

Session of Edinburgh – 1969

The Most Favoured Nation Clause in Multilateral Conventions

(Fourth Commission, Rapporteur : Mr Pierre Pescatore)

(The French text is authoritative. The English text is a translation.)

The Institute of International Law,

Having in mind the Resolution passed at its 40th Session (1936) on "the Effects on the Most Favoured Nation Clause in Matters of Trade and Navigation", especially as regards the unconditional nature of the clause, the automaticity and extent of its effects, as well as the observation of the principle of good faith in the application thereof,

Considering the need to review the problems of application and interpretation of the clause as a result of the profound changes in international relations which have been caused, since then, by the introduction of multilateral and institutional methods in the field of economic relations, both at world and regional level, and taking into account the various economic systems of States, together with the requirements of an economic policy in support of developing countries,

Having examined the thorough report by Mr Pierre Pescatore, Rapporteur of the Fourth Commission, on the Most Favoured Nation Clause in Multilateral Conventions, and the comments of the Members of that Commission,

Recognizing the greater efficiency of the clause through the incorporation of the most favoured nation treatment in multilateral institutional systems,

Taking into consideration that the investigation of the subject matter, if it were to lead to exhaustive conclusions, would require the Institute to take up a position on various problems which are still controversial and widely open to discussion and which, to be solved, mainly require political decisions :

1. Takes note of the Report and of its conclusions in thanking the Rapporteur and the Members of the Commission for their contribution to the study of the problem considered ;

2. Emphasizes in particular, as regards the most favoured nation clause in multilateral conventions on international trade, the following points contained in the Report :

a) Preferential treatment in favour of developing countries by means of a general system of preferences based on objective criteria should not be hampered by the clause.

b) States to which the clause is applied should not be able to invoke it in order to claim a treatment identical with that which States participating in an integrated regional system concede to one another.

c) Derogations from the clause should be linked with appropriate institutional and procedural guarantees such as those provided by multilateral systems.

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(10 September 1969)