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SOCIAL COUNCIL**

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PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE  
ON TRADE AND EMPLOYMENT

COMMITTEE II

TECHNICAL SUB-COMMITTEE

Fourth Meeting  
Held on Tuesday, 5 November 1946  
at 3 p.m.

Chairman: Mr. VIDELA (Chile)

1. Discussion of Article 10 of the Suggested Charter

Mr. JOHNSON (United States) said that it had been suggested that paragraph 5 of Article 10 should be separated from the rest of Article 10 for purposes of discussion on the grounds that that paragraph did not deal directly with the question of transit. He felt however that the paragraph should be discussed in connection with Article 10.

Mr. ROUX (France) thought that discussion of paragraph 5 should be postponed, since it covered matters not falling within the subject of transit. Paragraph 5 dealt with the question of treatment to be accorded to products by the importing country after transit had been completed.

It was agreed to discuss the provisions of Article 10 in the order in which those provisions had been dealt with in the report of the Rapporteurs (E/PC/T/C.II/W.11).

Mr. NEHRU (India) said that the principle underlying Article 10 was that there should be no discrimination as between traffic of domestic products and foreign products in transit. He suggested that paragraph 1 should be amended to read:

"There shall be freedom of transit through member countries for the products of other members via such routes as may be open to traffic in products of like kind and quality of national origin."

Mr. JOHNSON (United States) said that the amendment proposed by the delegate for India would greatly limit the scope of the paragraph.

Mr. NEHRU (India) asked for a definition of the expression "routes most convenient."

Mr. JOHNSON (United States) replied that the expression would be interpreted in accordance with the basic principle of the Charter which was non-discrimination. The question of protection for national interests could best be dealt with in Article 32.

Mr. ROUX (France) pointed out that under the Barcelona Convention if a particular means of transportation was not available there would be no obligation to provide it.

Mr. Van Den BERG (Netherlands) thought that the provisions of Article 2, paragraph 1, of the Barcelona Convention, signed by twenty-five countries, should be inserted in the Draft Charter.

Mr. JOHNSON (United States) suggested that the suggestion of the Netherlands (and Belgium) should be referred to the drafting committee. Specific enumeration was a drafting matter.

Mr. Van Den BERG (Netherlands) replied that he was concerned about matters of principle, not just drafting. The Suggested Charter had made no mention of the Barcelona principles of non-discrimination and facilitating traffic.

Mr. JOHNSON (United States) called attention to the table in the Rapporteurs' Report which compared the provisions of Article 10 with those of the Barcelona Convention. The Sub-Committee might report to the main Committee (Committee II) that certain delegates had proposed inclusion of provisions similar to those of the Barcelona Convention.

At the request of the Delegate for India, Mr. Van Den BERG (Netherlands) read a list of nations adhering to the Barcelona Convention.

Mr. RHYDDERCH (United Kingdom) felt that there was no reason for concern if the Charter did not override or abrogate the Barcelona Convention.

The CHAIRMAN suggested that some general reference to the Barcelona Convention might be made in the first paragraph of Article 10.

Mr. JOHNSON (United States) felt that the Sub-Committee should record the views of the various Delegations. The drafting committee would take such views into account.

Mr. Van Den BERG (Netherlands) thought that inclusion of the Barcelona principles would make the Charter more complete and precise. He hoped that the Sub-Committee could agree to the principle of incorporating as many of the Barcelona principles as were agreed to into the Charter.

The Delegates for France, Belgium, Czechoslovakia, and Cuba supported the position taken by the Delegate for the Netherlands.

It was agreed that the matter should be left to the drafting committee, which would give due consideration to the desire of the Netherlands, France, Belgium, Czechoslovakia, and Cuba that principles of the Barcelona Convention which were generally agreed to should be incorporated into the Charter.

Mr. MORTON (Australia) said that he assumed that the expression "or similar charge" in paragraph 2 did not include harbour dues or wharfage rates.

Mr. JOHNSON (United States) said that the expression referred to by the Australian Delegate relating to transit charges and not to charges imposed in connection with arrival. Matters of port handling were outside the scope of paragraph 2. It was not the intention to give a special preference or exemption to transit merchandise.

Mr. CHERRY (South Africa) asked whether a stamp duty on a transit bill of entry would be prohibited. He thought this point should be made clear in paragraph 2.

Mr. ROUX (France) pointed out that Article 3 of the Barcelona Convention did not permit any confusion on this point. It permitted

taxes only to cover the cost of administration.

Mr. NEHRU (India) wondered whether paragraphs 2 and 3 were consistent; the former provided that traffic in transit should be exempt from various taxes and charges; the latter, that charges should be reasonable.

Mr. JOHNSON (United States) said that paragraph 2 related to special taxes on transit activities. Paragraph 3 related to normal charges (e.g. charges of state-owned railways) and charges imposed to meet costs of administration.

Mr. NEHRU (India) said that India collected a customs deposit on goods in transit at the time such goods entered the country; the deposit was refunded when the goods left the country. Was that permissible under paragraph 2?

Mr. MA (China) asked if a high transportation charge on goods in transit would be considered reasonable, under paragraph 3, if the charge was no higher than that charged on the transportation of domestic goods.

Mr. JOHNSON (United States) said that it was conceivable that a rate on goods in transit might be considered unreasonable even if it was no higher than the rate charged on domestic goods. But in most cases it would be difficult to maintain that a rate was unreasonable, if it was no higher than that applied to domestic goods.

Mr. JOHNSON (New Zealand) was surprised that the United States Delegate had interpreted "all charges" to apply to freight rates of government-owned railways.

Mr. JOHNSON (United States) said that paragraph 3 would clearly prevent unreasonable discriminatory rates on foreign goods in transit. Non-discrimination would generally be the best test of reasonableness.

Mr. ROUX (France) thought that the Article should provide, as the Barcelona Convention did, that tariffs should be such as to facilitate transit.

Mr. CHERRY (South Africa) said it should be made clear that all the charges referred to in paragraphs 2 and 3 were transit charges.

Mr. JOHNSON (United States) replied that the objective of the Charter was to eliminate trade restrictions, and that therefore paragraph 3 should be applicable to transportation charges by government-owned railways. An unreasonable charge, even if non-discriminatory, would obstruct trade.

Mr. Van Den BERG (Netherlands) agreed with the United States Delegate.

He pointed out (in connection with paragraph 4) that there were certain conventions relating to simple formalities with respect to goods in transit through the Netherlands and from Germany to the sea. The Charter should not suspend or modify these conventions.

Mr. JOHNSON (United States) replied that, if traffic over the particular routes in question was open to products of all countries on the same terms, regardless of whether it was, or was not, likely that other countries would take advantage of such terms, there would be no conflict with paragraph 4.

Mr. CHERRY (South Africa) said that South Africa had presented a reservation with respect to that paragraph in paper W.9.

Mr. MORTON (Australia) thought that paragraph 5 should be considered in connection with the discussion of the most-favoured-nation provisions of the Charter and the question of the terms "country of origin" and the "country of exportation."

Mr. MA (China) suggested the following amendment at the end of paragraph 5:

"Provided that the products which have been in transit can be identified at their destination to the satisfaction of local customs authorities as to their origin or country of export."

Otherwise, China was agreeable to the basic principle of the paragraph.

Mr. SIMS (Canada) thought that the point of the Chinese Delegate.

was well taken. Because of the provisions of paragraph 6, there might be considerable delay before goods finally arrived at the importing country. That might cause considerable administrative difficulty.

Canada extended a preference to British goods which were shipped direct to Canada. He asked whether that preference would be reserved for negotiation.

Mr. ROUX (France) thought there could be no agreement on paragraph 5 at present because of the differences in the legislation and administrative regulations of the various Member countries. The question should be referred to the drafting committee.

Mr. MORTON (Australia) said that in view of existing preferential arrangements Australia could not agree to paragraph 5, unless it was understood that the goods in question had not entered into the commerce of a third country.

Mr. JOHNSEN (New Zealand) supported the position taken by the Australian Delegate. Goods could be considered in transit, for purposes of preferences, only if they were originally destined for the importing country.

Mr. JOHNSON (United States) described the "foreign trade zone" at New York. When goods entered the zone, there was no requirement that their ultimate destination should be disclosed. He asked the Australian and New Zealand Delegates whether goods, which had been in the zone, would be considered to have entered the commerce of the United States?

Mr. MORTON (Australia) answered in the affirmative. Under Australian practice, it had to be established that it was the intention to ship the goods to Australia by the most convenient route, if possible on a through bill of lading. To get preferential treatment, goods had to be in the process of transit from the time of their exportation.

Mr. RHYDDERCH (United Kingdom) said that the position of the United

Kingdom was very similar to that of Australia.

Mr. STILES (Canada) also supported the answer which the Australian Delegate had given to the question asked by the Delegate of the United States.

Mr. JOHNSON (United States) outlined the present practice of the United States with respect to the question of origin:

1. For purposes of granting most-favoured-nation treatment, the United States recognized the origin of the goods, regardless of where the goods had been;
2. With respect to the recording of preferential rates to Cuban products, the United States recognized Cuban origin if the goods hadn't entered the commerce of a third country;
3. With respect to valuation of goods for duty, the United States applied the same doctrine of origin as had been described by the Australian Delegate.

Mr. MORTON (Australia) said that the Australian direct transit requirement applied only to the preferential arrangements.

Mr. JOHNSON (United States) suggested that the Sub-Committee should draft a report on paragraph 5 of Article 10, to be submitted to the drafting committee of the Conference next Spring. The report should state that paragraph 5 in its present form presented special difficulties for countries with preferences and for countries having ad valorem bases for determining valuations for duty.

If the same procedure was adopted with regard to paragraph 6 of Article 10, it should be remembered that that paragraph provided the definitions for paragraphs 1 - 4 of the Article. Suggestions made with respect to paragraph 6 would thus be relevant to paragraphs 1 - 4.

Mr. NEHRU (India) said that he had not yet received a reply to his question with respect to paragraph 2.

In his opinion the Sub-Committee should confine its consideration to general principles.

Mr. Van Den BERG (Netherlands) said that the Netherlands had preferential arrangements which gave rise, in connection with the transit provisions of the Charter, to difficulties much the same as those already described by the Delegates of Australia, Canada, New Zealand, and the United Kingdom.

Mr. JOHNSON (United States) in reply to the question asked by the Indian Delegate, said that the Indian requirement for a customs deposit did not violate the spirit of paragraph 2.

Mr. MORTON (Australia) thought that problems raised in connection with paragraphs 5 and 6 related only to the administration of preferential arrangements. The difficulty might be met by adding the following clause to paragraph 6:

"Nothing in paragraphs 5 and 6 of this Article shall be interpreted to preclude the right of any Member to determine the procedure for the entry of goods under existing preferential arrangements."

The CHAIRMAN felt that the Sub-Committee should not try to draft specific amendments. He did not think that further discussion of paragraph 5 was necessary.

Mr. JOHNSON (United States) suggested that Delegations might wish to submit written statements of their views with respect to the paragraph; such views would be covered in the Sub-Committee's report.

Mr. ROUX (France) agreed that the report of the Sub-Committee should indicate that there were differences of view with respect to paragraph 5.

Mr. NEHRU (India) said that the specific reservations of the Indian Government with respect to the deletion of the word "persons" from paragraph 6 had not been recorded in the report of the Rapporteurs.

Mr. JOHNSON (United States) said that the draft report had been prepared before the change of procedure had been agreed upon by the Heads of Delegations.

Mr. SIMS (Canada) assumed that it would be reported that the

Sub-Committee had agreed that the word "persons" would be deleted from paragraph 6.

The CHAIRMAN said that the report should indicate that the Delegate for India had reserved his opinion.

Mr. JOHNSON (United States) said that in view of the agreed change of procedure, the Rapporteurs would prepare a new report to take the place of the present one.

Mr. LOPES RODRIGUES (Brazil) called attention to the words "and other means of transport" in paragraph 6, and said that consideration should be given to the fact that another organization had responsibilities with respect to aviation.

Mr. JOHNSON (United States) understood that the Sub-Committee would recommend unanimously that aircraft should be excepted from Article 10.

## 2. Discussion of Article 17 on Boycotts

Mr. JOHNSON (United States) stated that the Rapporteurs had prepared a report on Article 17, summarizing the various points of view of the Delegations. That report had not yet been circulated.

Several countries had asked whether Article 17 was intended to forbid governmental support of campaigns to encourage the use of domestic products.

He said that the Brazilian, Norwegian, Netherlands and Belgian Delegations thought that campaigns to promote the buying of national products should not be objected to. Lebanon considered boycotts for political or moral reasons justifiable, and Chile wanted cases which might be considered as boycotts to be more clearly defined. Australia would not agree with Article 17, unless it was clearly indicated that the prohibition was only against Government action towards support of boycotts. India thought that boycotts would only prevail under a rigidly controlled import system. India would not accept this portion of the United States proposal, unless it was confined to boycotts directed against the state with which it had trade relations.

Mr. MORTON (Australia) felt that the term "political entities", as

used in Article 17, was not clear. He doubted whether any government should be asked to take measures to discourage campaigns by such vague groups as "political entities".

Mr. JOHNSON (United States) explained that what was meant by that expression was subsidiary governments.

Mr. SIM (Canada) thought that that was a matter for the Drafting Committee, as it arose throughout the Charter.

Mr. Van Den BERG (Netherlands) asked whether a national campaign to encourage national production would be contrary to Article 17.

Mr. JOHNSON (United States) replied that he was sure that the intention of Article 17 was to preclude governmental support of "buy domestic" campaigns.

Mr. SIM (Canada) felt that in that case there would be general dissent from the Article. He had understood the intention of the Article to be to prevent governmental support of campaigns for discrimination against any particular country. He wanted to know if a government could keep a law on its statute books, the effect of which was to advocate "buying domestic".

Mr. JOHNSON (United States) replied that the question was answered in Article 9 of the Charter with its reference to "laws and regulations governing the procurement by governmental agencies of supplies for public use".

Mr. LOPES RODRIGUES (Brazil) did not think the Charter ought to prohibit campaigns of the type prevalent in Brazil, which emphasized the value of domestic products.

Mr. MORTON (Australia) asked if a "Use More Wool" campaign would be interpreted as an effort to boycott foreign cotton goods.

Mr. JOHNSON (United States) replied that governmental support of a campaign directed to induce consumers to use domestic wool instead of foreign cotton would be contrary to the Charter.

Mr. MA (China) expressed his personal view that weaker countries

should be allowed to resort to boycotts as a means of self-defence.

Mr. CHERRY (South Africa) said that South Africa desired to reserve her position.

Mr. JOHNSON (United States) stated that, as the Sub-Committee was so strongly in favour of permitting governments to support "buy domestic" campaigns, a report to that effect should be submitted to Committee II.

Mr. CEBERIO (Cuba) was in agreement with the Article as drafted. He supposed that Article 17 only provided that governments should not encourage "buy domestic" campaigns. Governments would not be required to suppress spontaneous boycotts.

Mr. JOHNSON (United States) agreed with the Delegate of Cuba. He did not think that any government would be required to take steps to suppress spontaneous or private boycotts.

The Sub-Committee agreed that a report should be drafted indicating that the Sub-Committee was of opinion, Cuba and the United States dissenting, that government support of campaigns to promote consumption of domestic products should not be prohibited under Article 17.

3. Date of next meeting

The Committee agreed to hold its next meeting on Wednesday, 6 November, 1946, at 10.30 a.m.

The meeting rose at 6.10 p.m.

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