

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.AMENDMENTS TO ARTICLES 15, 25 AND 30
SUBMITTED BY THE CUBAN DELEGATION.

The Cuban Delegation considered from the beginning that the provisions of the New York Draft Charter on the national treatment on internal taxation (Art.15), quantitative restrictions (Art.25) and subsidies (Art.30), would practically freeze the economic development of its country, and presented therefore amendments to those articles along the lines suggested in Documents E/PC/T/W/29, E/PC/T/W/194 and E/PC/T/W/186.

AMENDMENT TO ARTICLE 15.

In relation to Article 15, the Cuban Delegation presented an amendment (E/PC/T/W/29) directed to delete paragraph 1 of Article 15 of the New York Draft Charter, that prohibited the use of internal taxes or other internal charges to afford protection directly or indirectly for any national product.

It appears that the Sub-Committee on Articles 14-15 and 24 has accepted the deletion of said paragraph, but in the meantime other countries have presented amendments to paragraph 2 of Article 15 that impair the effect of the above-mentioned deletion, enforcing the principle of equality of taxation between the national product and the imported foreign goods.

The Cuban Delegation is not against this principle. It is strongly against the possibility of imposing higher internal taxes on foreign imported goods, as a means of countervailing tariff reductions; but it cannot accept that, in countries where direct subsidies cannot be used, the principle of equal

taxation be interpreted to the extent of impeding a country from using indirect subsidy, by way of exempting or reducing the national product of certain internal taxes or charges. The acceptance of direct subsidization by Article 30 and the denial of indirect subsidization by Article 15 would unbalance the Charter to a very dangerous degree, and place the under-developed countries in a very embarrassing position.

The Cuban Delegation considers it necessary to introduce a sub-paragraph to the new paragraph 1 of Article 15 along the following lines:

"The provisions of paragraph 1 of this Article shall not be construed to prevent a Member, whose resources are as yet relatively undeveloped, from exempting or reducing the internal taxes or other internal charges on national products, when it is considered necessary in order to maintain, foster or reconstruct the domestic production, or to enable producers to meet labour requirements)."

This argument verbally presented to Sub-Committee on Chapter IV, has not encountered support on the text agreed upon, and as we do not know yet the conclusions of Sub-Committee on Articles 14, 15 and 24, the Cuban Delegation respectfully requests that this amendment to Article 15 be passed to its appropriate and original Sub-Committee.

AMENDMENT TO ARTICLE 25

In relation to Article 25, the Sub-Committee on Articles 25 and 27 expressed on page one of its Report (E/PC/T/141), that "proposals specifically dealing with these problems were not discussed by the Sub-Committee but brought to the attention of the Sub-Committee dealing with Chapter IV".

In relation with this matter, the Cuban Delegation had previously presented the following amendment to Article 25 (Document E/PC/T/W/194):

"Insert in paragraph 2, a new sub-paragraph (f) reading as follows:

"(f) Import restrictions on any product in which a Member considers domestic production essential to the economic development of its country, either in the agricultural or in the industrial sphere, in case the subsidization of this production has proved or is likely to prove inoperative. The Member shall eliminate the restrictions when, after an adequate period which regularly shall not exceed three years, the conditions of the agricultural or industrial production to be developed prove that it is not capable of maintaining itself without further protection during an unlimited period of time.

"If in the opinion of the Organization the measures adopted by a Member under this sub-paragraph are likely to have an extraordinary and unduly restrictive effect on international trade, the Organization may request that the Member consult with other interested Members with a view toward effecting a satisfactory adjustment of the matter.

"If no such adjustment can be effected, the Organization shall, after investigation, and if necessary after consultation with the Economic and Social Council of the United Nations and any competent inter-governmental organization, make appropriate recommendations to the Members concerned. Paragraph 2 of Article 35 shall be applied correspondingly."

This amendment was intended to secure the under-developed countries the indispensable means for fostering their economic development using quantitative restrictions to protect or maintain their infant industries, giving at the same time clear and sufficient guarantees that those measures could not be misused.

The amendment is in full accord with the main purposes of the Charter to expand world's trade by increasing world's production and consumption. Its leading idea could be, as economic history proves, equally acceptable to the fully industrialized and to the under-developed countries.

The Cuban Delegation has no objection to stating within the framework of Article 25 the necessary conditions

for applying the quantitative restrictions in the interest of economic development as far as they are not inconsistent with the basic aim of this development, and have no prohibitive or unnecessarily onerous character.

When the Rapporteur of Sub-Committee IV took up the matter, the Cuban Delegation recognized fully the effort made in this direction by a proposal that the Rapporteur presented and expressed its disposition to accept in general the suggested special sub-paragraph to paragraph 2 of Article 25 with the changes which are indicated in the following draft:

"Import restrictions imposed for promoting the establishment, maintenance, development or reconstruction of an industry or an agricultural or fishery production, provided that such restrictions may be imposed only where to achieve the same purpose:

- (1) the payment of a subsidy is not possible because:
 - (a) the taxable capacity in the Member concerned is exhausted or inadequate, or
 - (b) the general fiscal condition of the Member concerned is unstable, or
 - (c) the technical capacity of the Member concerned is not sufficiently developed to determine and pay the subsidy concerned, and
- (2) the imposition of a tariff would result
 - (a) in a greater rise in the price of the commodity compared with the method of import restriction, or
 - (b) in a tendency for total consumption of the commodity to fall, compared with a previous representative period, or
 - (c) in a tendency for distribution to be inequitable

and provided that if such restrictions are imposed:

(1) simultaneously with their imposition a full statement is submitted to the Organization showing why, in accordance with the provisions of this paragraph, a subsidy or a tariff is not being used,

(2) no restriction will operate completely to prohibit imports,

(3) licenses issued for imports will be unrestricted as to source of supply, or will be based on a representative period,

(4) while the restrictions are in force:

(a) an annual budget of supply and demand showing the amount to be supplied from local and foreign sources will be submitted to the Organization six months in advance of the budget period,

(b) information as to costs selling prices and methods of distribution of the locally produced commodities will be supplied to the Organization upon request,

(c) information as to methods of determining and granting licenses will be supplied to the Organization upon request.

(5) the Organization may at any time, with or without consultation with other Members affected, request the modification or withdrawal of the restrictions if they have not been established according to the provisions of this sub-paragraph, in which case Members undertake to give immediate effect to such request."

Nevertheless, the Cuban Delegation considering this text somewhat complicated and perhaps its substance subject to too many conditions, offered the following alternative text, to be inserted as one more exception, between letters "e" and "f" of paragraph 2 of Article 25, to the general principle set forth in paragraph 1 of said Article:

"Any import restriction for promoting the establishment, maintenance, development or reconstruction of an industry, or an agricultural or fishery production, provided that the quantitative restriction applied to imports does not exceed fifty per cent of the consumption of a given product in the domestic market."

As nothing of the substance of this or any of the previous amendments suggested on this subject by the Cuban Delegation have been accepted in the new wording of Article 13, the Cuban Delegation requests that the suggested amendments on Article 25 be transferred to Sub-Committee on Articles 25 and 27, or directly to the Plenary Commission.

AMENDMENT TO ARTICLE 30

In due time the Cuban Delegation presented the following amendment to Article 30 (Document E/PC/T/W/186):

"Insert after paragraph 2 a new paragraph 3, as follows, and change the numbers of paragraphs 3-6 correspondingly;

"3. If a Member, in which resources are as yet relatively undeveloped, considers it necessary to grant subsidies to foster its economic development, it may do so, notwithstanding the provisions of Article 15, by exempting in whole or in part national products from duties or taxes on domestic consumption, by remitting such duties or taxes which have accrued, or by using the proceeds of such duties or taxes to make payments to domestic producers."

The amendment was discussed by the Sub-Committee on Article 30. The Sub-Committee felt that with regard to the close connection of the amendment with Article 15, it should be referred to the Sub-Committee on Articles 14, 15 and 24. This Sub-Committee took up the matter and succeeded in getting a unanimous adoption of the following clause to be inserted in paragraph 6 of Article 15:

"6. The provisions of this Article shall not apply to the procurement...nor shall they be construed to prevent the payment to domestic producers only of subsidies provided for on paragraph 1 of Article 30, including payments to domestic producers derived from the proceeds of internal taxes or charges...."

Nevertheless, the Cuban Delegation considers that it will be necessary to insert a provision in Article 30 covering the other side of the question, which could be drafted as a new paragraph 3, after paragraph 2 of Article 30, reading as follows:

"If a Member, in which resources are as yet relatively undeveloped, considers it necessary to grant subsidies to maintain or foster its economic development, it may do so by exempting in whole or in part national products from duties or taxes on domestic consumption".

This matter has not been taken into consideration by Sub-Committee on Chapter IV, and therefore should be referred

back to the appropriate Sub-Committee or Commission or to the Plenary Session.

This statement has been presented to the Commission on Chapter IV, but apart from the action that said Commission might take, the Cuban Delegation wishes to bring to the attention of the appropriate Sub-Committees or Commissions that it maintains its amendments to Articles 15, 25 and 30, worded in the final form that they appear in this document, and will appreciate that proper action be taken on them. In case the foregoing is impossible for any reason, the Cuban Delegation wishes to make formal reservation on Articles 15, 25 and 30 on the ground stated in this Document.