

THIRD COMMITTEE: COMMERCIAL POLICY

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

NOTES OF TWENTY-NINTH MEETING

Held on Tuesday, 27 January 1948, 3.00 p.m.

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

REPORT OF WORKING PARTY 2 (ARTICLE 17) (E/CONF.2/C.3/A/W.37/Add.1) -

Continuation of discussion.

1. Interpretative Note to sub-paragraph 2 (d) to be included in the Charter - agreed.

2. Explanatory paragraphs to be included in the Sub-Committee's Report to Committee III and addition proposed by Brazil (E/CONF.2/C.3/A/W.37/Add.1).

The delegate for Brazil explained that the purpose of this proposed addition was to preclude the possibility of a Member refusing to negotiate on a particular duty on the grounds that it was a revenue duty, even though it also had a substantial protective or preferential effect. This had happened during the Geneva negotiations. He did not believe that the reference to a Member's "fiscal structure" would cover the point since this was one of the criteria to be taken into account by the Organization in judging the overall balance of concessions.

The delegate for Colombia recalled that the Sub-Committee had previously agreed that whereas the "fiscal structure" of a Member country should be taken into account by the Organization in determining whether a Member had complied with its obligations under paragraph 1, revenue tariffs in themselves would not justify a refusal to negotiate. In his view both protective and fiscal duties have a restrictive effect on trade and neither should constitute adequate justification for refusal to negotiate. He believed this principle could be accepted if it were kept in mind that every Member was obliged to negotiate, but not to grant concessions on every item.

The delegate for Cuba, supported by the delegates for France and the Netherlands, regarded the Brazilian proposal as unnecessary.

The Chairman concluded that there was no support for the Brazilian proposal.

The delegate for Colombia proposed the following as an alternative to the Brazilian proposal:

/"It was understood

"It was understood that the fiscal nature of a customs duty cannot be invoked as a motive for refusing to negotiate, and that it is the general fiscal structure of the country which must be taken into consideration when the Organization is called upon to give a decision under Article 17."

The delegate for the United Kingdom, supported by the delegate for the Netherlands, had no objection to the second part of the Colombian proposal but felt that the first part raised a different point than that raised in the Brazilian proposal.

The delegate for Mexico believed that the Colombian proposal was not necessary if it was clearly accepted that no Member could refuse to negotiate on a particular item but could refuse to grant concessions on particular items if a satisfactory explanation was offered.

The delegate for Cuba made the following alternative suggestion:

"It was understood that it is not the fiscal nature of a given customs duty, but the general fiscal structure of a Member which must be taken into consideration when the Organization is called upon to give decisions under Article 17."

It was agreed that the delegate for Brazil, Colombia, Cuba and the United Kingdom should agree a draft for consideration by the Sub-Committee.

3. Relation of General Agreement of Tariffs and Trade to the Charter - agreed.
4. Joint Working Party of Sub-Committee A and the Sub-Committee on Article 81 agreed.

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