

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

Summary Record of the 35th Meeting of
Commission A, held on Monday, 11 August
1947, at 2.30 p.m. in the Palais des
Nations, Geneva.

Chairman: M. Max Suetens (Belgium)

ARTICLES 34, 35 and 38.

The Commission decided to take as the basis of the discussion the Report of the Legal Drafting Committee (E/PC/T/155) together with the corrigendum dated 8 August 1947.

The Delegate for the United States, Chairman of the Sub-Committee dealing with these Articles, presented the Report.

Article 34.

Upon the suggestion of the Delegate for Belgium, the Commission decided to make an alteration in the first sentence of sub-paragraph (a) of paragraph 1 of the French text as follows: "... et par l'effet des engagements qu'un Etat-Membre a contractés en vertu du présent chapitre, y compris ..."

The English text of sub-paragraph (a) was approved without change.

The Delegate for BELGIUM submitted the French draft of sub-paragraph (b) of paragraph 1 (E/PC/T/W/268) and made it clear that he had not intended to propose a change in the

English draft of this sub-paragraph.

The English text of sub-paragraph (b) was approved as drafted by the Sub-Committee and the French text as proposed in E/PC/T/W/268.

The Delegate for CHILE stated that he had been able to withdraw his reservation on the text of paragraph 2, because the provisional measures permitted under this paragraph had been reduced to a minimum.

The English text of paragraph 2 was adopted without change.

In the last sentence of the French text the word "préavis" was substituted for the word "avis". Apart from this change the French text of paragraph 2 was adopted.

The text of paragraph 3 was approved without change.

The Delegate for the UNITED STATES pointed out that paragraph 2 makes no distinction between Members parties to the General Agreement on Tariffs and Trade and Members not parties. It seemed, therefore, necessary to him to make it clear in an additional provision that Members should only be obliged to consult with such Members of the Organization who were Members to the Agreement. He proposed therefore to add an additional new paragraph 4 reading as follows:

Nothing in this Article shall be construed

(a) to require any Member, in connection with the withdrawal or modification by such Member of any concession negotiated under Article 24, to consult with or obtain the agreement of Members other than those Members which are parties to the General Agreement on Tariffs and Trade, or (b) to authorize any such other members, not parties to that Agreement, to withdraw from or suspend obligations under this Charter by reason of the withdrawal or modification of such concessions.

The Delegate for BELGIUM associated himself with the proposal suggesting changes in the French draft; he was supported by the Delegate of France.

Paragraph 4 was then approved.

Article 35.

The Delegate for the UNITED STATES, as chairman of the Sub-Committee, explained that the important change here was the transfer of paragraph 2 to Chapter VIII, making it applicable to the whole Charter. This had been approved by the Sub-Committee on Chapters I, II and VIII.

The only other change of substance was the omission of the last clause of the New York draft concerning specifically the furnishing of information.

The text of Article 35 was approved, the sole draft change being the omission of the words "or charges" in conformity with changes previously adopted in Article 17.

Article 38.

The Delegate for the UNITED STATES, as chairman of the Sub-Committee, explained the changes made as compared with the New York draft. Paragraph 1 had been re-drafted.

Sub-paragraphs (b) and (c) were added to paragraph 3 to enable a Member to maintain transitional arrangements for the purpose of establishing a Customs Union with another Member. He also suggested to delete Paragraph 4 in view of the Sub-Committee on Chapter IV having proposed an Article 13 c which covered the same subject matter.

The Delegate for CHILE stated that the Chilean province Magellanes, for reasons of its distance from the metropolitan country and of the different economic conditions, was enjoying

certain import franchises. It was not a separate customs territory and he wished to make this clear with respect to paragraph 1 of this Article.

Paragraph 1 was then adopted without change.

The only change made in paragraph 2 concerned the French text, at the end of which the words "d'une telle union douanière projetée" were substituted for the corresponding words in the draft. Otherwise paragraph 2 was approved unaltered.

The Delegate for CHILE supported the text of sub-paragraph (b) of paragraph 3.

The Delegate for SYRIA wished to have an explanation as to the significance of the term "frontier traffic" in sub-paragraph (a) of paragraph 2. He also expressed doubts regarding the accuracy of the phrase in sub-paragraph (b) of paragraph 1 that duties, regulations, or margins of preference of a Customs Union shall not on the whole be higher or more stringent than those previously applicable in the constituent territories.

The Delegate for the UNITED STATES explained that the purpose of this provision was to prevent the formation of a Customs Union to be used for the raising of the level previously enforced. The expression "frontier traffic" was an established term, the contents of which enjoyed a long tradition.

The Delegate for the UNITED KINGDOM quoted from a passage of the Report of the First Session which was still applicable, no substantial change having been made in respect of this particular provision.

The Chairman pointed out that the wording was the same as always used in trade treaties.

In the English text of sub-paragraph (b) of paragraph 3 the word "initiate" was replaced by "institute". Paragraph 3 was approved without further changes.

The Delegate for BELGIUM declared that he had not seen the draft Article 13 c and had not been able to consider it fully. He could not therefore express himself to the proposal for the deletion of paragraph 4.

The Chairman suggested to discuss paragraph 4 on its own merits, reserving the decision on its deletion.

The UNITED KINGDOM Delegate stated that having seen the proposed text of Article 13 c, he thought the suggested deletion was reasonable.

The Delegate for CHILE supported the suggestion to examine the text provisionally in relation to the provisions of Article 38.

The Delegate for the UNITED STATES did not think a specific article dealing with possible new preferential systems was needed. In unusual cases, paragraph 3 of Article 66 could be applied.

Upon the suggestion of the Chairman it was decided to postpone the discussion of this paragraph until Article 13 c and Article 66 had been discussed.

Paragraph 5 was approved with the change suggested by the Legal Drafting Committee in both the English and French texts.

The meeting rose at 12.25 p.m.