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

COMMISSION A

Fourth Meeting held on Wednesday, 28 May 1947 at
3 p.m. in the Palais des Nations, Geneva

Chairman: M. Max Suetens (Belgium)

The CHAIRMAN called the meeting to order and asked delegates if they wanted to express their preference in regard to the principle contained in the Chilean Delegation's amendment or that expounded by the Delegations of Australia and the United Kingdom.

Article 13 - Amendments proposed by the Delegations of Chile,
Australia and the United States

Mr. JUSSIANT (Belgium), Mr. DEUTSCH (Canada) and Mr. HAWKINS (United States) supported in general the principle contained in the Australian and United Kingdom amendments.

Dr. HOLLOWAY (South Africa), referring to the following words "would conflict with any other provision of this Charter" in paragraph 2(a), asked if there were any circumstances in which a Member is bound to inform the Organization every time it imposes or increases an unbound protective duty to which the CHAIRMAN replied that he believed that the time had not come to raise such a question, but in his view there was no such obligation.

Dr. COOMBS (Australia), referring to the history of Article 13 in London, explained that it represented a series of compromises to which delegates agreed because they recognized the advantages

of having a Charter for international trade. It was in the same spirit that the Australian Delegation had submitted its amendments to Article 13 which reduces the possibilities of delay in maintaining the principle of prior consultation.

Dr. LOKANATHAN (India) expressed the opinion that a difference existed in the Charter between the procedure for the application of quantitative restrictions for protective purposes and other restrictions, adding that it was not acceptable that a country feeling the need for quantitative restrictions for protective purposes should be treated differently from a country wishing to apply the same quantitative restrictions for some other purposes such as the safeguarding of balance of payments.

Mr. BARADUC (France) stated that he could not agree with a simple declaration of principle as set forth in the proposal of the Chilean Delegation as it would result in a lack of balance between various Chapters of the Charter.

Mr. GARCIA OLDINI (Chile) stated that the proposal of his Delegation did not constitute merely a declaration of principle and furthermore he was ready to accept any rules, provided the main objective of his amendment was obtained.

Mr. TORRES (Brazil) suggested that the amendment proposed by Australia and the United Kingdom be referred to the Sub-Committee as a basis of discussion.

Thereupon the CHAIRMAN declared the discussion closed and referred the matter to the Sub-Committee.

Preferential Arrangements - Additional Text proposed by the Delegations of Chile and Lebanon

Mr. HELMORE (United Kingdom) doubted whether this amendment would be useful in the case of two countries not in the same stage of economic development.

Mr. GARCIA OLDINI (Chile) explained that his amendment was based on the necessity of providing a large market, at least for the beginning of new industries, in those countries which are not sufficiently developed.

Mr. JUSSIANT (Belgium) could not agree with the proposed amendment as it seemed to him to result in a limitation of the market to the products of the respective countries.

Mr. MIKAOUI (Lebanon) reminded the Committee that the amendment did not ask for the automatic establishment of a preferential system but was intended only to obtain from the Organization favourable consideration of the proposals for specified preferential arrangements.

Mr. Fresquet (Cuba) could not agree with the Lebanese proposal as he felt that it might result in the establishment of regional economic groups, which is one of the main obstacles in the way of freeing world trade.

Mr. WILCOX (United States) ~~asked for an~~ explanation concerning the relation between the new paragraph and paragraph 3 of Article 66.

Mr. MIKAOUI (Lebanon) explained that his Delegation had made that reservation in regard to Article 38, and Mr. GARCIA OLDINI (Chile) enquired whether it would not be possible to consider articles 13 and 38 together to decide once and for all about the proposed amendment, and added that he saw no disadvantage in keeping the text of Article 38 even if his additional text to Article 13 were accepted.

The CHAIRMAN referred the matter to the Sub-Committee in asking it to consider any possible consequential redrafting of Article 38.

New Article 13(a)

Mr. COOMBS (Australia) explained that his amendment was intended to apply to all Members, original as well as new.

Mr. HELMORE (United Kingdom) stated that his Delegation was considering the same point as that contained in the Australian proposal and that the United Kingdom version referring to the date of entry into force of the Charter was applicable to original Members. He furthermore wished that the Sub-Committee consider drafting a formula to obviate the possible abuse of a provision of the sort included in the amendments.

Mr. WILCOX (United States) expressed the view that perhaps 28 May 1947 would be more appropriate for the timing of the new Article.

Mr. MINOVSKY (Czechoslovakia) proposed the addition of the following words after the words "Member or Members" in the proposed new text:- "and which is not covered or allowed by some other provisions of the Charter".

The CHAIRMAN stated that this suggestion could be left for consideration by the Sub-Committee.

To the question of Mr. DEUTSCH (Canada) enquiring whether a Member may continue to use protective measures contrary to the provisions of the Charter for the items bound in tariff agreements as well as for those which are not bound, Mr. COOMBS (Australia) replied that he believed it would depend upon the nature of the tariff agreements and Mr. WILCOX (United States) explained that what was intended was measures conflicting with the provisions of the Charter and not conflicting with any obligation which the Member may assume through other negotiations.

Mr. BARADUC (France) stated that the Australian amendment raised a point of principle which was not limited to this

Chapter alone, as he believed that nowhere in the Charter had its application to new Members who were not signatories to the Charter been envisaged.

Mr. HELMORE (United Kingdom) pointed out that there appeared to be two entirely different cases - if a thing is forbidden the country desiring to join the ITO must give it up before joining, but if the thing is permissible after consideration by the Organization then, in principle at any rate, there is a case for allowing it while the Organization considered it.

Mr. DEUTSCH (Canada) stated that if the amendment is adopted it might no longer be assumed that quantitative restrictions were excluded, and he hoped that the Committee would consider the rather large issues arising from this situation.

The CHAIRMAN referred the Australian proposal to the Sub-Committee which will consider it together with the observations made in the meeting.

Capital Investments

The CHAIRMAN reminded the meeting that the discussion of the United States amendments concerning capital investments was postponed according to the wish expressed by the Delegations for Cuba and India and asked those Delegations to express their views.

Mr. GUTIERREZ (Cuba) was sympathetic with the United States proposal but did not agree with a change in the title of the Chapter and wished that the amendment might be re-drafted so as not to give foreign capital a better position than national capital and so as to prevent the use of foreign investment for political purposes.

Mr. GANGULI (India) was not inclined to favour any detailed procedure in respect of capital investments which he considered to be the business of the specialized agencies such as the International Bank. He agreed, however, to a general expression of principle safeguarding the creditor

countries as included in the Indian amendment.

Mr. WEBB (New Zealand) shared the opinion of the Indian Delegate in considering it inappropriate at this stage to enter into precise details, especially as the whole subject was about to be considered by the Economic and Employment Commission.

Mr. WILCOX (United States) agreed with the Indian amendment and suggested that the representative of the International Bank be asked to express his views to the Sub-Committee.

Mr. GOTZEN (Netherlands) did not share the view of the New Zealand Delegate and Mr. COOMBS (Australia) suggested that the Sub-Committee consider the intentions lying behind the articles of agreement of the Monetary Fund in respect of the movement of capital.

Mr. LUXFORD (Representative of the International Bank) informed the meeting that the International Bank was entirely in sympathy with the general purposes of the United States proposal and wished to encourage the use of private capital in international investment. He added that the term "international investment" seemed extremely broad and that the provisions contemplated here were assumed not to duplicate or affect the functions of the International Bank.

Mr. CHEN (China), with the exception of a few amendments, expressed himself to be in agreement with the United States proposal.

The CHAIRMAN, finding that a strong majority of Members supported the United States amendments, proposed to refer them to the Sub-Committee for the preparation of a final text which should take into account the various opinions expressed in the Committee.
The South African amendment to Paragraph 3, Article 13

In view of the lateness of the hour it was decided that another meeting of Commission A should take place at 10.30 a.m. on Friday, 30 May to discuss this amendment.

The meeting rose at 6.45 p.m.
