

THIRD COMMITTEE: COMMERCIAL POLICY

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

NOTES OF THIRTY-THIRD MEETING

Held on Monday, 9 February 1948, 10.30 a.m.

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

Reports of Working Party 3 (Article 18) and Working Party 4 (Article 19)
(E/CONF.2/C.3/A/W.47)

I. Report of Working Party 3 (Article 18)

A. REVISED TEXT OF ARTICLE 18 - National Treatment on Internal Taxation and Regulation

The French delegate, Chairman of Working Party 3, explained that while the proposed new text differed considerably in form from the Geneva text, there was only one substantive change. The second sentence of paragraph one on the Geneva draft had provided that existing internal taxes which afforded protection to directly competitive or substitutable products in cases in which there was no substantial domestic production of the like product could be maintained, subject to negotiation for their elimination or reduction in the manner provided for in Article 17. The Working Party had concluded that it would be preferable to provide for the outright elimination of such taxes. Members would, of course, be free to convert the protective element of such taxes into customs duties, in the case of unbound items. In the case of bound items, the Working Party had recommended a transitional period during which a Member could postpone the application of the provisions of paragraph 2 pending a release from its trade agreement obligations in order to permit the increase of the tariff to the extent necessary to compensate for the elimination of the protective element of the tax. The new form of Article 18 emphasized more than had the Geneva text the intention of the Conference that internal taxes should not be used as a means of protection. The details had been relegated to interpretative notes so that it would be easier for Members to ascertain the precise scope of their obligations under Article 18.

Paragraph 1 - no comment.

Paragraph 2 - no comment.

Paragraph 3

Paragraph 3

It was agreed to substitute the word "it" for the words "the Member" in the sixth line.

Paragraph 4

The Chairman of the Working Party explained that the word "internal" had been inserted to make it clear that differential transportation charges did not refer to international shipping.

Paragraph 5 - no comment.

Paragraph 6 - no comment.

Paragraph 7

The Norwegian delegate felt that allocation by internal quantitative regulation should be dealt with in Articles 20 and 22.

The Mexican delegate, while not objecting in principle, felt that paragraph 7 represented a considerable change from the Geneva text.

The delegate of France, supported by the delegates of Australia, Cuba and the United States, explained that in the Working Party's view it would not be feasible or desirable to allocate between foreign sources of supply by internal quantitative regulations, as implied by paragraph 5 of Article 22. Article 18 was concerned with allocation between domestic and foreign sources of supply and the word "external" had been inserted before "sources of supply" to ensure most-favoured-nation treatment. For this reason the Working Party had recommended new paragraph 7 and the deletion of the reference to Article 18 in paragraph 5 of Article 22.

Paragraph 7 was agreed as drafted, the Mexican and Norwegian delegates reserving their position pending availability of the text of Articles 22 and 22.

Paragraph 8

In response to a question by the New Zealand delegate, the French delegate explained that the Working Party had tried to clarify the wording of sub-paragraph (b). This provision had been added to the Geneva draft because it was felt that if subsidies were paid on domestic and not on imported products, it might be construed that Members were not applying the "national treatment" rule.

The object of this sub-paragraph, in the view of the United Kingdom delegate, was to make it clear that internal taxes could be entirely non-discriminatory and that subsidies could be paid quite separately to domestic producers from the exchequer.

The delegate of Mexico felt that since subsidies could take many forms the deletion of the words "subsidies provided for under Article 25" constituted a considerable broadening of the scope of this sub-paragraph.

It was agreed (1) to retain sub-paragraph (b) as drafted, although the Cuban delegate favoured the deletion of the entire sub-paragraph and the

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Mexican and Peruvian delegates favoured the deletion of the words beginning with "including payments" to the end of the paragraph, and (2) to insert the words "not inconsistent with the provisions of Section C of this Chapter" after the word "subsidies" in the second line of sub-paragraph (b).

The Mexican delegate reserved his delegation's position pending availability of the text of Section C of Chapter IV on Subsidies. Paragraph 9 and the Norwegian proposal to redraft this paragraph as new Article 19 A. (Working Paper)

It was agreed to retain paragraph 9 in Article 18 rather than as a separate Article on the grounds that "internal maximum price control measures" were internal regulations within the terms of paragraphs 1 and 4 of Article 18.

In view of the Committee's decision to retain paragraph 9 in Article 18, the Norwegian delegate withdrew his original proposal and suggested the addition to paragraph 9 of the following language: "without interfering with the legitimate purpose of the regulations".

This proposal received no support; the Norwegian delegate maintained his delegation's reservation on paragraph 9 and the United Kingdom delegate maintained his delegation's reservation on paragraph 9 for the time being. Revision of paragraph 9 proposed by Australia (Working Paper)

The delegates of Denmark, the Netherlands, New Zealand, Norway and the United Kingdom supported the Australian proposal. The Colombian and Cuban delegates opposed it. The Colombian delegate proposed that paragraph 9 as recommended by the Working Party be retained and that the Sub-Committee's Report explain that it was not considered necessary to adopt the Australian proposal because the words "to the fullest practicable extent" in the Working Party text had the same intent as the words "having due regard for the legitimate purposes of a particular price control measure and the legitimate interests of the prejudicially affected Member or Members" proposed by Australia would have.

The Australian delegate indicated that he would not insist on his proposal and was prepared to accept the Colombian compromise suggestion.

The United Kingdom delegate indicated that the Colombian suggestion to include an explanatory note in the Sub-Committee's Report might make it easier for his delegation to withdraw its reservation.

The delegate of Brazil reserved his delegation's position for the time being with respect to (1) existing internal taxes as treated in paragraphs 2 and 3 and (2) paragraph 6, pending instructions from his Government.