

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

COMMISSION A

Summary Record of the Thirteenth Meeting held on Friday,
13 June 1947 at 2.30 p.m. in the Palais des Nations, Geneva.

Chairman: Mr. Max Suetens (Belgium)

Article 35: Consultation - Nullification or
Impairment (continuation of discussion).

The CHAIRMAN proposed, and the delegates concurred, that Article 35 should be referred to the Sub-Committee dealing with Articles 14, 15, 15A, 24 and 34.

Article 36: Contractual Relations with Non-Members -
Treatment of the Trade of Non-Members (ctd.)

The CHAIRMAN invited the delegate for New Zealand to continue the discussion of Article 36.

Mr. WEBB (New Zealand) said that he agreed with the delegate for Australia that it was impossible to foretell which countries would be Members of the Organization. It would be fatal to the Organization if there were substantial advantages to be gained by not joining. If the Non-Members were numerous or commercially important, the Organization would be faced with a very serious issue and countries which had joined might be forced to withdraw. At the same time, the Charter must not be made an instrument of discrimination in an attempt to coerce countries into becoming Members. Thus there may be the choice between obtaining universality or having no Organization at all. He thought that

it would be useful to have a sub-committee examine the problem even though the final decision might be left to the International Conference.

Dr. SPEEKENBRINK (Netherlands) said that he had been greatly impressed by the points raised so far. He was not opposed to further study of the problem but thought that the final preparation of Article 36 would have to be left to the Conference.

Mr. ANGUS (Canada) said that the Canadian delegation was in general agreement with the remarks made by the earlier speakers. It was important to remember that it would not be a crime for a country to be a Non-Member and therefore there should be no question of an imposition of sanctions. He hoped that the Sub-Committee would be able to find a compromise giving definite expression to the attitude of the Preparatory Committee while leaving open the determination of time of application.

Mr. EVANS (United States) and Mr. SHACKLE (United Kingdom) suggested that this Article should be referred to a special ad hoc sub-committee.

Mr. RODRIGUES (Brazil), Mr. CHEN (China), Dr. AUGENTHALER (Czechoslovakia) and M. BARADUC (France) agreed with this proposal.

The CHAIRMAN, in view of the general agreement among the delegates, suggested that a special ad hoc sub-committee be appointed, composed of representatives of Brazil, Czechoslovakia, France, the Netherlands, the United Kingdom and the United States, with broad terms of reference to analyze the problem and submit any recommendations that might be considered desirable. This suggestion was accepted by the delegates.

Article 38: Territorial Application of Chapter V -
Frontier Traffic - Customs Unions.

The CHAIRMAN said that the first amendment of substance on Article 38 was the one proposed by the Chilean delegation for an addition to paragraph 2 (b).

Mr. Garcia-OLDINI (Chile), in supporting this proposal, said that one of the goals of the Charter was to encourage the establishment of customs unions; but the means by which such unions were to be brought about were not mentioned and this was a serious gap in the Charter. The Chilean proposal, he said, was intended to indicate a procedure for achieving this goal.

Mr. COIBAN (Norway) enquired of the Chilean delegate whether his proposal did not provide for a new preferential system of indefinite duration. To this Mr. Garcia-OLDINI replied that it was the desire of his delegation to bridge the gap so as to provide the means of bringing about customs unions which was the ideal to be pursued by all Members.

Dr. SPEEKENBRINK (Netherlands) said that it had been recognized at the First Session that there were two stages in the establishment of customs unions: firstly the co-ordination of the customs tariffs of the countries forming the union, and secondly the consummation of the full economic union. The bearing of Article 38 was determined by the definition contained in paragraph 5. It might be that Chile could obtain all it desired within the provisions of paragraph 4 relating to new preferential arrangements that might be justified in exceptional circumstances.

Dr. COOMBS (Australia) said that the question of new preferential arrangements such as those mentioned in paragraph 4 had already received the attention of the Sub-Committee on Chapter IV and an addition to Article 14 had been proposed; he thought it too early to forecast the conclusions of the Sub-Committee but stressed that they would have a bearing on Article 38; he therefore proposed that if a sub-committee were appointed, it should maintain contact with the Sub-Committee on Chapter IV. Dr. Coombs stated that customs unions might be formed without an actual amalgamation of customs territories and he thought that this might be considered in relation to paragraph 5. He also mentioned an arrangement existing between Australia and its dependent territories which had separate revenue tariffs. These tariffs were applied to Australian merchandise as well as to goods from other countries but Australia on the other hand admitted the main products of those territories free of duty. This arrangement, he said, was at the expense of Australia in order to encourage the development of these territories, and Australia might wish to extend these arrangements to other products in terms of paragraph 4 of Article 38 as an exception to paragraph 2 of Article 14.

Mr. BARADUC (France) and Mr. DESOLEE (Belgium) suggested that further discussion of Article 38 should be postponed until reports are obtained from the Sub-Committees on Chapter IV and Article 14.

Mr. EVANS (United States) and Mr. SHACKLE (United Kingdom), on the other hand, proposed that the terms of Article 38 should be discussed in relation to the problem of customs unions and apart from questions of preferences.

The CHAIRMAN then stated that it appeared evident that there were two separate problems dealt with in the provisions of Article 38, namely, customs unions and preferential arrangements, and also, in connection with the latter, it would have to be decided whether paragraph 4 should be removed to some other part of the Charter; it would be difficult to delay the discussions of this Article but it could be referred to the Sub-Committee dealing with Article 14.

Mr. MOBARAK (Lebanon) and Mr. PARADIS (France) expressed agreement with these proposals, and Dr. COOMES said that since certain aspects of the problem of new preferential arrangements (namely its relation to industrial development) were already being dealt with in the Sub-Committee on Chapter IV, it would be better to refer this Article to the Sub-Committee dealing with Article 14.

The CHAIRMAN said that Article 38 would accordingly be referred to the Sub-Committee on Article 14 and it would be left to this Sub-Committee to co-opt additional delegates if they so desired.