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

TARIFF AGREEMENT COMMITTEE

Summary Record of the 10th Meeting held on Thursday, 4 September, 1947, at 2.30 p.m. in the Palais des Nations, Geneva.

CHAIRMAN: Hon. L.D. WILGREN (Canada)

The CHAIRMAN opened the meeting indicating that the discussion on Part I of the General Agreement was concluded and that discussion should now commence on Part II. He proposed that the discussion on Part II should be confined to the question of whether or not any particular Article or paragraph of an Article in the draft text should be retained. He ruled that it would not be in order to submit amendments of substance to the texts of such articles since those texts had been taken over from the Draft Charter which the Preparatory Committee had approved.

Article III - National Treatment on Internal Taxes and Regulation.

Dr. COMBS (Australia) observed that this Article in its present form had two purposes: firstly, to protect the tariff schedules, and, secondly, to preclude the use of internal taxes as a means of protection. He felt that the first objective was a reasonable one for an agreement of the present type but that the second objective was inappropriate since it was not related to tariff bargains but to general policy on commercial matters to be covered later by the Charter. He considered that if the Article were confined to the commodities described in the schedules it would be acceptable.

Mr. BROWN (United States) indicated that his Delegation
attached great importance to both of the objectives of the Article and, in fact, considered it to be one of the indispensable articles in the Draft Agreement.

Mr. MELANDER (Norway) indicated his agreement with the Delegate of Australia and questioned whether the aspect of the present article relating to general commercial policy could be regarded as a normal part of a commercial treaty.

Mr. SHACKLE (United Kingdom) and Mr. BROWN observed that a clause corresponding to the present article in respect of internal taxation appeared in the agreement between the United States and the United Kingdom and in many other agreements made by their countries. Mr. SHACKLE remarked that if internal regulations were not also to be covered by this article it would be open to a country to impose quantitative restrictions indirectly through internal regulation. He added that the present tariff concessions were being negotiated on a general basis not confined to the specific products involved therein but relating to the whole structure of trade.

Mr. FORTHOMME (Belgium) agreed with the Representative of the United Kingdom and maintained that if contracting parties were required to abstain from increasing tariffs and internal taxes merely on those articles which were under negotiation a wrong meaning would be given to the General Agreement.

Mr. JOHNSON (New Zealand) maintained that since the General Agreement would permit the use of tariffs in certain cases it would be inappropriate, through such an article as the present one, to prevent parties from employing internal measures in place of tariffs in those cases in which tariffs would have been permissible but were not found suitable for the purpose. He agreed with the Australian and Norwegian Representatives that commitments at the present stage should be confined to products covered by the
schedules. He added that while he had no objection to the inclusion of Paragraph 1 of Article III, he would prefer that the remaining sections of the Article be omitted.

Mr. WUNSZ KING (China) observed that no provision similar to the present article extending the scope of national treatment to cover like products had been included in the commercial treaty between China and the United States of 1926 or in other commercial treaties which he had examined. He felt that the inclusion of the first sentence of the first paragraph would be sufficient for the present purpose. He suggested as a compromise that the first sentence of the first paragraph and the whole of the second paragraph should be included but that the rest of the Article should be omitted.

Mr. MELANDER remarked that one of the most important assumptions on which the negotiations of his Delegation had been proceeding was not only that the final Charter would cover the general subjects included in the draft, but that almost universal acceptance would be secured for that final Charter. So far as the present more limited General Agreement was concerned, if any general policy provisions were to be included he could not accept the proposal of the Delegate of China since in his view the first sentence of Paragraph 1 and Paragraph 2 of Article III could not be retained by themselves because they had to be read in the light of the exceptions and principles contained in Paragraphs 3, 4 and 5 which the Delegate of China would be prepared to delete. Concerning the proposal by the Delegate of New Zealand, he considered the same argument to be applicable and that if Paragraph 1 were to be retained, Paragraph 5 would also have to be kept.

Dr. GUTIERREZ (Cuba) remarked that he had previously expressed the view that the General Agreement should be signed only after the World Conference when the final texts of articles from
the approved Charter could be included. In the present circum-
stances he was inclined to oppose any change in the existing
texts unless they tended to reduce the portion of the General
Agreement drawn from the Draft Charter. Dr. COOMBS remarked
that if his earlier arguments were to be expressed in terms of
a proposal it would be to the effect that after the words "the
products of any contracting party" in the first and second para-
graphs of the Article there should be inserted the words "being
products described in the schedules".

The CHAIRMAN expressed the view that such a modification
would not be in order since it had been generally understood that
changes of substance would not be made in articles which are
common both to the Draft Charter and to the General Agreement.
Any attempt to introduce such changes would result in a repetition
of debates which had already taken place in the Preparatory
Committee.

Mr. OLDINI (Chile) remarked that if it were decided to trans-
fer articles unchanged from the Charter the discussion of the
present Article might as well be closed. If, however, the
Committee preferred to limit the provisions to those necessary
to protect and safeguard the results of negotiations, an ad hoc
subcommittee might be established to draft such provisions to
replace the present article.

Mr. ADARKAR (India) indicated that his Delegation did not
feel strongly on the questions of whether the Article should stand
as it now is or whether the scope of this Article or subsequent
articles in Part II should be limited to the products covered by
the negotiations. He referred to the difficulties in which a
signatory would find itself if it were to become a party to two
different sets of obligations. The attitude of his Delegation
towards any single article was governed by its attitude towards
the general question of the status and content of Part II in relation to the Charter. He doubted that it would be practicable to mutilate individual articles and confine them to particular products involved in the negotiations. Although such a course might be feasible in the case of the present Article, it would not be practicable for the articles dealing with customs valuation, formalities, balance of payments questions and quantitative restrictions. Nevertheless, his Delegation would be prepared to agree with whichever proposal the Committee might prefer.

Mr. SACKS expressed the view that the present arrangement really contained a large element of compromise in view of the fact that this Article had been included in Part II rather than in Part I. He agreed with the Representative of India on the impracticability of splitting the Article and concluded that in his view the Committee was faced with the choice of including or deleting this Article in its entirety.

Mr. FORTHOMME considered that modifications in Part II should not be introduced. Mr. COUILLARD (Canada) supported the retention of Article III in full, remarking that similar provisions have been included in commercial agreements which his country has made and which are still in force. He observed that the Canadian Delegation had conducted its tariff negotiations in Geneva on the assumption that provisions comparable to those now included in Part II, and in this Article particularly, would apply not only to the negotiated items but to all items in his country's trade.

Mr. MELANDER suggested as a further compromise that all of Part II might be deleted and that reliance might be placed on adherence to the principles of the Charter in the sense indicated in the Protocol.

Mr. WUNSZ KING (China) remarked that his Delegation had very strong views on the second sentence of Paragraph 1 and would
desire to have it deleted. He expressed his sympathy with the compromise proposal advanced by the Norwegian Representative.

Mr. BROWN stated that while his Delegation was agreeable with the proposal that the general provisions in the Agreement should be put into effect provisionally and under various safeguards (including the provisions for supercession by the Charter unless a party to the Agreement were to object, and also the provisions for consultation) the United States Delegation could not go further than that if it were to protect its tariff concessions. Concerning the remarks of the Representative of China, Mr. BROWN drew attention to the fact that the second sentence of the first paragraph in the present Article was derived from the first paragraph of Article 15 of the New York Draft and observed that this sentence had been inserted to prevent a country from imposing an internal tax upon a product which it does not produce, but upon which it has made a tariff concession, for the purpose of protecting some similar product which it does produce.

Mr. JABBARA (Syria) raised a question as to what was meant precisely by the references to competitive, substitutable or like products.

Mr. WUNSZ KING referred to the remarks by the Representative of the United States and expressed the view that a provision of this character relating to like products was not customary in ordinary commercial agreements and, accordingly, in keeping with the principle stated on an earlier occasion by the United States Representative, should be omitted from the present Agreement. Mr. SHACKLE remarked that even though the stipulations concerning the treatment of substitutable and like products may not have been included in previous commercial agreements, with the changes which were taking place, particularly in the development of synthetic substitutes for primary products, such a provision
would seem appropriate now.

Mr. JOHNSON (New Zealand) expressed his support for the deletion of the entire Article. Mr. LAMSV3LT (Netherlands) expressed the view that the Article should be retained.

The CHAIRMAN, in summing up the discussion, observed that certain Delegations had taken the position that the inclusion of this Article was necessary if they were to grant the tariff concessions included in the schedules to the General Agreement. He felt that such was the case particularly in respect of the United States, the United Kingdom, Belgium, the Netherlands, Canada and no doubt some other countries. He considered that the discussion had proceeded sufficiently far for the first reading and might be discontinued, to be resumed when this Article came up for discussion on the second reading.

Article III A - Special Provisions Relating to Cinematograph Films

Mr. SHACKLE drew attention to the reservation which his Delegation had entered for the time being in respect of this Article but indicated that his Delegation would have no objection to the inclusion of the Article.

Mr. BROWN felt that the Article should be included since it represented a legitimate extension of the previous Article. Mr. ADARKAR observed that since Article III A appeared to represent an exception and elaboration of Article III it should be included.

The CHAIRMAN inquired whether there were any objections to the inclusion of the Article, and, in the absence of such objections, declared that the Article would be retained. Mr. ALAMEIDA (Brazil) expressed the understanding of his Delegation that nothing in this Article would prevent requiring the exhibition of a short national film in all cinematograph exhibitions.

Article IV - Freedom of Transit

Mr. COUILLARD expressed the view of his Delegation that Article IV should be deleted as not directly linked with the
safeguarding of tariff concessions. Mr. BROWN felt that none of
the Articles from Article IV to Article IX, inclusive, was
essential to the Agreement. If the Committee wished, however,
to retain some of them he felt that Articles IV, V and VI would
be the most appropriate ones to keep. Mr. MELANDER regarded the
inclusion of Article IV in Part II as essential. The CHAIRMAN
declared that the sense of the Committee was in favor of the in­
clusion of the Article.

Article V - Antidumping and Countervailing Duties

This Article was included without objection.

Article VI - Valuation for Customs Purposes

Mr. ROYER (France) felt that the Article should be placed on
the same basis as the other articles from the Charter and that
accordingly the words "at the earliest practicable date" should be
deleted. Mr. BROWN had no objection to the inclusion of the
Article but would not be prepared at the present meeting to modify
its language from that included in the Draft Charter. Mr.
AUGENTHALER (Czechoslovakia) supported the proposal of the French
Representative. Mr. SHACKLE drew attention to the fact that the
words "at the earliest practicable date" were the subject of an
interpretative note in Document E/PC/T/W/318. The CHAIRMAN
observed that by a previous decision such notes would be included
in a separate protocol and not as a footnote to the particular
Article. He inquired whether the Representatives of France and
Czechoslovakia would be satisfied to have the matter dealt with in
that way.

Mr. ROYER indicated that although such a treatment of the
matter was not completely satisfactory he would accept the decision
of the Committee but he emphasized the need for inserting the
strongest possible guarantees in respect of valuation. The
CHAIRMAN stated that the Committee was agreeable to the inclusion
of Article VI.

The meeting rose at 6.15 p.m.