

PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE
ON TRADE AND EMPLOYMENT

COMMITTEE II

PROCEDURE SUB-COMMITTEE

Second meeting
Held on Wednesday 30 October 1946 at 10.30 a.m.

Chairman: Dr. SPEEKENBRINK (Netherlands)

Discussion of most-favoured-nation treatment

The CHAIRMAN welcomed Mr. Paranagua (Brazil) as an expert on most-favoured-nation treatment.

He drew the Committee's attention to the new text of the last sentence of paragraph 1 of Article 8.

Mr. PARANAGUA (Brazil) was not prepared to press the Brazilian amendment. At the same time he was not without apprehension as to the possible danger of passive resistance of members within the organization who would not comply with obligations. He felt also that it would be unfair to accord the same treatment to non-signatories as to signatory nations. That was why he had suggested amendments (E/PC/T/C.II/6) providing for three main categories of agreements.

The CHAIRMAN said that so far the Committee had been disposed to adhere to the United States version of the most-favoured-nation clause in its discussions. Should that clause be altered?

Mr. PARANAGUA (Brazil) wanted to be sure that countries which had not signed the Convention would not benefit by it.

The CHAIRMAN understood that according to the existing terms of the Charter such nations would not benefit, even if another text were adopted, the principle of the Charter being that only members could benefit.

Mr. LAMILLA (Cuba) understood the Brazilian Delegate was concerned that the clause, in its present state, made no distinction between nations applying most-favoured-nation treatment and those who did not apply it. He believed that four classifications of members should be made:

1. Signatory members who applied the clause.
2. Members who had signed the Charter, but had not fully applied its provisions.
3. Countries which had not signed the Charter, but had applied the clause.
4. Countries which were not signatories, and did not apply the clause.

The Charter provided for all the above cases.

Mr. PARANGUA (Brazil) cited the following example to clarify his argument:

Supposing the United Kingdom, France, Belgium and Holland were to sign an agreement reducing import tariffs on motor vehicles by twenty per cent, the United States, which was not a signatory, would nevertheless receive the benefit from this agreement, as a result of the most-favoured-nation clause.

The CHAIRMAN presumed the Brazilian representative was referring to open conventions.

Mr. HAWKINS (United States) said that there were three main classes of countries to be considered in connection with the most-favoured-nation provisions, namely:

- (a) Members of the Preparatory Committee who would carry out Article 18 by negotiating mutually satisfactory tariff reduction schedules with other countries of the Preparatory Committee. It was hoped that the seventeen countries, which were widely representative, would agree to such tariff reduction schedules, thus setting a standard by which it

could be judged what other countries might be expected to do. Here there was no problem with respect to the most-favoured-nation principle.

(b) Other countries who would be entitled to most-favoured-nation treatment, if they negotiated tariff reduction schedules with any of the seventeen countries. Previous negotiations conducted by the seventeen would have established a standard for concessions which would have to be granted.

(c) Non-member countries which would not receive the benefits of the most-favoured-nation clause. Members could not extend the benefits of the Charter to non-members through bi-lateral agreements with such non-members.

Mr. SHACKLE (United Kingdom) thought it logical that members should not extend most-favoured-nation advantages to non-members. It was only fair that nations not accepting obligations should not receive benefits.

Open conventions entered into by three or four countries would probably reflect the peculiar circumstances of those countries; and therefore it might be difficult in practice for others to join. Thus there would be danger of divisions within the organization. Since it would be difficult to formulate conventions really acceptable to a large number of countries, open conventions were not a wise course.

The CHAIRMAN saw three main difficulties requiring attention. First, there was the problem of open conventions. Then there was the question of non-members; and finally there was the question of how old established commitments with non-members could be terminated after the negotiations among the seventeen countries.

Mr. HAWKINS (United States) felt that Article 31, dealing with relations with non-members, raised difficult and important problems, which it might be easier to handle, after it was known which countries

would remain outside of the organization. The Preparatory Committee might consider it advisable not to adopt Article 31 at the present time. Instead it might submit Article 31 as a draft for consideration by the full Trade Conference. At the time of the Conference it would be more definitely known which countries were likely to stay out of the organization. His suggestion was purely tentative.

Mr. ALAHILLA (Cuba) thought that present consideration should be restricted to application of the most-favoured-nation clause to member countries.

Mr. McKINNON (Canada) thought that the suggestion of the Cuban Delegate would greatly restrict the range of the discussions. He would like the discussion of the treatment to be accorded to precede consideration of the question of who was entitled to receive it.

Mr. ALAHILLA (Cuba) said that Cuba agreed with paragraph 1, Article 8. His suggestion that discussion should be narrowed at the moment was intended to make possible the clarification desired by the Brazilian Delegate. Cuba would be glad to proceed to other matters, if the Sub-Committee so desired.

Mr. LECUYER (France) wondered whether the Sub-Committee should attempt to deal with Article 31. Perhaps it should be discussed in the main Committee (Committee II). The discussions of the Sub-Committee should be limited to relations between members. Paragraph 1 of Article 8 set forth the most-favoured-nation principle in its unconditional form. France supported the unconditional form, since conditional most-favoured-nation treatment was inconsistent with the purposes of the Charter.

The CHAIRMAN agreed that discussion should be limited to relations between members. A letter might be written to the Chairman of Committee II, suggesting that that Committee should discuss the procedure for consideration of Article 31.

Mr. SHACKLE (United Kingdom) thought that limitation of

discussion to relations among members, as suggested by the Cuban Delegate, would not unduly restrict the scope of the discussion. It would be possible to discuss relations between members reducing tariffs and members not reducing tariffs. The discussion might include the proposed obligation of member countries to extend to other member countries benefits which had been accorded to non-members. He thought that the application of most-favoured-nation treatment to members could be based on paragraph 1 of Article 8.

Mr. VIDELA (Chile) said he would have comments to make on paragraph 1 of Article 8, after agreement had been reached on procedure. He supported the Cuban Delegate's suggestion.

Mr. HAWKINS (United States) proposed to limit the discussion to Article 8 and to directly related questions. The Chairman would rule whether subjects were directly related to Article 8.

He further suggested that delegates should present any proposed amendments to the Secretariat, and that the Secretariat should call the Committee's attention to any written amendments. Such amendments should be discussed in the order of the subject matter of Article 8. Actual drafting to be done by the Secretariat.

The CHAIRMAN had one objection to that suggestion. At the last meeting agreement had been reached on the first sentence of paragraph 1 of Article 8. He felt it would be advisable to finish the discussion of that sentence before going on to other topics.

Mr. PARRAGUÁ (Brazil) repeated that he was not insisting on the adoption of his proposed amendment. He had only wanted to make his point of view clear. He felt that the present provisions would tend to paralyse the Charter to some extent. He pointed out in that connection that some countries, particularly American countries, applied very general agreements without providing for specific tariff reductions. Negotiated, specific tariff reductions were more common in Europe than in American countries.

Brazil, like France, was prepared to agree in principle with the general provisions of the most-favoured-nation clause.

He pointed out the similarity between the provisions of the most-favoured-nation clause in the Charter and those incorporated in the League of Nations draft of 1929. From a juridical point of view the League of Nations draft was perfect; and he suggested accordingly that it should be adopted.

The CHAIRMAN felt that the question of which text was to be adopted did not fall within the province of the Committee.

Mr. HAWKINS (United States) felt that a question of such importance could not be decided in an off-hand way. Many changes had occurred in the world since the League of Nations document was drafted. New measures, such as exchange taxes, were not covered by the League of Nations text. He thought it would be necessary to ascertain what subject matter each text covered before deciding which of the two texts was to be adopted.

The CHAIRMAN thought that experts should be asked to make a study of the matter, and report their findings to the Committee.

Mr. PARANGULI (Brazil) argued that, as the clause in the League of Nations draft had been accepted by many nations, and had been reproduced in commercial conventions, the Committee should choose between the drafting in the Charter on the one hand, and the League of Nations draft (brought up to date by the inclusion of new subjects) on the other.

Mr. VIDELA (Chile) seconded the Brazilian proposal.

Mr. SHACKLE (United Kingdom) felt that there was no substantial difference between paragraph 1 of Article 8 of the Charter and the League of Nations draft. He suggested asking the Secretary to study the question, and prepare a paper on any differences which the Committee might like to discuss.

The CHAIRMAN stated that the Secretary was prepared to do so,

and would welcome assistance from members.

Mr. MCKINNON (Canada) thought that further discussion of the second sentence of paragraph 1, Article 8, should be postponed until it had been decided whether the American or the League of Nations wording would be used at the beginning of the paragraph.

The CHAIRMAN pointed out that the Technical Sub-Committee was waiting for the Sub-Committee on Procedures to consider the second sentence. He thought discussion of paragraph 2 of Article 8 should follow consideration of paragraph 1.

Mr. SHACKLE (United Kingdom) suggested that the United States draft of the most-favoured-nation clause should be accepted provisionally so that the Committee could continue with its work. There was little chance that any important difference in substance would be found in the American and League of Nations wording.

The CHAIRMAN suggested that he might consult with the Secretariat concerning the agenda for the next meeting.

In response to a suggestion that Article 9 should be discussed in the Sub-Committee on Procedures, the Chairman said that he would discuss the suggestion with the Chairman of Committee II.

It was agreed that the Chairman should call another meeting of the Sub-Committee for Friday night or Saturday morning.

The meeting rose at 12.35 p.m.
