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

VERBATIM REPORT

SIXTH MEETING IN EXECUTIVE SESSION
HELD ON WEDNESDAY, 21 MAY 1947
AT 10.30 A.M. IN THE PALAIS DES NATIONS,
GENEVA

M. MAX SUETENS (Chairman) (Belgium)

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CHAIRMAN (Interpretation): The Meeting is called to order.

We shall discuss this morning the amendments presented by the Delegation of Chile and by the Delegations of Syria and the Lebanon, amendments to the text of Article 14.

The Chilean amendment is contained in Document W.27 of May 8.

I invite the representative of Chile to present his comments on the Chilean proposal.
M. ANGEL FAIVOVICH (Chile) (Interpretation): Mr. Chairman, fellow Delegates: This Conference was convened by the Economic and Social Council of the United Nations and had its first reunion in London last year. Its purpose is to establish a statute or Charter for international trade which will regulate interchange between the countries and develop their economies.

The Charter is, in the commercial and economic field, the same instrument as is represented, in the political field, by the San Francisco Charter or, in the financial field, by the Bretton Woods Agreements.

We came to this Conference because we believe that the constant interdependency of the various States on all questions is indispensable to world understanding and world peace. As I already had the pleasure of saying at the first of our Meetings in London, there are no economies which are strictly national and we cannot consider that peace - even the political peace - can be achieved if we do not come to an agreement on the balance of national economies. Among the various aims of the Charter and of the organization which we are going to create now, we must never forget those that tend to reach a higher standard of living, full employment and development of progress. As well as production interchange, we have to constantly think of the aim which tends to realize a large and effective demand, and also to help the industrial development of the Member countries of the United Nations. Confronted by such lofty purposes, we find that in some cases there are difficulties in reaching these objectives, because we think too much of means, which are not really the main objectives, and which we sometimes discuss too much.
I am thinking, notably, of the discussions on tariff questions and other obstacles to international trade, which in my view are ways and means to reach the purpose we have in mind, but should not be considered as the most important questions. We must consider also the practical ways of reaching our objectives. It may seem, from the abstract point of view, that these discussions on tariffs may be very important; but in certain cases (and especially those that interest countries like ours, with a small developed economy) it is more important to introduce certain exceptions which, without abandoning the general frame of the Charter, would permit the elimination of obstacles and in this way permit a quick development of industrial life in those as yet relatively undeveloped countries.

This is the case in regard to the exception to the clause of the Most-Favoured-Nation which my country asks you to introduce in the Charter. We have called this exception "exception of the neighbouring countries". It is an exception which we ask only for a limited purpose, an exception which would only apply to a limited radius. As you know, it will only touch the countries which have common frontiers. It has a precise and clear objective. It is based on history and its possibilities for countries of weak economy are enormous.
However, unfortunately in London we were not able to obtain the inclusion of these exceptions in the Charter. We accepted at the time, because of the fact that it was the very first act of the World Conference. We accepted to rally ourselves to a text which was accepted as a first concession on our part and we accepted the inclusion of letter (o) of paragraph 2, Article 14. In New York, however, we indicated that this exception did not cover our problem, it did not solve our problem and we made an express reservation on it saying that we would, later on, that is during the meeting which we have here, come back to the problem. This is the reason why I ask your attention for a few moments to give you a few more indications of our position.

First of all I want to say that our position is neither original nor improvised and certainly the same could be true of other countries. From the beginning of its independent life, Chile has always followed the principle of giving equal treatment to the trade of all countries. However, from the very beginning of its independent life Chile had to consider an exception in favour of the American countries due to the fact that the community of origin, the geographical proximity, created for those countries a special situation which had to be reflected in a special commercial and economic advantage which was concluded between the Republics of the Western Hemisphere. Chile always has tried to introduce this clause for the neighbouring countries in the trade agreements which it concluded with other countries. It has not always been possible to introduce this so-called American clause in all treaties. However, we have now already a number of treaties which contain either the exceptions for neighbouring countries or the Latin-American exception, and these
treaties are those with Belgium, Brazil, Cura, Denmark, Equador, Spain, Italy, France, Mexico, Norway, Sweden, Venezuela and Switzerland. In this respect it should be also mentioned that there is a very important decision contained in the Resolution of the Seventh International American Conference of Montevideo adopted on December 21, 1923, which recommends to the governments of the American continent the study of contractual formula which would permit the granting of exclusive commercial advantages among neighbouring countries. This formula was also recognised by the consultative, financial and economic committee of the American Republics. One year later, in the third reunion of the foreign ministers of the Americas which met in Rio de Janeiro in 1942, at the time when history was very important for the Hemisphere and civilisation, the countries of America insisted again on their point of view. Resolution number seven approved and adopted at this meeting, recommends that the governments of the American Republics should study the opportunity to indicate in their commercial agreements with the nations outside the Western Hemisphere, exceptions in commercial and customs matters in favour of all the other American Republics.

Thus, as I have already had the honour of saying, Chile has maintained for a long time a policy to incorporate this exception in favour of the neighbouring countries in its trade agreements, and we can also say here that this development has not always been as wide as we would have desired it. We hope that, in the near future, this policy will still develop further, but we also want to say here very clearly that this exception will never entail a substantial prejudice for the trade of the rest of the World. Its objective is, in fact, very limited. It does not tend at all to establish discriminations or limit the trade of other countries outside the countries that are directly interested. It only tends to ensure a more rapid industrial development between the neighbouring countries of still undeveloped or poor economy.
In this respect it has sometimes been said that the general trend today is to keep strictly to equality of treatment among all countries and not permit any exception besides those which have already existed in the past. This argument could seem excellent in the abstract, but it is really far from solving the question for us, because it does not really touch the basic aspects of our problem. These questions have already been discussed at length and I am not going into details about them here again, but I must insist on the fact that you cannot establish in this Charter two different ways and means of examining the question, one that would permit to certain countries the facility to maintain and negotiate preferential duties in certain cases, and another which would deny the same facility to other countries, for the sole reason that the first had long ago established such preferences, whilst the second are only now desirous of using the same facilities. To act in this way would mean establishing two different standards of judging the same thing.

As I have already said, the highest purpose of the Charter is to attain the largest possible expansion of trade and industrial development and by this means to realise the objectives of full employment and higher standards of living all over the world. Well determined and well limited preferential treatment in certain cases - as would be the case for the Latin-American countries whose economy is as yet undeveloped - would be, I am convinced, one of the best means of reaching such objectives. These results are already clearly shown in the case of Cuba.

The Delegate of Cuba, indicated in London that the 1902 Agreement with the United States sets up such a preference and has been the basis on which Cuba built its economic structure.
and was allowed to develop its whole economic life for about half a century.

The case of Chilo, and of other countries in the same position, is based on similar reasons to those which were at the basis of the agreement between Cuba and the United States. These countries, wealthy in raw materials, have only recently started to develop their industries. They have therefore to look to neighbouring countries which frequently offer complementary products for the counterpart necessary at this stage of their normal development. If they could not do that, they would have to abandon their plans for industrial development.

What we ask here is nothing undefined and uncontrollable; it is only to give to those countries an opportunity equal to that which the other countries had in the past, when they also started their industrial development. We want nothing other than what has been granted previously to other countries in the same situation.

In order to understand this situation one must remember that all countries, due to their state of population, cannot assure a sufficient initial market for their products without such an agreement with their neighbouring countries. Those neighbouring countries will assure a mass of consumption sufficient to permit the normal development of their industries, and this will also in time permit a customs union between those countries. This normal process - the modalities of which could be clearly set up in a way to prevent any deformation of the objective in mind - is the only one which will permit countries of modest economy to develop themselves in a form which will assure them economic independence, will permit a balanced development of
their industries, and permit them in time to become active and solvent customers of the rest of the exporting countries of the world. Thus the whole problem of reduction of tariffs, and other discussions of that kind, is only a means of realising the final purposes of the Charter and of the I.T.O.

In our particular case, all these tariff discussions could not give really positive and great results, because, as I said at the first meeting, the difficulties which are encountered in Chile - and in certain other countries also - in the importing of foreign goods are not due so much to tariff duties, but mainly to the lack of foreign currencies. It seems evident that the diminution of tariffs will not influence in a substantial way the volume of our imports and will not therefore be sufficient to improve the conditions of international trade nor permit, by itself, an increase in the standards of living of our people.

On the other hand, the establishment of a proper regime for our industry - thanks to the introduction of an exception in favour of neighbouring countries - would assure to our country a market sufficiently wide to permit not only the saving of foreign currencies but even the acquiring of such currencies, thanks to the sale of products in the neighbouring countries. In this way we would not accumulate unused stocks or deposits of foreign currencies, but we would use them as a means of acquiring more products in the world market. Thanks to the combination of these two things, we would be able rapidly to increase our trade in the world and also the standard of living of our people.

There is nothing in our draft which can present the danger of the idea of a bloc, or even the menace of forming a kind of bloc against other countries. Our history and the many
declarations of our Government on those questions are clear and the text we submit today is also clear in this respect. On the other hand, it would be indicated here that we should ask ourselves if the dispositions of Chapter VIII of the Charter of the United Nations - which recognises that nothing in the Charter should be construed as being against the existence of regional agreements - should not have its equivalent part on the economic plane. This seems to be logical to us and would be expressed exactly in the formula we are submitting to you, that is, in recognising preferences between neighbouring countries.

The reasons I have indicated are based on realities and therefore I am honoured to submit to you the amendment which you have now before you and which I am not going to repeat here.

We hope that the reasons we have given, and other reasons which we might add if you so desired, will convince the Delegates that our amendment does not hamper the general rules which govern international trade, nor create any prejudice to the trade of other countries, Members of this Conference.

Its acceptance will only introduce an exception which is fully justified and which will facilitate to a large extent the interchange of goods and help in a practical way to realise the ultimate purposes of the Charter. It is for this reason that I ask your collaboration in our amendment, and I would also like you to remember that there is a Point 4 in the Resolution of the Economic and Social Council of the United Nations dated February 18, 1946, which invites the Preparatory Committee to take into account, when it studies the problems
submitted for its consideration, the special situation of the countries in which the manufacturing industries are only starting their development. I am sure that if you study this problem with the same spirit of understanding which you have shown in studying other dispositions of the Charter, you will recognise that we are right in submitting this amendment, and that you will also recognise that it would be a good thing, for the benefit of everybody, to give more elasticity to the present text.

CHAIRMAN (Interpretation): Does the representative of the Lebanon wish to take the floor to make a statement with regard to the amendment presented jointly by the Lebanese Delegation with the Chilean Delegation?
Mr. HASSAN JABBARA (Syria): I wish to associate my delegation with the statement presented by the representative of Chile. It is not my intention to repeat most of his arguments, which I can only support, but I would like to add that, with regard to my country and our countries, the position is still more characterised in that sense. Before 1914 Syria and the Lebanon, two Arab countries, were part of the Ottoman Empire. They were part of one country and they belonged to one customs system. After 1914, several Arab countries were separated from the Ottoman Empire and immediately a Customs Union was established between Syria and the Lebanon. Some time later, a Customs Agreement was concluded between Syria and Lebanon on the one hand, and Palestine and Transjordan, on the other. That Agreement is more than simply a system which could be described as a preferential régime. It is an Agreement providing for free exchange of goods between these four countries without any customs duties, and at the same time it provides for a preferential régime with regard to imports from other countries towards any of these four countries. Still later, the Arab League was created, including seven Arab countries. All these countries had their economic and industrial development delayed; I might say greatly delayed; they all belong to the same race, they all use the same language, and they are all to a large extent complementary to each other; and the members of this Arab League tend naturally to eliminate customs barriers between them, similarly to the manner in which it has been done in the four Arab countries’ Agreement already mentioned by me. Therefore the amendment now before us corresponds in our opinion to a real necessity and to the desire of the Arab countries to give each other mutual help in the economic field, mutual help without which they could not help actively in achieving the economic purposes of the United Nations Charter.

CHAIRMAN (Interpretation): Gentlemen, I wish to open the discussion on the amendment which has been proposed. Who are the prospective speakers?
H.E. MINISTER ANTONIOES DE VILHEMA FERREIRA MAGA (Brazil)

(Interpretation): Mr. Chairman, we have now before us a proposal which certainly is in disagreement with the principles which have been stated up to now in our conference. We have all agreed on the question of preference, and the text which has been drafted is in accordance with the large majority of opinions expressed. We all agree with the fact that preference must be alleviated in the future, and it might be mentioned that the suggestions which had been made by Chile, Syria and Lebanon could be taken in consideration agreements such as are foreseen in the text could be drawn up if they are in conformity with the principles which have already been set out and with the wishes of the members of the organization.

It has been recommended that governments consider the possibility of including the formulas according to which regional agreements might be set up in the general principles of our Charter, in which it is stated that these preferences which are still considered as possible should be subordinate to certain rules and to certain general conditions in accordance with the general spirit of the organization.

It must be stressed that in the present situation, universal co-operation is still more important than regional or national co-operation, and that it is necessary to conciliate the desires so that agreements which might be reached in particular are in accordance with the general opinion of all the members.

We have ourselves made a proposal in London in conformity with which preferential agreements might be concluded by countries which have some regional affinity, but we have abandoned this proposal in accordance with the general wish of the members of the conference, and with the principles which lie at the basis of our
work.

If we come back on this principle, we open again discussion on the matter which seemed to be settled and on which it seemed possible to reach a general agreement, because other exceptions, other cases might be brought up, not only those which have already been stated. Therefore we are in favour of keeping the text as it stands, taking into consideration that the policy in principle, is not eliminated of concluding agreements in the future in accordance with the appreciation and judgement of the members of the organization and the rules which will be drawn up, so that a general resolution can be arrived at in accordance with the general wishes.

CHAIRMAN: Monsieur Nathan.
Mr. NATHAN (France): I am in agreement with the previous speaker on the point that these problems should be viewed on the universal basis, and that the widest possible international cooperation must be called for if you wish to reach the best possible solutions. But as we know, and the French Delegation had already several opportunities to say, we live in a disrupted world and we see divisions and fissures everywhere; and whatever we may attempt to do here to bring order in this field, we see every day that the forces of disintegration are still at work. Therefore there may be intermediate steps and solutions—intermediate between the universal plan and the purely national solutions, and it is of course our task to help whenever possible the achievement of such intermediate solutions as well; but on the other hand we are unable to support the Amendment now presented by the Delegations of Chile and the Lebanon as it is. We think that the criteria for the establishment of preferential treatments or customs unions should not be only the fact that the countries may have not a common frontier.

We think that these problems should not be treated on a geographical basis alone. If that course is taken it is obvious that we shall still have divisions in the economic world—divisions wider than the national framework but divisions still.

We also think that the establishment of customs unions should not be pursued except between countries which are on the same level of industrial development. We think that countries which are on a different level may also have interest and important reasons to seek the establishment of customs unions.

It may be useful for countries which are on a higher level to have such agreements with backward countries, and vice versa. If the problem now before us is to formulate stipulations with
regard to customs unions, I should like to recall that we have already in that respect Article 38, and the provisions of Article 38 could perhaps be rendered more flexible in order to give satisfaction to the wishes of the Representatives of Chile and of the Lebanon; and I can say that the French Delegation is prepared to present Amendments to Article 38 in that sense when Article 38 comes up for discussion.

Mr. GUERRA (Cuba): The Cuban Delegation is also in general agreement with the remarks made by the Delegate for Brazil and for France. I must, however, add some remark about the problem we have in hand.

The Amendment proposed by the Chilean Delegation and the Delegate from the Lebanon and Syria looks to us much more general and sweeping in its scope regarding this problem of preferential treatment than anything we have come to discuss up to now.

I want to recall, as the Delegate for Chile mentioned, the position taken by Cuba regarding this problem, that we, in fact, in London made very clear the long-standing importance that the preferential treatment existing between the U.S. and Cuba had for the economy of our country; but to look at our position in the correct light I wish to add that in the London meeting our position was that that long-standing character of the preferential treatment and the importance it had for the economic structure of our country call for caution and careful consideration in the way that the preferential treatment should be reduced or allocated. We call therefore for caution and careful and gradual elimination of this preferential treatment; but we also very clearly stated that we thought that those preferential arrangements were not unchangeable.

In that light I want to recall also that in the discussions in London, the original American Draft Charter did not have any
exception for Article 14 regarding immediate operation of the mfn clause with respect to neighbouring countries.

The original Draft contemplated only the preferences in force - exclusively in force - between countries which had a common sovereignty at a certain date, and the preferences exclusively in force between the U.S. and Cuba.

The problem raised by the Chilean Delegation in London was made by the addition of the section C - that covers preferences exclusively between neighbouring countries; and in the way of compromising on this point the London meeting went so far as to put a very late date - July 1st, 1946 - for the inclusion of that exception in Article 14. But when I said before that the Chilean Amendment now proposed is much more sweeping, I am referring to this: the exception contemplated in sub-paragraphs (a) (b) and (c) of the London and New York Draft are exceptions to the immediate application of the mfn clause, but not exceptions in a general way that will exclude those exceptions from the operation of the clause sometime in the future.

All that the exceptions do is to guarantee or make possible to maintain the preferences that will remain in force after the negotiations we are making now; but in Article 24 we have undertaken the obligation to enter into negotiation for the elimination of these preferences, and now only the preferences remaining after this negotiation will be covered by the exception of Article 14.

The Chilean and Lebanon Amendment, as we see it, is much more suitable; it will, in fact, promote not only the existence of any preferential arrangement that may be in existence now, but it will create new preferential arrangements, if that Amendment were adopted.
In fact it will be very wide; it will impose a very wide interpretation on the application of the mfn clause. As to the terms, they are necessarily vague and general, in the definition that the Amendment contemplates.

I want to call the attention of the Committee to the fact that according to the exception Article 14, and what was stated in Article 24, we are already undertaking negotiations, which are in many ways eliminating or reducing these preferences - it is because we considered it of long-standing and particular importance to a group of countries that we contemplated Article 14; but we are actually now negotiating reductions according to the rules of Article 24.
I do not think it will be, as the Brazilian Delegate said, and the French Delegate supported, within the spirit of the general approach that we have to the problem of expansion of trad— at a time when the countries who have long standing preferences have accepted the undertaking to reduce or eliminate them, and are actually taking part in negotiations that end—to set up an exception of such a general character that will not only free those countries of any obligations to enter into negotiations for reduction or elimination, but will create possible arrangements of a preferential character in the nature. It will be running against the spirit of the whole negotiation and running also against the spirit and the sense of realities and compromise in which the countries have accepted the rule of Article 24 and have undertaken the negotiations now.

In other words, it will be a case whereby countries who have long standing and very justified, from certain points of view, preferential arrangements are now eliminating or reducing them and yet creating a new, much wider set-up of preferential arrangements.

We feel, like the French Delegate, that if the problem confronting certain countries is the question of complementary economies, the point is already (maybe not quite adequately) but already contemplated and covered in Article 38 with the provision that makes possible the formation of Customs Unions. I think that, as the French Delegate stated, a Customs Union is not necessarily only possible in the case of countries which are on the same economic or industrial level but particularly in the countries of complementary economies. We feel that point is already covered in Article 38, and that this purpose and objective which the Chilean and Lebanon-Syrian Delegations have in mind may quite well find a solution within the provision of Article 38. But we certainly do not feel like supporting any type of exception to the Most-Favoured-Nation treatment in such a way that will make possible the creation of new discriminatory treatment at a time when the preferential arrangements of long standing are being negotiated for reduction or elimination.
Mr. J.T. CHANG (China) (Interpretation): Mr. Chairman, the Chinese delegation wishes to support the point of view presented by the delegate of Cuba. In fact, the Chinese delegation enters these negotiations in the spirit which is set out in the text of Article 14, and if attempts are made to change the spirit of these clauses we shall only have new and considerable difficulties.

CHAIRMAN (Interpretation): The discussion will continue this afternoon at 3 o'clock. The meeting stands adjourned.

The meeting rose at 12:45 p.m.