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THIRD COMMITTEE: COMMERCIAL POLICY

SUMMARY RECORD OF THE FORTY-SECOND MEETING

Held at the Capitol, Havana, Cuba,
Monday, 9 March 1948, at 3.00 p.m.

Chairman: L. D. WILGRESS (Canada)

1. ARTICLE 17 - REVISION OF PARAGRAPH 4 AS RECOMMENDED BY THE CO-ORDINATING COMMITTEE AND THE HEADS OF DELEGATIONS (E/CONF.2/52 AND E/CONF.2/56)

The CHAIRMAN stated that the revised text of Article 17 recommended by Sub-Committee A was approved by Committee III at the thirty-ninth meeting. However, the Co-ordinating Committee in recommending an overall settlement on questions of economic development proposed a revision of paragraph 4 of Article 17, and the revised paragraph was recommended for adoption without major changes of substance. The delegations of Brazil and the United States had submitted comments in writing.

Paragraph 4 (a)

The United States' redraft was accepted subject to the deletion, in the tenth line, of "(a)" and "(b)", the substitution, in the tenth line, of "but" for "and", and to the recommendation that the Central Drafting Committee reconsider the phrase "cease to" in the third line.

Paragraph 4 (b)

The United States' redraft was accepted.

Paragraph 4 (c)

The proposal of the delegation of Brazil that the fourth line of sub-paragraph (c) should read "sufficient justification to fulfil its obligations under paragraph 1 of this Article," was approved.

Mr. LEDDY (United States) wanted to make sure that the second Brazilian proposal, to make a new sub-paragraph of the last two sentences of paragraph (c) would not be a change of substance, i.e. the two sentences would apply only if a country took its case to the Organization under sub-paragraph (b).

The Brazilian proposal that the last two sentences of sub-paragraph (c), beginning "If in fact..." should be a separate sub-paragraph under the designation "(d)" was approved with the drafting changes suggested by the United States, and subject to examination by the Central Drafting Committee

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with regard to any consequential drafting changes. Sub-paragraphs (c) and (d) as amended were approved.

Paragraph 4 of Article 17 was approved subject to the above-mentioned changes and to examination by the Central Drafting Committee.

The CHAIRMAN stated that as part of the overall settlement the Charter would not provide for the establishment of a Tariff Committee and Article 81 had been deleted. It followed that paragraph 5 of Article 17 should be deleted.
Approved.

2. ARTICLE 18 - REPORT OF WORKING PARTY 7 (E/CONF.2/C.3/71 AND Corr.1)

Mr. LAMSVELT (Netherlands) as Chairman of Working Party 7, said that all Members of the Working Party accepted the principles of Article 18 and there was near agreement that the time before the Charter came into force would allow to transform differential internal taxes into customs duties.

As representative of the Netherlands, he felt that the cases put forth by the representatives of Brazil and Argentina were not convincing.

The CHAIRMAN said that the Working Party had discussed the difficulties of eliminating the existing protective internal taxes as explained by the representatives of Argentina, Brazil and the Philippines.

Two proposals were considered: (1) that of the representative of Ecuador wherein the consent of the Organization would have to be obtained for the maintenance of such internal taxes after the end of the transition period; and (2) that of Norway which would require the final elimination of all such taxes during the transition period.

Working Party 7 was not able to reach any agreed conclusions and the Report simply recorded the views of its Members.

Mr. SCARPATI (Argentina) stated it was necessary, in view of the lack of results of the Working Party, for him to re-state the position of his delegation.

Argentina had never opposed the principle of Article 18 which would simplify tax systems and which was acceptable, but the Conference should not go so far as to include aspects which were more domestic than international. To collect taxes internally rather than at the customs frontier was no obstacle to international trade if a state considered it more advantageous. Argentina was willing to publish these internal taxes and to negotiate them as though they were tariff duties under Article 17.

Mr. LEDDY (United States) said that on the basis of the information obtained by the Working Party, the difficulties presented did not seem insurmountable. The exceptions noted by the representative of Argentina in Article 18 covered only the period of transition.

/The difficulties of

The difficulties of Brazil seemed to be more administrative than technical. No country would apply the provisions of the Charter until it entered into force; there was, therefore, an ample transition period. Adoption of the six-month period proposed by the representative of Brazil would complicate the meeting of the contracting parties of GATT.

Mr. ROYER (France) said that the Argentine proposal to keep differential internal taxes for an undefined period would obviate the principle under which exporters should know exactly the amount of protection; the only official document to that effect was the customs tariff. For practical reasons the situation should be clarified in the Charter.

He could not support the six-months' proposal suggested by Ecuador and Norway unless there was unanimous agreement. If the modifications required by the Charter were presented at the time of ratification they would in all likelihood be accepted.

Mr. LAMSVELT (Netherlands) said that he was not convinced by the Argentine case because it appeared that the Articles on which internal taxes were levied were also subject to import duties.

Mr. MELANDER (Norway) said that although he had been willing to accept the six-months transition period after ratification, he had considered the matter further and in the light of the statement of the representative of the United States, he withdrew his proposal and supported the text of the Sub-Committee.

Mr. ALMEIDA (Brazil) stated that his delegation had always supported the principle of Article 18 and had gone even farther in favouring the negotiation of internal taxes which had an effect on imports. The problem was not very important and for practical reasons should be judged by the countries concerned, provided they did not abuse the system, and if such were the case there were provisions regarding consultation in the Charter.

The principle mentioned by the representative of France that exporters should know of all duties, was in fact only a device, because under the General Agreement imported goods were subject not only to tariff schedules but also to duties or charges of any kind, according to Article II. The duties under Article 35 were not scheduled in the General Agreement or in the tariff laws of any country but exporters know of their existence. The same was true of differential internal taxes particularly in countries where they were levied at the moment of importation as were duties, and with the same effect. This was Brazil's case; she was interested in simplifying the fiscal system but needed the facility to do so. He felt as a result of the discussions in the Working Party, that the internal situation should be left to the country /concerned so long

concerned so long as its action did not prejudice other countries.

Mr. FORTHOMME (Belgium) thought that those who could evade import duties were also liable to evade internal taxes. If there were some effective mechanism for collection of internal taxes in such cases, it should also be applied to import duties.

Mr. ROYER (France) endorsed the United States view that any amendment to Article 18 would make supersession in the General Agreement very difficult.

Mr. BURGESS (United Kingdom) supported the remarks of the representatives of the United States, France and Belgium.

Replying to a question of the representative of Brazil, Mr. LEDDY (United States) said that internal taxes on imported products could be increased if the tax on the domestic product was also increased; the requirement was that the tax should be the same on both imported and domestic products.

The schedules in the General Agreement were drawn up with the understanding that the tariff rates in the General Agreement took into account the elimination of internal taxes. The Sub-Committee had concluded that differential internal taxes could be transformed into customs duties and there was no reason for an exception to this, except perhaps internal taxes on negotiated items. But if that were incorporated, the United States would have to reserve its position regarding supersession. It would be better not to raise that question now.

Mr. POLIT (Ecuador) said that in suggesting the compromise formula, he had felt the Conference was not set up as a tribunal to judge of the difficulties of transforming taxes into duties; all it could do was to rule that if those difficulties should arise, a country should be allowed to keep its system so long as it regarded such taxes as duties subject to Article 17. It could enjoy this exemption for one year after the ITO came into force, but not longer than that period without the consent of the Conference. He felt that the proposal should be reviewed apart from the problems of the Contracting Parties of GATT.

Mr. CHOUHY-TERRA (Uruguay) said that he would have preferred adoption of the Argentine amendment but in the last instance would support the proposal of the representative of Ecuador. The matter was not important and what was being denied was of even less importance.

Mr. FORTHOMME (Belgium) agreed that the matter was of small importance and thought it was one of the situations for which paragraph 3 of Article 74 had been written. The first ITO conference should apply that paragraph.

By vote the Chairman found there was no substantial support for any change in paragraph 3 of Article 18.

/Replying to a

Replying to a question of the representative of Iran, Mr. FORTHOMME (Belgium) stated there was nothing to prevent the collection of customs duties at any point within a country.

Paragraph 3 of Article 18 was approved subject to the reservations of Argentina and Uruguay.

3. ARTICLES 20 AND 22 - REPORT OF CENTRAL DRAFTING COMMITTEE
(E/CONF.2/C.8/9)

The reservation of the delegation of Switzerland to Section B was maintained.

Article 20

The delegations of Mexico, Ireland, China, Colombia and Cuba withdrew their reservations to Article 20.

The CHAIRMAN asked for the convenience of the Conference that the Secretariat be notified of any further withdrawal of reservations.

Drafting Changes

Mr. ROYER (France) said that the deletion of the word "originnaire" (paragraph 1, third line, French text) had been made to conform to the English text, but did not alter the substance of the provision.

Mr. GUERRA (Cuba) said the same difficulty had been observed in the Spanish text with the word "originario". He suggested in paragraph 3 (a), fifth line, to insert a comma after the word "and", and that the Central Drafting Committee should reconsider the deletion of "sub" in referring to sub-paragraphs throughout the text.

The Central Drafting Committee should also reconsider the use of the word "term" in the Interpretative Note to paragraph 2 (c). The representative of the United Kingdom noted that in this instance the word "term" might be appropriate since the whole phrase "agricultural and fisheries products, imported in any form" was used in a special way.

The representative of Belgium objected to using "periode representative" in place of "periode de reference".

Article 20 and its Interpretative Notes were approved subject to review by the Central Drafting Committee as noted.

Article 22

The representatives of Cuba and the United States suggested that the Central Drafting Committee should consider the following wording for paragraph 2 (d) commencing on page fourteen:

".... supplying the product shares of the total quantity or value of imports of the product based upon the proportions of the total quantity or value of imports of the product supplied by such Member countries during a previous representative period, due account being taken of any special factors...."

/The representative of

The representative of Belgium said that the French text seemed to express the point and that the Drafting Committee might correct the English text in that manner.

He again criticized the use of "periode representative" in place of "periode de reference". It was agreed that the Central Drafting Committee should also consider this phrase.

Article 22 and the Interpretative Notes attached to it was approved, subject to review by the Central Drafting Committee, and subject to the reservation of Bolivia, and to the reservation of Argentina to paragraphs 2, 3 and 4.

4. ARTICLES 25 to 28 - REPORT OF CENTRAL DRAFTING COMMITTEE
(E/CONF.2/C.8/8)

Drafting Changes

It was agreed that in line eight "the Member" should be inserted in place of "it" and that in lines ten and thirteen of the French text "de ce produit" should be changed to "d'un produit" to correspond to the English text.

Article 25 was approved subject to the above changes.

Article 26

It was agreed that the French text, twelfth line from bottom of page 5 should read "par l'Etat Membre en question".

Subject to certain suggestions for changes in punctuation being referred to the consideration of the Central Drafting Committee Article 26 was approved.

Article 27

The representative of Belgium said that paragraph 2, line six, in the French text was another example of tortured French language.

The representative of Cuba questioned the intent of the Drafting Committee change in paragraph 5, but after discussion the change was approved.

In paragraph 1 (a), lines three and four, of the French text, it was agreed to replace the words "conçu de telle façon qu'il à" by "conçu de façon à avoir".

Article 27 was approved subject to the reservation of Peru and to reconsideration by the Central Drafting Committee of suggestions for changes in punctuation.

Article 28

It was agreed that the Central Drafting Committee should consider the phrase "any Member" occurring in paragraph 2 with a view to replacing it by "Member or Members" as used, for instance, in Article 31.

The representative of Belgium called attention to the discrepancy in the French and English titles of this Article.

/In paragraph 2,

In paragraph 2, line six, of the French text the words "de cette subvention" were deleted.

In paragraph 4 (a) of the French text the word "anterieure" was placed after the word "representative".

Article 28 was approved subject to the above changes.

The CHAIRMAN ruled that to save time the numerous drafting changes such as those suggested should be presented directly to the Central Drafting Committee. Those that had been suggested but not agreed upon were referred back to the Central Drafting Committee for reconsideration.

The meeting rose at 5.55 p.m.
