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PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

COMMITTEE II

Fourth Meeting
held on Tuesday, 29 October 1946 at 3 p.m.

Chairman: Dr. COOLEY

1. Continued Discussion of Articles 6 and 18 of the Suggested Charter

Mr. HAWKINS (United States) made a statement concerning a number of questions raised by members of the Committee during the previous meetings.

He said that the last sentence of paragraph 1 of Article 6 related solely to the awarding of contracts and not to purchases of products. The latter were covered by the preceding sentence of paragraph 1. Rules with respect to governmental purchasing for resale were included in Article 26.

From the point of view of borrowing countries, tied loans were not contrary to the last sentence of Article 5 paragraph 1, provided that all countries were given opportunity to extend similar arrangements.

He was not sure whether, from the point of view of the lending country, tied loans were consistent with the purposes of the Charter.

The obligation to accord fair and equitable treatment in awarding contracts applied to both central and local governments where the central government was traditionally or constitutionally able to control the local government. Although he could not speak decisively, he thought that the United States Government would be able to control actions of states in this matter.

Crown companies procuring supplies solely for governmental use would be subject to the provisions of Article 6, paragraph 1, and Article 9. Crown companies purchasing for resale would be covered

by Article 26.

The United States agreed to the suggested deletion of the words "by or" near the end of the first sentence of paragraph 1 of Article 9.

Sub-paragraph (a) of paragraph 2 in Article 8 excepted tariff preferences only. Paragraph 2, Article 8, would mean in effect that tariff preferences subject to negotiation would be those in existence on 1 July 1939 or those of 1 July 1946 whichever was lower. The 1939 date recognized the existence of long-established preferences; countries enjoying such preferences would not be required to abandon them without receiving concessions in return. Preferences established since 1939 or increases in preferences effected since that time would be automatically eliminated. If preferences had been reduced or abolished since 1939, such preferences could not be restored to the previous level for purposes of negotiation. If the Committee preferred, however, the United States would be willing to drop reference to 1946 with a view to basing negotiations on 1939 preferences. He was not willing to accept preferences existing at the time of negotiations as the basis for such negotiations; if that were done, preferences remaining after negotiations might be as high as, or higher than, those of 1939.

He did not agree that preferences which had been agreed upon but had never been put into practice should be covered by the exception in paragraph 2 of Article 8; these differed from long-established preferences in that they had not created patterns of trade and hence did not constitute a basis for negotiations.

The establishment of permanent regional preferences would probably create hostile economic blocs and reduce the volume of world trade.

Preferences instituted as a step toward the establishment of a customs union would have all the disadvantages of preferences

without any of the advantages of a genuine customs union. There was a wish that these preferences would not proceed beyond the transitional stage. The suggested Charter permitted the establishment of real customs unions, since the development of free trade areas contributed to the overall expansion of world trade.

The United States did not object in principle to open preferential conventions, but in practice it was doubtful whether such conventions would be truly open to all countries.

Denial of most-favoured-nation treatment to goods produced by sweated labour might make bad working conditions worse by destroying the markets of low-wage areas. Widespread discrimination, restriction of trade and international friction might result.

Nations actually participating in tariff negotiation would decide what constituted a "substantial reduction". As much value should be attached to binding a low rate as to reducing a high one.

With respect to the question which had been asked with regard to the withholding of benefits from countries which did not agree to adequate tariff reductions (paragraph 3 of Article 18), he pointed out that it was envisaged that Preparatory Committee members would negotiate tariff-reduction schedules among themselves. Nations other than the original eighteen, desiring to obtain benefits provided in the Charter, would be required to enter into similar negotiations for tariff reductions. Reductions already affected by the eighteen countries would provide a standard by which an interim committee, provided for in Article 56, would judge whether or not nations other than the original eighteen could fulfil their obligations. Paragraph 3 of Article 18 was designed to ensure that obligations were fulfilled.

Countries more directly concerned should give preliminary consideration to the question of whether quota-based preferences

should be subject to negotiation and not automatically abolished.

A reduction in a preferential rate of duty would be consistent with Article 18, 1, (b), provided that an equivalent reduction was made automatically in the most-favoured-nation rate. Furthermore, if the most-favoured-nation rate was reduced by negotiation, the preferential rate might also be reduced, provided that the margin of preference was not greater than the difference between the reduced most-favoured-nation rate and the 1939 preferential rate.

Under the provisions of Article 8 Australia would not be able to negotiate to obtain preferences which had in the past been extended to other Empire countries but not to Australia.

Although it would not be wise to lay down a rigid rule, negotiations for tariff reduction would be confined in the main to products of which participating countries were the principal suppliers.

In the matter of possible escape clauses providing for remedial action in cases where serious injury was caused as a result of a reduction in a preference, Article 29 as drafted would not apply. He would be prepared to discuss the matter in connection with the general consideration of escape clauses. He pointed out, however, that under the provisions of paragraph 2 of Article 55 the Conference could determine criteria and set up procedures for waiving obligations of members undertaken in Chapter IV. Obligations concerning reduction of preferences were included in Chapter IV.

Article 8 and paragraph 5 of Article 10 would prohibit the limitation of most-favoured-nation rates to direct shipments. These provisions were sound, since trade should always use the most convenient and economical routes.

Mr. AUGENTHLER (Czechoslovakia) asked, in connection with the provisions for tariff reduction, what the situation would be with respect to countries with unstabilized currencies.

Mr. HAWKINS (United States) referred to the functions of the International Monetary Fund. If there was a danger that tariff reductions would be upset by changes in the value of currencies, a clause might be added to the Charter, similar to the provisions in the bilateral agreements of the United States, which would permit reconsideration of rate reductions in the light of circumstances.

Mr. BARADUC (France) asked whether the last sentence of paragraph 1 of Article 8 would apply to the grant of concessions to nationals of the state awarding the contract.

Mr. HAWKINS (United States) said that it would not, and that the sentence in question granted most-favoured-nation, but not national, treatment.

Mr. BARADUC (France) said that France would have to insist that the preferences negotiated should be those of 1939. Although metropolitan France and the French overseas territories lacked economic uniformity there were various types of tariff arrangements within that unity as a result of the system as it was in 1939 is the only basis for the kinds of preference which were to be subject to negotiation.

Mr. DIMECHKIE (Lebanon) deprecated the contention of the United States that hostile economic blocs would develop out of regional systems of preferences. The purpose of regional preferences was to give a wider market for the developing industries of less industrialized countries. He disagreed with the opinion of the United States Delegate that the difference between preferences and customs unions was so great as to be a difference in kind. A customs union was no more than an extreme form of preference. Regional preferences would stimulate production and trade. They were easier to administer than customs unions, and did not involve difficulties with respect to sovereignty, administration and of revenue. Preferential arrangements were necessary as a transitional stage in the establishment of a customs union. The position taken by the United States delegate would leave undeveloped countries condemned to poverty.

Mr. SPEEKENBRINK (Netherlands) said that "open conventions" were a very important point. The Netherlands Delegation had submitted a document (E/PC/T/C.II/20) in which they had put on record their opinion that preferences should as a rule be limited both in number and extent. Assuming that the present Conference was successful in evolving a set of rules, he suggested that preferences in the participating countries should be given the possibility to expand, so as to be applicable - on a reciprocal basis - to an increasing number of States and, as a final stage and an ultimate end, to all countries. Should this be impossible, the margins of preferences should be gradually diminished and ultimately abolished, the only exception being a custom union as defined in the Charter.

The Netherlands Delegation accordingly suggested that the Preparatory Committee should study the possibility of admitting "open conventions" within the framework of the Charter, and should establish a set of rules applicable to multilateral agreements. The rules should imply acceptance by the participating countries of the ruling of the International Trade Organization and of the International Court of Justice in the settlement of disputes.

The COMMITTEE agreed to refer Article 8 and 18 to the Drafting Committee on procedure, with the exception of the question of negotiation for reduction of quota-based preferences: the latter to be discussed by the countries concerned, i.e., United States, United Kingdom, New Zealand, Australia and Canada, the which countries were to report on the matter to Committee II or to the Drafting Committee.

Mr. RODRIGUES (Brazil) felt that Brazil's view on the most-favoured-nation provisions of the Charter had been misunderstood by the Sub-Committee on Procedure.

The CHAIRMAN suggested that, if so, the Chairman of the Sub-Committee should invite the Delegate of Brazil to participate in the discussion of this matter.

2. Discussion of Quantitative Restriction

The CHAIRMAN suggested that the discussion should deal first with Articles 19, 21 and 22, and that questions concerning restrictions to restore balance of payments equilibrium (Article 20) should be postponed. He called on Mr. HAWKINS for the views of the United States Delegation.

Mr. HAWKINS (United States) said that the basic provisions of the Charter with respect to quantitative restriction were included in the first paragraph of Article 19. That paragraph prohibited the use of quantitative restriction. That general rule was subject to a number of exceptions.

Sub-paragraph (a) of paragraph 2 (Article 19) permitted quantitative restrictions during the post-war transitional period, where such restrictions were necessary to provide for equitable distribution of short-supply items, or where they were needed to achieve orderly liquidation of surplus government stocks. Thus a government could keep out imports until surplus stocks had been disposed of for the purposes of sub-paragraph (a). The transitional period would end on 1 July 1949, though in special circumstances and with the concurrence of the ITO. it could be extended for successive six-month periods. Sub-paragraph (b) of paragraph 2 in the same Article would permit restrictions on exports to relieve serious conditions of distress caused by shortages of essential products.

Sub-paragraph (c) would permit import or export restrictions on sub-standard products. Thus, a member could restrict exports in order to protect the reputation of his products. Or it might keep out imports of sub-standard products in order to protect consumers.

Sub-paragraph (d) included an exception for commodity agreements pursuant to Chapter VI of the Charter.

Sub-paragraph (e) would permit restrictions on imports in cases where there were equivalent restrictions on domestic production. It would also permit import restrictions in cases when a country was making temporary surpluses of products available to consumers free of charge or at reduced cost.

Article 21 provided rules for the administration of such quantitative restrictions as would be permitted under the exceptions already described. Such restrictions should be administered in a non-discriminatory manner; to this end a member should use one of three methods:

(a) it could establish a global quota which would not be allocated according to source or supply. Actual importation could be left to traders who would choose the source of supply on the basis of commercial considerations;

(b) it might allocate a global quota to sources of supply on the basis of a past representative period. It should be willing to consult with interested countries with respect to the representative period chosen;

(c) it could establish a licensing system which would not involve either a global quota or allocate a quota among sources of supply. In this case the importers would choose the sources of supply on the basis of commercial considerations. Full information would be made available with respect to licences granted in the past.

Article 22 provided exceptions from the no-discrimination rule in the administration of quantitative restrictions. Members would not be precluded from applying restrictions on imports from a country the currency of which had been declared scarce by the International Monetary Fund. An exception was also provided for cases where discrimination would be necessary to the maintenance of the common par value of the currency of territories having a common quota in the Fund. Discrimination would be permissible in order to allow of the use of inconvertible

currencies. The purpose of the 31 December 1948 time limit in connection with the latter exception was to prevent countries from accumulating such currencies. Reconsideration of that date would be possible under the provisions of paragraph 2 of Article 55.

Mr. VIDELA (Chile) drew attention to the problem of defining "like products" as specified in Articles 9 and 19. He also referred to the words "any agricultural product" in paragraph 2 (e) of Article 19. He felt that this provision would put the agricultural countries at a grave disadvantage, and therefore, tentatively, proposed that the word "agricultural" be deleted. He was anxious to know whether the exception provided in sub-paragraph (a) of paragraph 2, Article 8 covered preferences based on quotas. It would help the discussion if it were made clear that that exception had nothing to do with quotas.

The CHAIRMAN replied that sub-paragraph (a) of paragraph 2 of Article 8 referred to preferences in the form of tariff margins and not quotas.

Mr. VIDELA (Chile) pointed out that a sub-committee was considering the general question of using past representative periods as a basis for allocation of other actions.

The delegate for South Africa questioned the desirability of prohibiting quantitative restrictions on the one hand and condoning them by including a long list of exceptions on the other. He pointed out in this connection that, since South Africa imposed restrictions on the domestic production of wine, it might under the provisions of the Suggested Charter restrict imports of raisins. If quantitative control were prohibited, many countries might turn to state trading in order to accomplish the same ends. Would that be desirable?

Mr MCCARTHY (Australia) felt that the use of quantitative restrictions was necessary in connection with the maintenance of effective price controls in Australia. In some cases domestic prices might differ from world market prices. If the domestic price was lower, export restrictions would be required to prevent undue depletion of domestic supplies. On the other hand, if the domestic price was higher, restrictions would be necessary to prevent the flooding of the Australian market. An appropriate exception should be incorporated in the Charter permitting the use of quantitative restrictions in connection with the enforcement of price controls.

With reference to sub-paragraph (d) of paragraph 2 of Article 19, which provided an exception for commodity agreements in accordance with the provisions of chapter VI, he pointed out that a possible international arrangement concerning wool might be entered into outside of the framework provided in chapter VI. He wanted to keep the question open until after consultation with the other parties concerned. He felt that the provisions concerning the use of quantitative restrictions should be amended so as to permit the use of quantitative restrictions for protective purposes in special cases. In some cases a high protective tariff might exclude all imports, whereas a quota would allow some imports and perhaps lower prices.

With respect to sub-paragraph (e) of paragraph 2 of Article 19, he feared that the present wording might allow serious loopholes. For example, by maintaining an insignificant internal restriction a country might claim the right to impose embargo on imports. He was simply raising the question which could be considered by the Drafting Committee.

Mr DEUTSCH (Canada) indicated that Canada, like Australia, had the problem of maintaining price controls at the same time as neighbouring countries were not enforcing such controls. He felt that in considering the question of a past representative period (Article 19, paragraph 2 (e)) consideration should be given to the tariff situation prevailing in such a period.

Mr. JOHNSEN (New Zealand) said that his delegation had submitted a document (No. E/PC/T/C.II/22) which contained proposals for an addition to Article 19 designed to cover countries such as New Zealand.

In view of New Zealand's high productivity and small population, only a relatively small proportion of the products of her primary industries were consumed within the country, the balance being exported.

As to her secondary industries, they had been limited, not only by the relatively small domestic market, but also by the fact that many basic raw materials had to be imported. Her import requirements were therefore heavy and covered a wide range, which included both consumption and capital goods.

To provide for such requirements, a satisfactory market for export products was essential.

New Zealand had a very high level of overseas trade - both imports and exports - in relation to her population. In 1938 her total merchandise trade per head of population was twice that of the United Kingdom and seven times that of the United States.

That gave a fairly clear indication of New Zealand's abnormal sensitivity to conditions which affected her overseas markets.

It had also become apparent that, in order to provide employment for her increasing population, there was need for a diversification of her economy. The scope for increased employment in primary industries was limited, owing to the increased use of improved machinery.

An endeavour had to be made to find other avenues of employment; and the only scope in that direction was the development of suitable secondary industries.

The consideration of quantitative or qualitative import control involved two issues from the point of view of New Zealand and countries in a similar position.

Costs of primary producers should be kept as low as possible to enable New Zealand's primary products to compete in overseas markets. It was therefore desirable that the cost of manufactured goods which were

used by such producers should not be inflated through high tariffs.

A tariff was an inflexible implement. There could be no certainty as to its effectiveness, unless a high enough rate was fixed to make it absolutely prohibitive. That was undesirable, as some imports would have to be permitted as a competitive factor. Furthermore, duties might have to be applied to a wider range of goods than might be available from local industry. It was not normally possible to alter the tariff to meet circumstances of such a nature.

Another factor in the use of tariffs was the difficulty in determining at the outset what would prove a reasonable and adequate margin of protection. That applied also to subsidies. The New Zealand delegation were of the opinion that the use of qualitative regulation of imports as an aid to development of industry had much to commend it.

With respect to the general use of import control, the policy of New Zealand was one of full employment and improved standards of living. As a result, there was a high level of spending power in the country, and a consequent strong demand for consumption goods of all classes, many of which were imported. At the same time, under a policy of planned national development, large importations of industrial equipment and materials had to be made.

There was little doubt that in the circumstances there would be constant pressure on oversea funds; and it was therefore desirable to give priority to the more essential imports.

New Zealand's sensitivity to oversea conditions, her dependence on a narrow range of exports, and her heavy import requirements made it necessary for her to have constantly available a considerable amount of oversea funds, as well as means to control the position. It would not be possible periodically to institute and remove controls. That would have too disturbing an effect on trade.

He felt that any control exercised over imports should be operated with a view to expanding trade; i.e. all funds available for that

purpose should be expended on imports. Subject to that condition being observed, he considered that the maintenance of quantitative or qualitative regulation of imports was justified, and that provision should be made to that effect.

He pointed out that paragraph 2 of Article 21 provided that quotas be allocated on the basis of a past representative period. He wondered why a licensing system should not also be based on a representative period.

Mr. HAWKINS (United States) replied that in the case of licences the rule of non-discrimination operated automatically since the trader obtaining the licence would be free to purchase on the basis of purely commercial considerations.

Mr. JOHNSEN (New Zealand) said that New Zealand granted licences on the basis of a previous period.

Mr. HAWKINS (United States) said that New Zealand was actually allocated a global quota within the meaning of the Charter.

It was agreed that the Committee would meet on Wednesday, 30 October 1946.

The meeting rose at 6.25 p.m.
