

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

Summary Record of the Seventeenth Meeting held on Tuesday,  
24 June 1947 at 2.30 p.m. in the Palais des Nations, Geneva.

Chairman: H.E. E. Colban (Norway)

later: M. Max Suetens (Belgium)

Article 32

Mr. BOGAARDT (Netherlands), referring to the amendment of the Netherlands Delegation (W.191) explained that negotiations on maximum price margins should generally be bilateral and a parallel to negotiations on tariffs. Negotiations on primary products should, however, be on multilateral basis in accordance with the procedures laid down in Chapter VII. This was made clear in the Netherlands amendment worded on the lines of paragraph 4 (a) of Article 30.

Mr. SHACKLE (United Kingdom) thought that in order to retain the character of Article 32 as a counterpart to tariff negotiations it should remain bilateral and, therefore, proceedings of Chapter VII could not be introduced. He preferred to maintain this Article as it stood now in the New York Report.

Dr. HOLLOWAY (South Africa) in supporting the United States amendment (W.195) stated that paragraph 3 of this Article limited the freedom of negotiations. Countries willing to negotiate should not be debarred from negotiating in any way they think suitable for a particular purpose. Under the United States amendment this was possible; it provided for a wider latitude of

bargaining.

M.C. IGONET (France), in defending the reservation made by the French Delegation on Article 32, stated that he wished to support the Czechoslovak delegate in his reluctance to set up rigid rules for state trading.

He mentioned as an example of varying types of agencies the French 'Groupements d'Importation et de Repartition' and explained the operations of such agencies and their difficulties.

It was true that subsidies might help in some cases, but parliaments were sometimes difficult about budgetary provisions.

The French delegation could not accept Article 32 without any qualifications.

Mr. J.A. MUNOZ (Chile) did not object to the principle of paragraph 1 (a), but felt that it should apply only when a substantial proportion of the monopolised product in relation to the total production was consumed in the country of origin. It should not apply, however, if total exports of monopolised product exceeded 90% of the total output. Members interested in the import of such products could not be affected by any price protection in the home market of the exporting country.

He wished that the sub-committee should consider this point.

Mr. C.H. BOGAARDT (Netherlands), in replying to the remarks of the United Kingdom delegate, stated that all negotiations on maximum price margins of primary products must be on a multilateral basis. Stabilisation schemes were based on the fixed difference between the world market price and stable inland prices and, therefore, if the world market price fluctuated, the maximum price margin could not be fixed.

Mr. R.J. SHACKLE (United Kingdom), in replying to the Netherlands delegate, referred to averaging over time provided for in paragraph 1. This would very much flatten the price curve.

Mr. T. OFTEDAL (Norway) referred to the Norwegian amendment (W.197) and explained that monopolies established for cultural, humanitarian and social reasons could not negotiate margins because this would subordinate social policy to commercial policy.

He contended that in this respect conditions prevailing in Sweden, Iceland and Finland were practically identical with those in Norway.

Mr. R.J. SHACKLE (United Kingdom) thought that the present sub-paragraph 1 (b) might be at present drawn too tightly and in too detailed terms. He wished that the Sub-Committee would consider a broader formulation on the following lines:

Starting in the terms of the United States amendment the new draft should make provisions for negotiations for the purpose of limiting or reducing the protection afforded to domestic producers through monopolistic operations. The Members should negotiate on the margin between landed cost price of the product and either the price to home consumers, or, as a second alternative, the price paid to home producers.

Great deal of details about subsidised margins of profits, etc., could be deleted if the Sub-Committee would agree on a text on proposed lines. Paragraph 3 was not a rule for negotiations, but a provision to ensure that the monopoly would satisfy domestic demand. In the absence of such provision, monopolies would have the effect of quantitative restrictions, which should be prevented.

Mr. J.J. DEUTSCH (Canada) supported the proposal made by Mr. Shackle. This would exclude negotiations on total quantities or other methods of negotiation, as proposed in the United States amendment, and that, he thought, was only right.

As worded by Mr. Shackle, paragraph 1 (b) would be a parallel to tariff negotiations.

He also agreed to Mr. Shackle's interpretation of paragraph 3; since quantitative restrictions, with some exceptions, were ruled out from free trading, they should not be permitted in state trading.

Mr. McCARTHY (Australia) thought that Article 32 was acceptable to his Delegation. Too many criteria and details would bring more difficulties.

He thought that in some cases the test of the selling price to home consumers would work, but not in others; the wording proposed by Mr. Shackle and Mr. Deutsch would be sometimes, but not always, applicable.

An exporting country which could easily dispose of all quantities of a certain commodity would not be interested in the amount of total imports of this article in a monopolistic country. If, however, the monopolistic country would allot a certain quantity to one exporting country and wished to buy the rest from other countries, then the bilateral character of negotiations would be lost.

He thought that the Netherlands idea of applying provisions of Chapter VII would hamper the activities of state traders, though, in some exceptional cases - such as for instance in the case of Wheat - this might not be so.

In the view of the Australian delegation the American proposal to negotiate global quantities meant negotiations on quotas with several countries and such multilateral negotiations would not be practicable, nor were they envisaged in Chapter V.

Dr. T.T. CHANG (China) referred to the Chinese amendment (W.69) to paragraph 1(a) of Article 32 and thought that the word mentioned in the amendment could be deleted, because paragraph 1 already provided for adequate quantities and reasonable prices in cases of exportation of monopolised products. Sub-paragraph 1(a) touched upon a purely domestic matter and made negotiations more difficult.

He held no strong views on the question of negotiations on margins but should this provision be retained ~~reference should~~ be made to margins of profits, as was the intention of the Conference since the London meeting.

Mr. L.C. WEBB (New Zealand) supported the Czechoslovak redraft of this Article (W.187) because it took into account economic and administrative reality. It would be unreal to attempt to set up an exact parallel to tariff negotiations. Not in all cases negotiations on margins were possible.

With regard to paragraph 1(a), he was afraid that negotiations might destroy the internal domestic stabilisation policy of New Zealand. Violent fluctuations of world market prices would destroy the stable level of cost of living, even though, as Mr. Shackle stated, the price curves might be somewhat flattened through averaging over times.

The CHAIRMAN, in replying to a question of the New Zealand delegate, stated that a joint Czechoslovak - United States amendment to Article 31 would go to the Sub-Committee.

Mr. C.H. BOGAARDT (Netherlands) supported the New Zealand delegation's view that Article 32 was a very considerable interference with internal policies of countries.

The Netherlands had also a stabilisation scheme by which levels of inland prices, cost of living and wages were being controlled. He did not think that the procedure of Chapter VII would be cumbersome and quoted as an example the Wheat Agreement. There were also agreements on tin, rubber and sugar on the lines of Chapter VII. Commodity agreements were designed to dispose of all problems of subsidies, countervailing duties, etc.

Maximum margins could not be based on violently fluctuating world market prices, and the Organization should study the real causes of these fluctuations.

Mr. J.A. MUNOZ (Chile) informed the Commission that Sub-Committee on Chapter VII was about to eliminate all reference to Chapter V. The Sub-Committee on state trading should take into consideration the results of the deliberations of the Sub-Committee on Chapter VI.

Mr. B.J. BAYER (Czechoslovakia) referred to the Czechoslovak amendment (W.187) and stated that Article 32 was of great importance to his country. He quoted the example of film monopolies where it was difficult to conceive negotiations on a margin between the cost of films and the price of tickets to visitors of the cinema. He called attention to the opinion of the International Chamber of Commerce which preferred to limit the Charter to simple general rules on state trading, leaving detailed interpretation and administration to the Organization itself.

Though he would not commit at present his delegation, he was in favour of the substance of the United States amendment to this Article.

Mr. J.W. EVANS (United States) objected to the Netherlands amendment and stated that he could not accept any amendment which would tend to replace the negotiations contemplated in Article 32 by procedures provided for in Chapter VII.

Paragraph 3 provided for negotiations comparable with the negotiations on tariffs, in both cases the exporting country wished to improve imports of its products in other countries. This was a definitely bilateral situation, the exporting country seeking to obtain a concession from the importing country. There was no place here for procedures under Chapter VII, which would impede the obligation of the importing country to negotiate.

Mr. J.J. DEUTSCH (Canada) supporting in principle the Norwegian amendment (W.197) thought that the wording could be improved.

Mr. PAYER (Czechoslovakia) in supporting the Norwegian amendment, thought that the final wording of paragraph 4 would depend upon any changes in the first three paragraphs of Article 32.

Mr. SHACKLE (United Kingdom) thought that the object of the Norwegian amendment was entirely legitimate, but wondered if perhaps Article 37 would not be the proper place for the substance of the Norwegian amendment.

Mr. MUNOZ (Chile) supported the Norwegian amendment and wished that the wording of it should be entrusted to the Sub-Committee.

Mr. BOGAARDT (Netherlands) stated that the Netherlands Delegation was happy to negotiate, but found it impossible to negotiate on price margins which could not be defined. Commodity agreements could in fact provide the missing factor and furthermore, negotiations on a bilateral basis would be very complicated, since not only the principal supplier, but all suppliers had to negotiate on price margins.

The CHAIRMAN closed the discussion on Articles 31 and 32. He proposed, and the Commission approved, to set up a "Sub-Committee on Articles 31 and 32", composed of the representatives of Canada, Chile, Czechoslovakia, France, New Zealand, Norway, United Kingdom and United States.

M. MAX SUETENS (Belgium) took the Chair.

#### Article 33

The CHAIRMAN reminded the Commission that this Article had not been discussed at the First Session in London.

Mr. JOHN W. EVANS (United States) explained the reasons for the deletion of this Article, as proposed by his delegation. Many forceful objections to negotiations on global purchase commitments of individual products had been voiced, and these arguments applied even more forcibly to negotiations contemplated under Article 33. He therefore considered that the provisions of this Article would not be practicable. Article 32, as conceived in the United States amendment, contained provisions for additional negotiations, different from those on marginal mark-ups, and that made Article 33 redundant.

Mr. B. J. BAYER (Czechoslovakia) commented on the Czechoslovak amendment (W.187) in respect of the obligation of state traders to supply information and stated that his delegation felt very strongly about the inclusion of the proposed provision.

Mr. L.C. WEBB (New Zealand), in explaining the amendment of his delegation (W.101), stated that he wished to retain Article 33, which made it explicit that a country with complete state trading monopoly could become Member of the Organization.

The New Zealand amendment to Article 33 was intended to fill a serious gap in the Charter which provided for free trading and for a complete monopoly of foreign trade, but had no provision for a country like New Zealand which planned and controlled its foreign trade.

Planning and controlling of foreign trade was not contrary to expansion of world trade. Chapter VII was an example of expansionist use of control.

The expansion of foreign trade depended upon a state of affairs in which people wanted to buy goods and could pay for them. This was recognised in Article 4. If there was a decreasing volume of effective demand, then the policy of elimination of trade barriers would have no effect.

The policy of full employment and high levels of effective demand was put into practice in New Zealand and to this end controls were easier to administer and observe than other measures. Planning and controlling of foreign trade did not prevent New Zealand becoming

one of the world's best traders and it would be unfortunate if a type of economy which succeeded in attaining a high degree of employment and social and economic progress should have no place in the Organization.

It was stated that Article 26 and other escape clauses would provide for the New Zealand type of economy, but he thought that New Zealand should come into the Organization by the front door. The New Zealand amendment required from Members who wished to avail themselves of its provisions that they pledged themselves to make available for imports the whole surplus from proceeds of exports over requirements of imports and other foreign commitments. The country would determine, in consultation with the Organization, a reasonable level of necessary monetary reserves. There was a provision in the amendment against discrimination and for the obligation that Members controlling foreign trade should pay due regard to the interests of other members, and there was adequate machinery for remedy.

Obligations set out in paragraph 2 (a), sub-paragraphs (i) (ii) of the New Zealand amendment were in his opinion weightier than most obligations imposed in other parts of the Charter.

It was not true that the provisions envisaged in the New Zealand amendment were open to misuse and to escapes from the obligations under the Charter. There was hardly any general rule in the Charter to which no escape clause was attached. The success of the Organization did not depend upon its being able to compel Members to obey the rules of the Charter, but upon the fact that the Members promoted their own interests by fulfilling their obligations.

Mr. B. J. BAYER (Czechoslovakia) stated that Section E of Chapter V was of vital importance to the Czechoslovak economy. If the Charter were a perfectly balanced document, all states - whatever their political, economic and social structure - would co-operate. The Charter should not impose exclusive burdens upon any country, nor should it give unjust benefits to others. He thought that the New Zealand amendment was a very good contribution to a better balanced Charter and hoped that the amendment would be discussed in the Sub-Committee.

Mr. JOHN W. EVANS (United States) was not convinced that the New Zealand amendment was properly placed in Section E; its proper place might be in the Section dealing with quantitative restrictions.

In his opinion the amendment vitally affected the balance of the Charter. It was possible to establish an organization for the promotion of world trade without specific obligations on Members, or such organization should be based on a Charter of specific obligations. The Conference adhered to the second alternative and thus it would not suffice to state in the Charter a general rule, such as that a Member should not act so as to injure another Member's trade. The conference decided upon specific rules, and the amendment introduced a very radical change to this principle. He was sure that it was not the intention of the New Zealand amendment to destroy the structure of the Charter, but in his opinion it might have this effect. It provided for a complete protection of all domestic industries with restraints resting only in the will of the country controlling its foreign trade. Such country would, in fact, be relieved of obligations under Articles 15, 24, 25, 26, 27, and 30, and it was left to its own judgment to decide whether or not its foreign trade policy injured other members.

It seemed clear that the amendment constituted a complete exception to specific obligations of the Charter, an exception which did not apply to any other Member.

Mr. HOLLOWAY (South Africa) could not subscribe to Mr. Evans' opinion that the New Zealand amendment would destroy the structure of the Charter. The amendment was less drastic than the present Article 33. Discrimination was the main purpose of the Charter, but in a system which depended on planning, i.e. on preferences in certain things, there could not be non-discrimination. The Charter, as now drafted, tried to compromise between two concepts - free trading and controlled foreign trade - and of necessity there could be no extremes in the Charter. In the present Article 33 the monopolistic country could do practically anything - it could apply discriminations, quantitative restrictions, without much protection for other members. The New Zealand amendment provided for some degree of protection and therefore he thought that it was nearer to the main objectives of the Charter than the present Article 33.

The meeting rose at 6.40 p.m.