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SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

CORRIGENDUM TO VERBATIM REPORT OF SEVENTH MEETING OF COMMISSION A (DOCUMENT E/PC/T/A/PV/7)

The statements made by Dr. Coombs (AUSTRALIA) on Pages 15 and 16; 28 and 29, 30 to 33 and 41 to 46 should be replaced by the following:

PAGES 15 and 16:

" Dr. H.C. COOMBS (Australia): At the risk of wearying the Commission, I feel it necessary to take the opportunity in introducing this very modest amendment to emphasise the attitude of the Australian delegation towards this group of Articles as a whole. As you know, the Australian government has, in the past, relied upon a system of commercial policy which did not conform to the principles embodied in these Articles, and it is the opinion of my government that the departure from practices in this respect represents a major change of policy and, from their point of view, a major sacrifice of principles to which they have held very firmly in the past. It is not our intention here to question the major principles involved in this Article, but I would like to draw the attention of this Commission to the fact that the willingness of my government to accept these principles is related historically to an agreement entered into between the United States government on the one hand and certain governments of the British Commonwealth on the other concerned with the exchange of mutual aid during the war. An Article of that Agreement provided that there should be, in the future, provision for agreed action between the United States government on the one hand and the governments of the British Commonwealth concerned on the other, open to participation by all other countries of like mind directed to the expansion by appropriate international and domestic measures of production, employment and the exchange and consumption of goods, and to the elimination of all forms of discriminatory treatment in international commerce and to the reduction of tariffs and other trade barriers. You will have noticed that the purposes towards which the agreed action referred to should be directed, are of three kinds. Action directed towards expansion of production, employment, and exchange and consumption of goods; the elimination of all forms of discriminatory treatment, and the reduction of tariffs and trade barriers. I want to emphasise, Mr. Chairman, that, from

the point of view of the Australian Delegation, these purposes are inter-related, and it is not our intention to accept the obligations implied by any one of them unless there is substantial evidence that the other purposes are receiving attention which gives us reason to anticipate that agreed action will be taken and will prove effective. Consequently it will not be possible for a final judgment to be made by the Australian government as to whether the unconditional most-favoured-nation principle, replacing the preferential basis on which the whole of its commercial policy has been constructed in the past, can in fact be accepted until we have made fairly substantial progress, not merely in the discussion of the Charter but in other parts of the work being carried out at Geneva and in other matters which are primarily matters of domestic policy of the countries concerned. As I pointed out, it is not our intention to raise any of these matters of principle in the discussion of this particular Article but merely to improve the present draft by amendments, on the assumption that it will prove possible for us to make the major change of policy to which I have referred.

With reference to the particular amendment which appears on page 3 of the annotated agenda, we have little to add to the note which appears there which makes it clear that it is not the intention of the most-favoured-nation treatment required by Articles 14 and 15 to override specific exceptions provided for in other Articles of the Charter. We therefore suggest the inclusion of the words "except as otherwise provided elsewhere in this Charter".

PAGES 28 and 29:

" Dr. H.C. COOMBS (Australia). Mr. Chairman, it is not the wish of the Australian Delegation to maintain the reservation referring to the extension of preferences to areas which do not at present enjoy them. The position is somewhat more difficult from our point of view, however, in relation to what has been referred to as "accordable preferences".

I think I can explain this from our point of view by telling the Committee that under existing agreements the Australian Government did undertake to extend certain preferences, which it grants to the United Kingdom, to the Colonial territories of the United Kingdom on request. Such requests have, I believe, on occasion been received, and the preferences have been granted. In other cases, they have not been received, but the attitude of the Australian Government is that if a request were received, the preference would be granted.

It is obviously rather difficult for Australia in these circumstances, to suggest that action should be taken which would relieve us of an obligation which we freely undertook. If it is the decision that these accordable preferences, as we have referred to them, should not be saved in the same sense as existing preferences, we would naturally be prepared to accept that; but I want to make it clear that, as far as we are concerned, we are not seeking to be relieved of an obligation which we freely entered into in the past.

Dr. H.C. COOMBS (Australia): Before we leave Article 14, Mr. Chairman, I have one or two minor points to which I would like to refer in the hope that the Drafting Committee will be able to look into them. They are not matters, generally, concerning which we have listed specific amendments; but we believe they are worthy of investigation.

First of all, with regard to the preservation of existing preferences and the effect of paragraph 2 of Article 14 in precluding the establishment of new preferences or the increase of existing preferences, there are one or two minor complications of an essentially administrative character which I think need to be looked into. I will give an example which affects our own practices -- it may illustrate the type of thing which I have in mind.

It is the practice in Australia to take out from particular tariff items for short periods of time--sometimes longer than others--particular classes of goods which currently are not being produced in Australia and the goods concerned are admitted free of duty, or at particularly low rates of duty; in some cases this means that they are admitted on much narrower margins of preference than would otherwise apply.

This procedure is implemented by what we refer to as a by-law. It does not represent a change in the tariff, but avoids unnecessarily high duties on goods which it is not at the moment practicable to produce in our own country. As the circumstances which made it necessary or desirable to deal with them under the by-law change, the by-law is removed and they go back into the normal tariff classifications to which they belong. In such an event as that, as goods pass back from being dealt with under the by-law to the substantive tariff item to which they belong, it will normally be the case that they will then pay higher rates of duty, and probably higher margins of preference will be accorded, than when they were dealt with under by-law.

It could be argued that that procedure would not, in fact, conflict with the second paragraph of Article 14, but I would like the Sub-Committee to examine that case. The procedure would clearly mean that on one day a wider margin of preference existed in practice than existed on the previous day, and that we would not wish to be regarded as consituting a breach of the Article. Otherwise it would not be practicable to admit the goods under by-law at low rates of duty and temporarily narrow margins of preference when circumstances warrant such a procedure. I think there is another possibility that the Commission should examine, and that is the question of dealing with the preferential rates of duty which exist within the British Commonwealth preferential area, when some countries have a multiplicity of rates, some applying to one country entitled to preference, and another higher or lower rate applicable to another. I think it may be desirable to take this opportunity to simplify some of those multiple customs tariffs and to substitute a single preferential rate. If that were done, however, the normal practice would be to choose the most representative preferential rate the one under which the bulk of the trade was admitted. That may involve, in some cases, the application of higher margins of preference to a country whose trade was insignificant since it would then come under the preferential rate applicable to the country from which the bulk of the trade came.

I mentioned these examples as illustrations of what I might call minor administrative difficulties associated with the rigid application of this rule. We are anxious that there should not be any misunderstanding of motives or intentions of countries who will find it necessary to continue certain administrative practices, and we would like to submit these cases to the Sub-Committee.

The Australian delegation has submitted, in connection with Article 24, certain amendments to Article 24(1)(b). My attention has been drawn to the fact that it might be desirable for parts of the provisions that we have embodied in sub-paragraphs 4 of that amendment, to be included not in 24 but in 14. This may be overcome by the United States proposals for a rearrangement of the whole section, but it may not, and I would, therefore, ask that the Sub-Committee, when it is dealing with this question, look also at our suggested amendment to 24 to see if part of that too would be more properly included as part of Article 14.

Dr. COOMBS (Australia): Mr. Chairman, as I think I explained to the Committee earlier in our present meeting, it is the view of the Australian Delegation that neither of the Rules contained in (b) or (c) is necessary.

This Article contemplates negotiations directed towards the substantial reduction of tariffs and the elimination of tariff preferences. For these negotiations to proceed it is necessary only that a certain minimum set of Rules should be agreed upon.

We agree it is desirable that the negotiations should work towards agreements that are reciprocal and on a mutually advantageous basis. Negotiations should be conducted on a selective basis so far as the commodities themselves are concerned, and the resulting agreement should be multilateral in its application, so far at least as the present countries represented on this Committee are concerned.

We dislike the inclusion of these Rules because we believe that they call into question the basic Rule, which is that the agreements should be mutually advantageous. It seems to us that to include Rules such as Rule (b), "All negotiated reductions in most-favoured-nation import tariffs shall operate automatically to reduce or eliminate margins of preference, and no margin of preference shall be increased", may or may not be consistent with an agreement which is mutually advantageous. In fact, in our opinion it would in many cases not be consistent with such an agreement; but whether that were so or not, we believe that the very statement of Rules of this character does tend to interfere with the bargaining procedure and to imply that certain values should be attached to concessions, whether or not bargainers agree that the concessions carry those values consequently, and similarly, in relation to Rule (c), it is said that the binding of low tariffs, or tariff free treatment, shall in principle be recognised as a concession equivalent in value to the substantial reduction of high tariffs, or the elimination of tariff preferences.

We do not wish to call into question the general idea behind this rule; it is clearly generally true; but whether in any particular case the binding of a low tariff or tariff free treatment is equal or equivalent in value to a substantial reduction of another high tariff item, is something which only the parties themselves can judge. Sometimes such a binding will be of very great value, particularly, for example, if it would be to the advantage of the country imposing the duty to take advantage of an unbound rate to increase it and to the detriment of the other country. But if these are not the circumstances, i.e., if it is not of importance to either party whether the rate is increased or not, obviously a lower value for negotiation purposes would be attachable to it.

I have had very limited experience of these tariff negotiations, but it does seem to me, when I think of men with the skill and experience of Mr. Hawkins, and Mr. McCarthy of my own Delegation, being told summarily by this Conference that the binding shall be regarded as equivalent to something or other that it savours somewhat of teaching your Grandmother to suck eggs.

In other words, the values attachable to any concession are something which can be judged by the people who are engaged in the bargaining. They do not need to be told exactly how to deal with them, and any attempt to lay down for them a system of values is capable of interfering with a fair assessment of the exchanges between the parties.

Perhaps my point on this may be illustrated if I draw attention to the fact that in view of the wording of (c) as it at present stands, it might not be unreasonable to add a sentence which would say that the binding of high tariffs shall not be regarded as a concession at all.

However, Mr. Chairman, we do not need to be told that, nor do I suggest that anybody else in this Conference needs to be told that. Consequently we have very grave doubts as to whether any practical value is obtained by the inclusion of Rules (b) and (c), and in the case of (b) we are definitely of the opinion that there are serious disadvantages to the conduct of negotiations in the existence of such a rule.

Rule (c) is not of such importance from that point of view, because I believe that the negotiating parties can be trusted to take only such notice of the Rule as it is entitled to. Consequently, we do not propose to worry very much about the inclusion of (c). As a statement of a general point of view we are not opposed to it, in fact we favour it; and therefore we are content to let it go, although we do think it is superfluous.

So far as (b) is concerned, we cannot accept it in its present form. We would say, briefly, the Rule should be omitted completely. But we understand that for historical reasons there are difficulties for some of the parties concerned in its complete omission.

We have, therefore, sought to set down the basis on which we are, in practice, approaching this problem in our consideration of the current negotiations, and to set out what appeared to us, in the present context, to be a reasonable approach to the way in which negotiated reductions in Most-Favoured-Nation rates and, where they are associated, preferential rates, should be dealt with, and we have set that out in the suggested amendment which appears on page 12 of the annotated Agenda.

I would like to make it clear that our distinct preference would be for the elimination of this rule altogether, but since there may be difficulties in that elimination being acceptable to other parties vitally concerned, we are prepared to accept a rule of the kind set out in (b), in the hope that, without proving a burden and handicap to the conclusion of mutually advantageous agreements, it will satisfy the particular requirements of the interested parties.

Dr. H. C. COOMBS (Australia): Mr. Chairman, could I draw the attention of the Committee to a typographical error in sub-paragraph (iii) of the amendment. In the third line of sub-paragraph (iii) as it at present reads: "such reductions may be effected in either as may be agreed between the Members concerned". That should read: "in either or both".