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

COMMISSION A

Summary Record of the Ninth Meeting held on Thursday 5 June 1947 at 2.30 p.m. in the Palais des Nations, Geneva.

Chairman: H.E. Mr. Erik COLBAN (Norway).

Article 5.

The CHAIRMAN opened the discussion on this Article.

Mr. RODRIGUES (Brazil) withdrew his reservation made in New York with reference to the fixing of a date for entering into force of the Article.

Paragraph 1.

Mr. Oscar RYDER (United States), commenting on the United States proposal (W.23) for the deletion of paragraph 1 and the insertion of a second sentence to paragraph 2, stated that paragraph 1 had no binding force. The addition of paragraph 2 was intended to prevent discrimination being applied by internal taxation on imported products for the purpose of protecting competitive domestic products.

Mr. R.J. SHACKLE (United Kingdom) associated himself with the proposed deletion of paragraph 1 on condition that it would be replaced by the addition to paragraph 2 suggested by the United States.

Mr. J. MELÅNDER (Norway) maintained the Norwegian proposal for the deletion of paragraph 1, because this was not clear enough, and paragraph 2 and the first sentence of paragraph 3 already represented its complete application. (He objected, however, to the proposed addition to paragraph 2.)
Mr. K.S. Ma (China) also supported the deletion of paragraph 1.

Mr. G. GUTIERREZ (Cuba) declared that he could not accept paragraph 1, because it interfered with national legislation with a view to industrialization.

Mr. R.J. SHACKLE (United Kingdom) agreed that paragraph 1 might seem too widely worded. However, there was need for a provision preventing a country having made tariff concessions from offsetting these by internal taxation in order to protect a competitive domestic product.

Mr. P. FORTHOMME (Belgium) admitted that the Cuban objection had a certain foundation, but did not think it warranted the suppression of paragraph 1, which was specifically directed against protective taxation.

Paragraph 2.

After the Commission had passed on to the United States amendment of paragraph 2, Mr. DEUTSCH (Canada) expressed his support.

Mr. J. MELANDER (Norway) feared that its acceptance would imply the principle of differential treatment of foreign products.

Mr. K.S. MA (China) was prepared to accept the first sentence of paragraph 2, but not the addition proposed by the United States.

Mr. RODRIGUES (Brazil) supported the United States amendment, but reserved the right to discuss the first sentence of paragraph 2.
Mr. F. GARCIA OLDINI (Chile), stressing the vagueness of certain terms of the amendment, stated that he could not support it, because it went beyond the scope of Article 15. He was supported by Mr. A. KOJEVE (France) and Mr. S.RANGANATHAN (India).

Mr. RODRIGUES (Brazil) asked the Delegate of the United States whether the United States Corporation income taxation, which was somehow discriminating against foreign countries, would come under the first sentence of paragraph 2.

Mr. RYDER (United States) replied that the word "indirectly" was meant to cover the tax not on the product itself but, for instance, on its processing, and suggested making this point clear by inserting instead the words "direct or indirect" before "internal taxes" at the beginning of the first sentence of paragraph 2.

Dr. J.E. HOLLOWAY (Union of South Africa) supported the United States amendment without which, in his view, any tariff concessions could be made inoperative.

The CHAIRMAN, stating that opinions were divided, suggested to refer the question to the Sub-Committee, which was agreed to.

Mr. GARCIA OLDINI (Chile), commenting on the Chilean amendment (W.56), stated that if it was understood that it expressed a recognised principle and if this fact would be acknowledged in a note to the Charter or other official conference documents, he would be satisfied.

Mr. R.J. SHACKLE (United Kingdom) pointed out that this principle was already incorporated in a footnote in the New York text of Article VIII of the General Agreement. The Sub-Committee accepted this interpretation.
On the amendment delete the word "transportation" from paragraph 3 of Article 15 (W.62). Dr. J.E. HOLLOWAY (Union of South Africa) referred to the report of the Sub-Committee of Commission B, appointed to consider the inclusion or exclusion of services in Chapter VI (W.144 - T.83). The view arrived at there was that transportation and other services would be too complex and too far-reaching a problem to be dealt with in the Charter. If, however, it should be included in this Article, he would have to insist on dealing with all forms of inland and international transportation in all contexts.

Mr. P. FORTHOMME (Belgium) pointed out that transportation was a major factor in international trade and could be manipulated for protection. He was, therefore, opposed to the deletion of the word "transportation". In this he was supported by Mr. RODRIGUES (Brazil) and Dr. GUTIERREZ (Cuba).

Mr. M.P. PAI (India) thought that, on balance, the deletion of the word "transportation" was preferable.

Dr. J. HOLLOWAY (Union of South Africa) repeated that the complex aspects of railway management made this question quite unsuitable for treatment in the Charter; to include internal transportation in Article 15 would, in addition, involve discrimination in favour of international transportation.

Dr. E.G. COOMBS (Australia) stressed that many of the existing discriminations applied in transportation were of a minor nature and often not easily detected or remedied. He wondered, therefore, if the rule could be laid down so that it applied fully to new laws, regulations and requirements, but only to past ones in cases where complaints were received.
Mr. P. FORTHOMME (Belgium) supported this suggestion.

Dr. J. HOLLOWAY (Union of South Africa) was prepared to accept this view, provided the whole field of transportation were dealt with in this way.

The discussion being closed, the amendment was referred to the Sub-Committee.

Paragraph 3.

Mr. K.S. MA (China) stated that he maintained his proposal for the deletion of this paragraph (W.79) because, as in regard to the preceding paragraphs, China could not extend the application of the provision beyond national taxation.

Before discussing the United States amendment (W.23), it was agreed to postpone consideration of the question of cinematograph films of this paragraph until a later time.

Mr. RYDER (United States), explaining the amendment, stated that the United States could not agree to the exemption of films from the provision of this paragraph, but proposed to allow a transitional period in respect of films. The second change was made, because the degree of restrictiveness of other measures depended on the extent to which it was applied and therefore the criteria should be as to whether other measures were impracticable.

Dr. G. GUTTIERREZ (Cuba) and Mr. J. MELANDER (Norway) maintained their proposal for the deletion of the second part of this paragraph, as it interfered with internal legislation.

In reply to a question by Mr. R.J. SHACKLE (United Kingdom) as to whether the intention was to treat domestic products differently from imported products, Mr. J. MELANDER (Norway) explained that the Norwegian Government wished to be able to issue rules regarding the composition of certain
products without, however, discriminating in respect of the constituent parts between domestic and foreign origin.

Mr. Stanislav MINOVSKY (Czechoslovakia) drew attention to the fact that the provision concerning restriction of the amount or proportion of imported products permitted to be mixed or processed, which appeared in this paragraph, may or may not be understood to involve a restriction on the importation of such products.

Mr. Oscar RYDER (United States) stated that this raised aspects which had not been given consideration and he wished to consider the implications before answering.

The Meeting rose at 6.10 p.m.