

THIRD COMMITTEE: COMMERCIAL POLICY

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

NOTES OF TWENTY-EIGHTH MEETING

Held on Monday, 26 January 1948, 3.00 p.m.

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

REPORT OF WORKING PARTY 2 (ARTICLE 17)

Revised Text of Article 17 - Reduction of Tariffs and Elimination of Preferences - Continuation of discussion

At the suggestion of the Brazilian delegate it was agreed to revert to paragraph 2 (c).

1. Paragraph 2 (c)

The Brazilian delegate proposed the inclusion in the Sub-Committee's Report of an explanatory note regarding sub-paragraph 2 (c) (iii) and agreed to submit a draft at the next meeting.

The Chairman pointed out that the Sub-Committee had agreed previously to recommend to Committee III, including as an interpretative note in the Charter, the note to Article I of the General Agreement (Volume 1, Annex 1, page 75) which defines the term "margin of preference" as the absolute difference between the most-favoured-nation rate of duty and the preferential rate of duty for the like product, and not the proportionate relation between these rates.

The delegate of Brazil, supported by the delegate of Peru, proposed that sub-paragraph 2 (c) (iv) be amended to read "No margin of absolute or relative preference shall be increased".

The delegate of Denmark said that he would support any definition which would result in a decrease in margins of preference.

The delegate of Cuba, supported by the delegate of New Zealand, objected to the Brazilian delegate's proposal on the grounds that the absolute margin of preference was the only valid basis on which to negotiate. He pointed out that the only purpose of sub-paragraph 2 (c) (iv) was to provide that a margin of preference should not be increased, whereas sub-paragraph 2 (c) (i), (ii), (iii) established rules for the reduction of margins of preference.

/The delegate of the

The delegate of the United Kingdom observed that his delegation had agreed to sub-paragraph 2 (c) (iv) on the understanding that a margin of preference was defined in absolute terms.

The delegate of Australia indicated that if sub-paragraph 2 (c) (iv) were rewritten, his delegation would probably have to reserve its position.

The majority of the Sub-Committee confirmed the Sub-Committee's previous decision to add to the Charter as an interpretative note the General Agreement definition of a margin of preference in absolute terms, whereas the Brazilian delegate maintained his objections.

2. Paragraph 2 (d) - agreed.
3. Paragraph 2 (e) and United Kingdom amendment to Working Party text (E/CONF.2/C.3/A/W.40)

The Brazilian delegate considered that in both the Working Party and United Kingdom texts the commitment set forth in the first line was contradicted by the latter part of the paragraph.

The Colombian delegate pointed out that if either of these texts were accepted, the elimination of preferences would be dependent upon the good will of the parties to preferential arrangements.

It was agreed to adopt the United Kingdom amendment to the Working Party text, but to include the proposed interpretative note to paragraph 1 in the explanatory paragraphs of the Sub-Committee's Report rather than recommending it as an interpretative note to the Charter.

4. Paragraph 3 - agreed.
5. Paragraph 4

The delegate of New Zealand, supported by the delegate of Australia, suggested that paragraph 4 be redrafted to make it clear that a complaining Member could withhold tariff benefits under agreements not incorporated in the General Agreement, but accruing to other Members under Article 16, as well as benefits negotiated pursuant to Article 17.

The delegate of Mexico, supported by the delegates of Cuba, United Kingdom and the United States, was of the opinion that an affected Member should be entitled to withhold only those concessions negotiated under the Article itself.

The delegate of Brazil inquired whether, if the Member benefitting from preferential arrangements refused to release the other party to the preferential arrangements to grant a requested reduction, such a case would come under paragraph 4 or whether such a refusal could be justified under the "selective" basis of negotiations established in paragraph 2 (a).

/The delegate of Cuba

The delegate of Cuba pointed out that it had been agreed at a previous meeting that a Member could not refuse to negotiate on a particular item without an explanation and that the Organization would determine whether such a refusal was justified on the basis of the criteria established in paragraph 4.

The United Kingdom delegate pointed out that paragraph 4 did not provide a procedure for complaints with respect to single items, but was meant to apply to the whole scope of negotiations. A Member could complain under paragraph 4 not only with respect to refusal to negotiate, but with respect to inadequate concessions. The Organization's decision would relate to the bargain as a whole, but it was possible that if one product was of great importance, refusal to negotiate on that particular item might be determined by the Organization to constitute refusal to negotiate.

The Brazilian delegate inquired whether it would be necessary to pay for the elimination of preferences by concessions both to the party according to the preference and to the party benefitting therefrom.

The United Kingdom delegate indicated that in his view the price paid would not be a double price, but would be divided between the parties to the preferential arrangements.

Paragraph 4 was agreed, with the addition of the word "general" between "the" and "fiscal structures" in the eighth and ninth lines.

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