

THIRD COMMITTEE: COMMERCIAL POLICY

SUB-COMMITTEE 'H' OF THE THIRD COMMITTEE

SECTION C - SUBSIDIES

NOTES OF THE SECOND MEETING

Held at Havana on Friday, 9 January 1948 at 3.00 p.m.

(Reference: E/CONF.2/C.3/8)

Article 25 - Subsidies in General

1. The Sub-Committee continued consideration of the United States proposal to amend the last sentence of Article 25 by introducing the phrase "a Member considers" in place of determinations by the Organization, (item 18, page 7). The United States amendment was accepted, the sentence in question to start as follows:

"In any case in which a Member considers that serious prejudice to its interest is caused....."

2. The CHAIRMAN referred to the discussions at the previous meeting of the Cuban proposal (item 2) to insert the words "direct or indirect" after the word "subsidy" in line 2. It had then been agreed that an appropriate note on the matter raised by the Cuban delegation should be included in the Sub-Committee's report.

The original technique used by Cuba was that of imposing internal taxes on all manufactured goods in a particular class and remitting that tax on those goods manufactured locally, but retaining it on those which had been imported. This technique had been changed so that an internal tax, not a customs tax, was imposed on the imported manufactured goods only and no tax placed upon like goods manufactured locally. It was this latter system which they wished to have covered, as they believed it constituted an indirect subsidy to home-produced goods.

The Cuban representative stated that this system of subsidization was essential to his country in its present stage of economic development. He referred to paragraph 5 of Article 18 which he regarded as an escape clause from Article 18 for those subsidies provided for under Article 25. It was therefore desirable to know whether or not Cuba's tax exemption scheme did, in fact, come under Article 25. For these reasons he wished to have

/Article 25

Article 25 clarified by either:

- (a) the insertion of the words "direct or indirect" after the word "subsidy" in the second line; or
- (b) the addition of "or exemption from internal taxes" after the words "including any form of income or price support".

The Sub-Committee felt that the terms of Article 25 were sufficiently wide to cover a case such as that described by the Cuban delegation; the inclusion of the suggested words would make no change in the sense, and could not be recommended. The question of the position of such cases under Article 18 was referred to during the discussion but the view of the Sub-Committee was that it was not competent to form a judgment on this question.

It was agreed that the Secretariat should prepare a note on the subject to include the sense of the meeting on this particular matter and this should be submitted to the Cuban delegation for approval.

During the discussion it was claimed that if this Sub-Committee should decide that certain procedures came under Article 25 it would, in effect, in view of paragraph 5 of Article 18, be making a decision as to whether such procedures would be included in the exceptions to Article 18. The delegate for PERU referred, for example, to the exemption from income tax which his country provided as a form of help to domestic industries and asked whether this could be considered as a subsidy under Article 25.

Opinion was expressed that

- (i) if a procedure were judged to be discriminatory under the provisions of Article 18, it would be subject to the provisions of Article 18 regarding negotiation for reduction or elimination, irrespective of whether it was a subsidy under the terms of Article 25;
- (ii) if a procedure were judged to fall only under Article 25, then it would be subject to discussion under the terms of Article 25 but not to negotiation under Article 18.

The general feeling of the meeting was that the Sub-Committee should not discuss the question of the application of Article 18 but that the Sub-Committee dealing with that Article be informed of the discussion which had taken place on the inter-relation of the two Articles. The Cuban representative was not satisfied that internal tax exemption was covered by the present text of Article 25; he considered that specific reference was necessary in view of the reference to Article 25 contained in paragraph 5 of Article 18.

The representative of Cuba maintained the reservation of his delegation against Article 25.

/Article 26

Article 26 - Additional Provisions on Export Subsidies

Paragraph 1

It was pointed out that the term "directly or indirectly" was used in Article 26 as applying to the word "subsidy", whereas in Article 25 the term "directly or indirectly" applied only to the operation of the subsidy. It was considered desirable to refer the matter to the Central Drafting Committee with a statement that it was intended that the words should have the same force in both cases.

Paragraph 2

The Sub-Committee discussed the proposal by the delegation of Sweden (item 5) for the insertion of the words "directly or indirectly" between the words "taxes" and "imposed". The Swedish delegate explained that the present text of paragraph 2 might be construed as applying only to finished goods. It was desirable to make it clear that it also applied to raw materials or semi-manufactured articles used in the manufacture of exported goods. The amendment was designed to clarify this point.

A number of delegations referred to current practices in this matter and expressed the opinion that the point raised by the Swedish delegation was covered by the present text. The Swedish delegate agreed to withdraw the amendment on the understanding that the Report of the Sub-Committee would contain a statement to the effect that the remission of duties or taxes imposed on raw materials and semi-manufactured products subsequently used in the production of exported manufactured goods was covered by the present text, and particularly by the phrase "may remit such duties or taxes which have accrued."
