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

TECHNICAL SUB-COMMITTEE

Ninth Meeting, 31 January 1947, 2:45 p.m.

CHAIRMAN: Mr. R. J. SHACKLE

The Summary Report of the Sub-Committee's sixth and seventh meetings (E/PC/T/C.6/22), concerning Articles 18 and 19 was reviewed and approved after making the following minor corrections:

- (a) Page 1, text of paragraph 1, line 1, delete "standard";
- (b) Page 1, text of paragraph 1, line 2, add plural 's' to "definition";
- (c) Page 1, text of paragraph 1, line 8, delete "the";
- (d) Page 2, text of paragraph 2, line 3: insert 'a' after "upon";
- (e) Page 2, text of paragraph 2, line 5: insert "purposes" after "duty";
- (f) Page 2, text of paragraph 2, line 7: add plural 's' to "provision";
- (g) Page 2, comments (c) (d) line 3: insert "the provisions of" after "of";
- (h) Page 2, text of paragraph 2(a) line 1: insert "purposes" after "duty";
- (i) Page 2 text of paragraph 2(a) line 2: delete "the" at the end of the line;
- (j) Page 2, text of paragraph 2 - change 3 to read: "imported merchandise identically similar to that on which duty is assessed";
- (k) Page 4, text of paragraph 2(c) line 6: change "Terms" to "terms of the Article".
- (l) Page 5, line 2: comment 4 by the Observer of the International Monetary Fund: change "include" to "exclude".

/The Sub-Committee

The Sub-Committee then continued its discussion of the United States and French amendments to Article 20, Marks of Origin. The delegate for France submitted a revised draft of the amendment suggested in London (cf. E/PC/T/C.2/54/Rev.1, page 28).

An alternative text, proposed by the delegate for the United States and subsequently amended, was adopted by the Sub-Committee. However, while seven of the delegates present, were clearly in favour of this text; the delegates for Czechoslovakia and France preferred the French Proposal, and it was assumed that the delegate for Belgium-Luxemburg, who was not present, would have shared their opinion. It was decided that both texts should be presented as alternative proposal in the Report. The texts in question are reproduced below:

Article 20 - Alternative Texts of Paragraph 7

A - generally approved text (amended United States proposals).

"The interest of Members in protecting the regional and geographical marks of origin of their distinctive products is recognized and shall be given consideration by the Organization which is authorized to recommend a Conference of interested Members on the subject."

B - alternative text (French proposal)

"Members agree to grant to trade names and marks of origin and quality that are recognized and protected by other Members, the same protection as is afforded by their domestic legislation to their own marks and trade names of origin and quality: [provided that these marks and trade names relate to like products].

They shall, for this purpose, transmit to the Organization a list of such marks and trade names as are protected by their domestic legislation and for which they wish to secure protection in importing countries.

They undertake further to take part in any Conference called by the Organization to secure effective international protection for marks of origin.

/or furthermore,

or furthermore, they deem it desirable that a conference should be called with a view of carrying out an efficient international protection of trade names and marks of origin and quality.

The delegates for Cuba and the United Kingdom did not vote for either suggestion nor did the delegate for Chile who made the following statement:

"The Chilean delegation wishes to reserve its position as to the French suggestion, as well as the United States text as amended by the Australian delegate. Further time is required to study the matter so that it may be taken up at a later date.

We wish to point out, however, that in principle Chile might support the American text."

Article 21, Publication and Administration of Trade Regulations -- Advance Notice of Restrictive Regulations

The Sub-Committee felt that an addition to the already lengthy title of this Article suggested in London by the delegates for Belgium-Luxemburg and the Netherlands, was unnecessary.

The text of this Article, as adopted by the Sub-Committee, is shown below with amendments underscored. The notes indicated by letters under each paragraph refers to the corresponding items in Document E/PC/T/C.II/54/Rev.1.

Paragraph 1. "Laws, regulations, decisions of judicial authorities and administrative rulings of general application made effective by any Member, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or effecting their sale or distribution, transportation and insurance, or effecting their warehousing, inspection, exhibition, processing, mixing or other use, shall be published promptly in a

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manner as to enable traders and Governments to become acquainted with them. Agreements in force, between the Governments or a Governmental agency of any Member country, and the Government or a Governmental agency of any other country affecting international trade policy shall also be published. Copies of such laws, regulations, decisions, rulings and agreements shall be communicated promptly to the Organization. This paragraph shall not require any Member to publish administrative rulings which would disclose confidential information, impede law enforcement, or otherwise be contrary to the public interest."

(a) The addition of the words: "transportation and insurance" suggested by the delegate for Cuba was made in the above text.

(b) The Sub-Committee discussed the proposals concerning the Brussels Tariff Bureau. It was decided that the Report of the Preparatory Committee might suggest that the International Trade Organization consider the absorption by the Organization of certain existing international agencies such as that Bureau, and also arrangements for collecting, analysing and publishing the information considered in point (iv) of the French suggestion.

The delegate for the United Kingdom suggested an amendment to the last sentence of this paragraph, but withdrew it provisionally in the course of the discussion.

Paragraph 2: Each Member shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article. Moreover, they undertake to maintain or establish as soon as practicable, judicial arbitral or administrative tribunals or procedures

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for the purpose although not necessarily the exclusive purpose of the review and correction of administrative action relating to customs matters. Such tribunals or procedures shall be independent to the agencies entrusted with administrative enforcement."

(a), (d) The rewording of the last two sentences above met the point raised by France and the United Kingdom.

(b) The delegate for Belgium-Luxemburg said that he would not press his suggestion that tribunals be established within a specified period.

(c) The delegate for New Zealand felt that he would have to retain his reservation.

The amendment to this paragraph proposed by the delegate for Canada in Document E/PC/T/C.6/W.20, was not acceptable to the delegates for Cuba and for the United States. The delegate for Australia felt that this amendment was open to misinterpretation. The CHAIRMAN suggested that, since this amendment as drafted was open to question the delegate for Canada, might wish to reword it and bring it to the attention of the Sub-Committee at a later meeting.

The words in square brackets in the text above were suggested by the CHAIRMAN as a provisional amendment as certain delegates, among which the delegate for Norway, stated that the present wording might be construed to indicate that a separate tribunal for procedure will have to be established solely for the purpose of reviewing customs matters.

After some delegates questioned the necessity of the last sentence in the text of this paragraph as given in the United States Draft Charter, the delegate for the United States indicated that he attached no great importance to it; accordingly, it was deleted.

/The revised

The revised text of paragraph 3 suggested by the United States in document E/PC/T/C.6/W.18 is given below after adjustments in the course of the discussion:

Paragraph 3:

No administrative ruling of any Member effecting an advance in a rate of import [or export] duty or other charge under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports [or exports], or on the transfer of payments therefor, shall, as a general rule, and within the limits of administrative practicability, be applied to products of any other Member already en route at the time of publication thereof in accordance with paragraph 1 of this Article:

provided, That if any Member customarily exempts from such new or increased obligation products entered or withdrawn from warehouse for consumption or cleared for export, during a period of thirty days after the date of such publication, such practice shall be considered in full compliance with this paragraph. The provisions of this paragraph shall not apply to anti-dumping or countervailing duties."

(Note by the Secretariat:

The delegate for the United States after the meeting informed the Secretariat that he attached no great importance to the words in square brackets above, and therefore offers to withdraw them in the light of the discussions which took place during the meeting.)

The delegates for Australia, Belgium-Luxemburg, Canada and Cuba supported the new text, at least in principle. Several delegates however, were unable to accept this text. The delegates for the United States, France, and other countries considered that the wording of the revised text required further modification.

The Sub-Committee felt that since paragraph 3 in its new version was limited to administrative rulings, it would not fully cover the words with

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reference to goods en route entered in square brackets in Article 25, paragraph 2. Accordingly it was recommended that the square brackets in that paragraph be removed.

The delegate for Belgium withdrew his suggestion on page 32 of the London Report (E/PC/T/C.2/54/Rev.1) as he felt that this point was covered elsewhere in the Charter.

The Sub-Committee decided to continue the discussion at the next meeting after this paragraph had been reconsidered by the delegate for the United States.
