

THIRD COMMITTEE: COMMERCIAL POLICY

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19)

NOTES OF THE TWENTY-FIFTH MEETING

Held on Tuesday, 20 January 1948, at 3.00 p.m.

Chairman: Dr. G. A. LAMSVELT (Netherlands)

ARTICLE 18 - NATIONAL TREATMENT ON INTERNAL TAXATION AND REGULATION

Purchases for governmental purposes (paragraph 5)

Item 71 - (Ceylon and Mexico)

The Mexican delegate explained that his delegation had proposed the deletion of paragraph 5 because 1) its scope was not clear; 2) it was not clear what was meant by purchases for governmental purposes; and 3) because of the cross-reference to Article 25, and reserved his position with respect to paragraph 5 pending availability of the final text of Article 25.

In view of the Sub-Committee's interpretation that paragraph 5 was an exception to the whole of Article 18, the Mexican delegate withdrew his original proposal to delete paragraph 5. He proposed alternatively the addition in paragraph 5 of a statement to the effect that the provisions of paragraph 5 of Article 18 could in no way be interpreted as limiting the most-favoured-nation obligation under Article 16, to cover the possibility of governmental discrimination between imports under paragraph 5.

The United Kingdom and United States delegates were of the opinion that it was not necessary to insert in Article 18 a reference to Article 16, since paragraph 5 clearly provided for exceptions only to Article 18, not to Article 16. The delegate of Cuba felt that the desirability of including in Article 18 (5) a reference to Article 16 should be investigated.

It was agreed that the Working Party should determine whether a reference to Article 16 was required in Article 18 (5).

Items 72 (China and 73 (Argentina)

The delegate of China explained that their provisional proposal was made in Geneva and maintained in Havana because of the difficulty of identifying purchases for governmental purposes in the sense of paragraph 5.

The Argentinian delegate explained that their amendment was not intended as an exception for purchases made by governments acting in a commercial or
/state trading

state trading capacity but only in a governmental capacity, particularly governmental intervention to meet urgent national necessities. Otherwise this paragraph would constitute an interference with state sovereignty. He could not agree that a government should be subject to the same restrictions as private traders or be forced to pay internal taxes to itself.

The delegates of Cuba, the Netherlands and the United Kingdom opposed the Chinese and Argentinian proposals on the grounds that their effect would be to exclude from the provisions of Article 18 all governmental purchases, whether for resale or not, thereby providing an opportunity to circumvent the state trading provisions of the Charter.

The Australian delegate suggested that Article 18 be reexamined in connection with the articles on state trading and subsidies; that a great amount of confusion had arisen from attempting to deal in one article with national treatment on internal taxation and regulation, and that Article 18 should be redrafted so that it would be easier to interpret, particularly in its practical application.

The Chairman concluded that there was no support in the Sub-Committee for the Argentinian and Chinese proposals as such. It was agreed, however, that

1. the Working Party should endeavour to define more precisely governmental purchases for the purposes of paragraph 5 to facilitate the classification of borderline cases such as those mentioned by the Chinese delegate, e.g., tractors purchased by the Government for demonstration purposes but later re-sold to farmers;
2. the Argentinian and Chinese delegates should suggest to the Working Party wording, other than that proposed in their original amendments, which could meet the points they had in mind without excluding from the provisions of Article 18 purchases made by Governments in a state trading capacity; and
3. the Working Party should examine the latter part of paragraph 5 in relation to Article 25.

The Chinese delegate indicated that if the Working Party was able to define more satisfactorily what was intended by governmental purchases, his delegation would withdraw its provisional reservation.

ARTICLE 19 - SPECIAL PROVISIONS RELATING TO CINEMATOGRAPH FILMS

Items 78 and 79 - (United Kingdom)

It was agreed that these amendments involved purely drafting changes and should be referred directly to the Working Party.

Item 77 - (Czechoslovakia)

The Czechoslovakian delegate referred to the remarks made by the Head of his delegation in Committee III (E/CONF.2/C.3/SR.13) and indicated that his delegation wished to maintain its reservation on Article 19 pending Committee III's consideration of the Sub-Committee's Report. However, he

/wished to make

wished to make a proposal which, if accepted, might enable his delegation to withdraw its original proposal to delete Article 19 and to provide in Article 18 that cinematograph films were excluded from the provisions of the Charter. His proposal was that a distinction be made between feature films and newsreels, i.e., short films on social, political, sporting, scientific, etc., subjects, and that films in the latter category be excepted from the provisions of Article 19.

The delegate of Cuba indicated that he was more inclined to support the original Czechoslovakian proposal to exclude films from ITO jurisdiction on artistic ground rather than their new proposal.

The delegate of Norway stated that he would like to support the original Czechoslovakian amendment to exclude films from ITO's jurisdiction whether maintained by the Czechoslovakian delegation or not.

The United States delegate considered it neither desirable nor practicable to make such a distinction between types of films as that proposed by the Czechoslovakian delegate.

Even though only the Norway delegate supported the original Czechoslovakian proposal, it was agreed (a) to establish a Working Party, consisting of the delegates of France, Norway, United Kingdom and United States, to consider both the original Czechoslovakian proposal (Item 77) and the suggestion made at this meeting; and (b) that the Working Party should consult with the delegate of Czechoslovakia, who was not a member of the Sub-Committee.

Item 80 - (Argentina)

The Argentinian delegate withdrew his amendment in view of the Sub-Committee's interpretation that the date fixed in sub-paragraph (c) clearly related only to discriminatory measures as between foreign films, not as between domestic and foreign films.
