PARANAGUA (Brazil) agreed that it was impossible to discuss Articles 17 and 81 separately.

Mr. MONDELLO (Italy)

Mr. MONDELLO (Italy) supported the suggestion to establish a joint sub-committee.

Mr. STINEBOWER (United States) thought that the sub-committee should suspend its work until Article 17 had been drafted.

Mr. AMADOR (Mexico) agreed that the sub-committee should suspend its meetings. He pointed out that Mexico and probably some other countries would be unable to accede to the General Agreement on Tariffs and Trade unless its text was identical with that of the Charter.

Mr. PARANAGUA (Brazil) said that as soon as the Charter was accepted Part II of the General Agreement on Tariffs and Trade would be superseded insofar as it was contradictory to the Charter.

Mr. KOJEVE (France), replying to the delegate of Brazil, stated that the delegation of France at Geneva had had the point of view the delegate of Brazil had expressed but this point of view had not been accepted. The General Agreement on Tariffs and Trade now provided that Part II would be subject to examination and revision by unanimous agreement should its provisions differ from the Charter.

The sub-committee agreed to suspend its meetings until the text of Article 17 had been drafted by the Third Committee.

Mr. AMADOR (Mexico), speaking personally, reiterated that if the text of the General Agreement differed from the text of the Charter the Mexican Senate would not be able to approve accession to the General Agreement. He thought that Article XXIX of the General Agreement implied that in case of contradiction with the Charter the signatories of the General Agreement would be relieved of their obligations under it.

Mr. KOJEVE (France) queried whether a country which, by accepting the General Agreement on Tariffs and Trade, had incorporated it in its constitution could propose amendments to the Charter at Havana.

The CHAIRMAN explained that in Cuba a treaty, upon ratification, did not become a part of the constitution but stood side by side with it. The Cuban Government would not submit the General Agreement on Tariffs and Trade for ratification until after the Charter had been drawn up.
