

THIRD COMMITTEE: COMMERCIAL POLICY

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

NOTES OF TWENTY-SEVENTH MEETING

Held on Saturday, 24 January 1948, at 10.30 a.m.

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

REPORT OF WORKING PARTY 2 (ARTICLE 17)

1. Revised Text of Article 17 - Reduction of Tariffs and Elimination of Preferences

1. Paragraph 1 - agreed.
2. Paragraph 2 (a)

On the suggestion of the delegate of France, it was agreed to explain in the Sub-Committee's Report that the words "undertake not to raise it above a specified higher level" do not imply that a Member might be entitled to increase its tariffs generally, but merely that in certain cases it might be advantageous to another Member to obtain a tariff binding, even though at a higher level. It was felt that such an explanation would dispel any impression that the provisions of paragraph 2 (a) were contradictory to those of paragraph 1.

The delegate of Brazil stated that he could accept the selective basis of negotiations provided for in paragraph 2 (a) with respect to tariffs, but not with respect to preferences. Unless different procedures were established for negotiations with respect to tariffs, which a Member has the right to maintain subject to substantial reduction, and preferences, which it was intended to eliminate, a Member might be able to evade the latter aim. The Brazilian delegate reserved his right to revert to this point.

The United Kingdom delegate was of the opinion that if the right to negotiate only on particular tariff items was recognized, it would be unfair not to extend this right to preferences. Moreover, he believed that a Member should be entitled to refuse to negotiate on particular items if a protective element was involved.

The delegate of Denmark inquired as to the precise meaning in this context of the word "selective". If it implied that Members could refuse
/to negotiate on

to negotiate on particular items, he proposed that the word "selective" be deleted.

The delegate of Cuba considered that "selective" and "product-by-product" had different connotations in this context and should both be retained. For example, "selective" meant that a Member could reduce the general level of its tariffs while retaining the right not to negotiate on a particular item. "Product-by-product" meant that instead of reducing all tariff items by an overall flat percentage, the duties on particular products would be examined in negotiations.

The delegate of Colombia recalled that the Australian delegate had outlined in Committee III the procedure followed during the Geneva negotiations. Article 17 had been redrafted to incorporate some of those rules of procedure. He believed that the word "selective" should be retained. Its deletion would imply that negotiations would have to proceed on a product-by-product basis with respect to all products rather than on the basis of lists of requests and offers of concessions on items in which there was mutual interest. This did not mean a Member could refuse to negotiate on a particular item without offering any explanation. If the reasons for refusing to negotiate on a particular item were not regarded as satisfactory by the interested Member, the procedure of paragraph 4 and Articles 89 and 90 would apply.

The delegate of Denmark agreed to the retention of the word "selective" provided a satisfactory explanation along the lines of the Colombian delegate's remarks was included in the Sub-Committee's Report.

The delegate of Brazil was prepared to accept the principle that the elimination of preferences was subject to negotiations and that a price would have to be paid for such elimination, provided negotiations were compulsory on all items. He reiterated the reservation on Articles 16 and 17 made by the Brazilian delegate at the Seventeenth Meeting of Sub-Committee A, pending the outcome of the discussions in the Joint Sub-Committee of II and III on new preferential arrangements.

It was agreed

1. to retain the word "selective", and include in the Sub-Committee's Report an explanation along the lines of that made by the Colombian delegate;
2. to substitute the words "then existing" for the word "present" in the next to last line of paragraph 2 (a).

Paragraph 2 (a) was agreed as amended.

3. Paragraph 2 (b)

The delegate of New Zealand asked for an explanation of the second sentence.

It was agreed to include in the Sub-Committee's Report the following

/explanation offered

explanation offered by the delegate of Mexico as a member of the Working Party:

"When a Member negotiates with other Members who are signatories of the General Agreement on Tariffs and Trade, account shall be taken of the indirect concessions which the Member is already granting to such signatories through the most-favoured-nation clause, and of the similar concessions which signatories of the General Agreement on Tariffs and Trade may be already extending to the Member. The transformation of indirect concessions under the most-favoured-nation clause into direct concessions granted to Members in their own right shall be considered a negotiable concession."

Paragraph 2 (b) was agreed.

4. Paragraph 2 (c)

The delegate of Brazil expressed concern with respect to (iii) which he felt destroyed the automatic action to eliminate preferences established in (i) and (ii). If (iii) were deleted, a Member would be required to negotiate under (i) or (ii) or appeal to the Organization. If (iii) were retained, appeal to the Organization would not be feasible because a Member could always indicate its willingness to negotiate under (i) or (ii).

It was pointed out that the procedure of (iii) would only operate by agreement between the parties concerned.

Paragraph 2 (c) was agreed, the Brazilian objections having been noted.