

TECHNICAL SUB-COMMITTEE

DRAFTING COMMITTEE OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

Sixth and Seventh Meetings, 28 and 29 January 1947, 2:45 p.m.

CHAIRMAN: Mr. R. J. Shackle.

The summaries of the fourth and fifth meetings were considered and approved. No new changes were introduced in the text of the Articles concerned (Nos. 16 and 17), but instructions were given on certain points concerning the final report of the Sub-Committee on these Articles.

Article 18 was discussed. The text provisionally adopted is shown below with amendments underscored. The notes initiated by letters under each paragraph refer to the corresponding items in documents . . .

E/PC/T/C.2/54/Rev.1.

Article 18: Tariff Valuation.

Paragraph 1. "Members undertake to work toward the standard standardization, insofar as practicable, of definition of value and of procedures for determining the value of products subject to customs duties or other charges or restrictions based upon or regulated in any manner by value. With a view to furthering such co-operation, the Organization is authorized to investigate and recommend to Members such bases and methods for determining the value of products as would appear the best suited to the needs of commerce and most capable of widespread adoption."

(b) Withdrawn.

Paragraph 2. "The Members recognize the validity of the following general principles of tariff valuation, and they undertake /to give effect

to give effect to such principles, in respect of all products subject to duties, charges or regulations based upon value, at the earliest practicable date. Moreover, they undertake upon request by another Member to review the operation of any of their laws or regulations relating to value for duty in the light of these principles. The Organization is authorized to request from Members reports on steps taken by them in pursuance of the provision of this paragraph."

The additions to this paragraph were suggested by the United Kingdom Delegation and approved by the Sub-Committee. It met the points raised in London with the following exceptions:

(c) (d) The Delegations of Belgium-Luxemburg, Czechoslovakia, the Netherlands and China favour a definite or transitional period for the coming into force of this paragraph. (Canada withdrew its observation on this point.)

(f) The basis for determining valuation suggested by the Belgium-Luxemburg and Netherlands Delegations were considered by the Sub-Committee too detailed to be included in this paragraph, with the possible exception of (iv) which was deferred for consideration in connection with paragraph 2 of Article 21.

Paragraph 2(a) - Alternative I, (U.S. original draft)

"The value for duty purposes of imported products should be based on the actual value of the kind of imported merchandise on which duty is assessed or the nearest ascertainable equivalent of such value and should not be based on the value of products of national origin or on arbitrary or fictitious valuations."

Paragraph 2(a) - Alternative II (Draft by Canada, after modification).

"The value for duty of imported products should be based on the actual value at which, in the ordinary course of trade, the identically similar imported merchandise on which duty is assessed is at the material time sold or offered for sale in comparable

/quantities

quantities and under similar conditions of sale, or the nearest ascertainable equivalent of such value. The value for duty purposes should not be based on the value of products of national origin or on arbitrary or fictitious valuations."

The Australian and Canadian Delegates both supplied drafts of this paragraph for consideration. The Australian Delegate withdrew his text after Canadian text had been modified. Some support to this text was also given by the Delegates for the United Kingdom, New Zealand and Cuba.

The United States Delegate had been willing to accept certain modifications in the original text of the U.S. Draft Charter, but pointed out that he felt the principles set forth in this text would be acceptable to most countries, at the same time as they embody provisions that are a step forward in tariff valuation. The Canadian draft as modified was unacceptable to the Delegate for the United States.

The Delegate for France spoke in sympathy with the intention of the original text of this paragraph as explained by the Delegate for the United States. However, it was decided to submit both texts for further consideration in the full Drafting Committee.

The Delegate from Cuba pointed out that the expression "identically similar" could not be translated literally into Spanish, without becoming meaningless.

Paragraph 2(b): "The value for duty purposes of any imported product should not include the amount of any internal tax, applicable within the country of origin or export from which the imported product has been relieved or made exempt."

(b) The Delegate for the United Kingdom did not insist on the changes he had suggested in London.

The question whether the words "custom duty or" should be added between "any" and "internal" in the second line was considered but deferred for later decision.

/Paragraph 2(c):

Paragraph 2(c): "In converting the value of any imported product from one currency to another for the purpose of assessing duty, the rate of exchange to be used should be fixed in accordance with prescribed standards to reflect effectively the current value of each currency in commercial transactions, and until the elimination of dual or multiple rates of exchange authorized under the Terms of Agreement of the International Monetary Fund or in accordance with the special exchange agreements specified in Article 29 of this Charter, either one or more than one legal rate for each dual - or multiple - rate currency may be so fixed."

(a) (b) (c) Mr. HEXNER, Representing the International Monetary Fund, explained the meaning of dual or multiple currency practices. A summary of his exposition is given below:

(1) The Agreement of the Fund provides for the determination of par values of the currency of members. The maximum and minimum rates for exchange transactions between the currencies of members shall not differ from parity in the case of spot exchange transactions by more than one percent up and one percent down. Members of the Fund undertake to permit exchange transactions only within the limits just mentioned.

(2) No member is permitted to engage in multiple currency practices except as expressly approved by the Fund or authorized under the Fund's Agreement.

(3) If multiple currency practices are engaged in by a country at the date when the Fund Agreement enters into force, the member concerned shall consult with the Fund as to the progressive removal of multiple currency practices, unless they are maintained or imposed in the post-war transitional period under Article XIV, Section 2, of the Fund Agreement.

/(4) Exchange

(4) Exchange restrictions mentioned in Article XIV, Section 2, of the Fund Agreement do not include multiple currency practices. The action of the Fund with reference to these practices is governed by Article XIV, Section 4, of the Fund Agreement.

(5) Five years after the date on which the Fund has begun operations, members still retaining multiple currency practices on the title of transitional arrangements shall consult with the Fund as to their further retention.

The CHAIRMAN asked the Representative of the Fund to explain the situation with reference to countries that would be members of the ITO but non-Members of the Fund. The Representative replied that he assumed that the special exchange agreements mentioned in Article 29 of the ITO Charter will regulate this problem probably along the lines of the Fund Agreement.

The CHAIRMAN, furthermore, asked the Fund Representative to explain the types of multiple currency practices prevailing at present.

The Representative replied that he was not in a position at this time to give a complete presentation of the multiple currency practices actually prevailing. He indicated that there are several more or less complex systems used.

In several cases, various exchange rates are applied with reference to various groups of imported or exported commodities. If so desired, the Representative would be prepared later to give the Sub-Committee a more complete explanation of the kind of practices prevailing.

Finally, the Fund's Representative, at the request of the CHAIRMAN, explained the provisions of the Fund Agreement with reference to the relation of members of the Fund with non-members. (Article XI of the Fund Agreement).

(d) (e) The Delegate for France withdrew his comment, but the Australian Delegate still wished all reference to dual or multiple rates

/to be eliminated

to be eliminated from this paragraph.

(f) (The Chinese Delegate was not present.)

Paragraph 2(d) "The bases and methods for determining the value of products subject to duties regulated by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the amount of duty likely to be imposed."

(a) and (b): Both these points were taken into account through the amendment.

Article 19: Customs Formalities

Paragraph 1. "The Members recognize the principle that subsidiary fees and charges imposed on or in connection with importation or exportation should be limited in amount to the approximate cost of services rendered and should not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes. They also recognize the need for reducing the number and diversity of such subsidiary fees and charges, for minimizing the incidents and complexity of import and export formalities, and for decreasing and simplifying import and export documentation requirements."

(d) This observation was withdrawn by the Delegate for Belgium.

Paragraph 2: "Members undertake to give effect to the principles and objectives of Paragraph 1 of this Article at the earliest practicable date. Moreover, they undertake upon a request by another Member to review the operation of any of their customs laws and regulations in the light of these principles. The Organization is authorized to request from Members reports on steps taken by them in pursuance of the provisions of this paragraph."

(a), (b): The paragraph was redrafted in the manner suggested by the United Kingdom Delegate in the case of paragraph 2 of Article 18 and meets the points raised in these comments.

/Paragraph 3:

Paragraph 3: "Except in cases of serious negligence, greater than nominal penalties over and above the duty properly payable should not be imposed by any Member in connection with the importation of any product of any other Member country because of errors in documentation which are obviously clerical in origin or with regard to which good faith can be established."

The Delegate for the United States offered to withdraw the last sentence of the original text. After some discussion this was agreed. With the deletion of this sentence and the two amendments underscored above, the suggestions or points raised in all the comments in the London Report were dealt with or withdrawn.

Paragraph 4. "The provisions of this Article shall extend to subsidiary fees, charges, formalities and requirements relating to all customs matters including:

- (a) Consular transactions, such as consular invoices and certificates;
- (b) Quantitative restrictions;
- (c) Licensing;
- (d) Exchange regulations;
- (e) Statistical services;
- (f) Documents, documentation and certification;
- (g) Analysis and inspection; and
- (h) Quarantine sanitation and fumigation.

At the recommendation of the Delegate for the United States, the Sub-Committee deleted the words "(plant, animal and human)" in (h) of the original text.
