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THIRD COMMITTEE: COMMERCIAL POLICY

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

NOTES OF THIRTY-SECOND MEETING

Held on Friday, 30 January 1948, 3.00 p.m.

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

The Sub-Committee stood for a few minutes of silence in honour of the memory of the late Mahatma K. Gandhi.

1. Paragraph 2 of proposed addition to Article 18 (Sub-Committee D

Working Paper for Seventh Meeting and E/CONF.2/C.3/D/W.11) referred by Sub-Committee D (Articles 40, 41 and 43) on the basis of its discussion of new Article 40 A proposed by Colombia (Item 7, E/CONF.2/C.3/11) - continuation of discussion.

The delegates of Brazil, Cuba, France, Mexico and Peru supported the present draft of this proposal which they considered would extend to exporters of basic commodities no more than minimum guarantees without causing difficulties for others.

The delegates of Australia, Denmark, the Netherlands and New Zealand were of the opinion that this provision was not necessary because exporting countries whose interests were prejudiced could seek recourse under Articles 41, 89 and 90, and that in its present form this proposal was so general as to cast doubts on internal price control systems as a whole. However, if the Sub-Committee decided to refer this proposal to the Working Party, the Australian and New Zealand delegates suggested that the language be clarified.

The delegate of Norway stated that he could not accept this proposal as now drafted since it covered only a part of the problem. If any provision on price stabilization schemes was inserted in the Charter, it ought to enable Member countries to adopt both deflationary and inflationary control measures. Importing as well as exporting countries should have the possibility of protecting themselves, particularly during deflationary periods. He suggested that Working Party 3 on Article 18 consider the problem as a whole.

The delegate of Colombia said that he could not accept the Norwegian suggestion that the Working Party consider the whole problem of price stabilization.

stabilization schemes, pointing out that the Norwegian proposal on this subject (E/CONF.2/C.3/6/Add.5) had already been considered and received no support in the Sub-Committee.

The United Kingdom delegate stated that he was awaiting instructions from his Government.

The Chairman concluded that seven members of the Sub-Committee supported the proposal; six members did not favour the proposal, at least in its present form, but would nevertheless not object to its being referred to the Working Party; one member preferred that it be referred to the Working Party without a decision as to its merits, and one member was awaiting instructions. It was agreed to refer this proposal to the Working Party for examination and redrafting.

2. Inclusion in Article 16 of a provision safeguarding against the circumvention of the most-favoured-nation clause by means of tariff descriptions. (Report of Working Party V, Article 35, of Sub-Committee III, G.C.P./W.P./13).

The Chairman called the Sub-Committee's attention to the following new paragraph 6 which Sub-Committee C had recommended to Committee III be inserted in Article 35, unless the substance thereof was later incorporated in Article 16:

"6. The Members recognize that tariff descriptions based on distinctive regional or geographical names should not be used in such a manner as to discriminate against products of Member countries.

Accordingly, the Members shall co-operate with each other and through the Organization with a view to eliminating at the earliest practicable date practices which are inconsistent with this principle."

The Chairman also called the Sub-Committee's attention to the following statement by the Chairman of Committee III:

"It is my view that some provision should be included in the Charter to provide for safeguards against the circumvention of the most-favoured-nation clause by means of tariff descriptions. Since Article 35 of the Draft Charter deals with Formalities connected with Importation and Exportation, I do not think that this Article is a very appropriate place for the disposition of such a provision. I also believe that study should be given to the desirability of broadening the provision beyond the scope of that considered by Working Party No. 5 of Sub-Committee C, viz tariff descriptions based on distinctive regional or geographical names. Accordingly, I should be glad if your Sub-Committee could give consideration to this whole problem in the light of the Report of Working Party No. 5 of Sub-Committee C, and the possibility of including a provision on tariff descriptions in Article 16 of the Draft Charter."

/The delegate

The delegate of Cuba favoured the retention of the proposed paragraph 6 in Article 35, and objected to re-opening a discussion on the substance of this proposal on the grounds that it had already been agreed in Sub-Committee C.

The United States delegate considered it unwise to insert this provision in Article 16 on the grounds that it would tend to narrow the existing scope of that Article, particularly since there were some cases in which tariff descriptions clearly were violations of the most-favoured-nation clause, for example, "Havana" cigars.

The French delegate explained that during the discussion of this proposal in Sub-Committee C, he had argued that logically it should be inserted in the Article dealing with most-favoured-nation treatment. Tariff descriptions based on distinctive regional or geographical names represented only one type of discrimination resulting from tariff descriptions, and he had felt that the Organization should undertake the study of all possible forms of such discrimination. He had suggested that this proposal be brought to the attention of Sub-Committee A dealing with Article 16 because of its importance, but had no strong feelings as to its location. He would, however, reserve his position with respect to its substance pending instructions from his Government.

The United Kingdom delegate stated that although he had suggested in Sub-Committee C that this proposal be referred to the Sub-Committee dealing with Article 16, he had now concluded that this provision could more appropriately be retained in Article 35.

The Chairman noted that the French and United Kingdom delegates, having suggested in Sub-Committee C that this proposal be referred to Sub-Committee A, had now withdrawn this suggestion, and that there was no support for inserting this provision in Article 16. It was agreed to inform Committee III accordingly.

3. The delegate of Cuba, with the Chairman's permission, proposed that the following words be inserted in paragraph 4 after the words "Article 16" in the thirteenth line of the text of Article 17 already adopted by Sub-Committee A (E/CONF.2/C.3/A/18): "and/or the provision of the General Agreement on Tariffs and Trade". He explained that this addition would not alter in any way the substance of paragraph 4, but would correct what he regarded as an omission in the text adopted by the Sub-Committee.

The delegate of Mexico stated he was prepared to support this proposal on the understanding that it referred only to paragraph 1 of Article I of the General Agreement relating to most-favoured-nation treatment.

The delegates of Cuba, the United Kingdom and the United States pointed out that provision should be made somewhere in the Charter for setting aside /the provisions

the provisions of Article II of the General Agreement as well as Article I.

The United States delegate pointed out this statement was linked with the Working Party's suggestion, approved by the Sub-Committee, that the desirability of amending the unanimity requirement with respect to agreement on the terms of accession to the General Agreement might also be considered at a meeting of representatives of the governments signing the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee.

It was agreed to refer the Cuban proposal to the Joint Working Party on Articles 17 and 81.
