GENERAL AGREEMENT ON TARIFFS AND TRADE  
Third Session of the Contracting Parties

Contracting Parties Complete Agenda Item on Brazilian Internal Taxes

The Contracting Parties have completed their examination of the question of internal taxes imposed by the Government of Brazil, in order to determine whether these were consistent with Brazil's obligations under GATT.

Among the taxes under review were those relating to watches and clocks, beer, spirits, aperitifs and cigarettes respectively.

The Working Party which had examined the question concluded that in view of the mandatory nature of the Brazilian Law of 1945, the taxes imposed by it, although discriminatory and hence contrary to GATT Article III, were permitted under the terms of the Protocol by which GATT is applied provisionally and need not be altered so long as the GATT was being applied only provisionally by the Government of Brazil, since the Protocol requires that Article III need be applied only "to the fullest extent not inconsistent with existing legislation".

The Brazilian delegate, Mr. E.L. Rodrigues, maintained that the more recent Law of 1948 was similarly permitted during the period in which GATT was to be applied provisionally.

The Brazilian delegate supported by other delegates advanced the view that unless damage to other contracting parties could be demonstrated, a breach of Article III could not be alleged. Other members of the Working Party took the view that, whether or not damage was shown, taxes on imported products in excess of those on like domestic products were prohibited by Article III, and that the provisions of Article III were intended to prevent damage and not merely to provide a means of rectifying such damage.

The delegate for Brazil had stated at the meeting of the Contracting Parties that in respect of some of the products on which internal taxes were imposed there were hardly any imports from other contracting parties. He stated that none of the contracting parties was either greatly interested or affected by the levy of these internal taxes. He did not feel that in such a situation contracting parties were materially affected and could lodge a complaint.

The Brazilian delegate also pointed out that since the rates of duty on most of the products in question were not bound in the 1947 Geneva tariff negotiations Brazil was free to raise the customs duties on these products and so achieve higher protection in this way.

The Contracting Parties took into consideration the fact that the Brazilian Government had already called the attention of the Brazilian congress to all existing laws providing for different levels of taxation with respect to domestic and imported products, in order to bring these laws into conformity with Article III of the GATT, when GATT is definitely applied.
The Brazilian delegation also assured the Contracting Parties that the Brazilian Government would send a further message to the Brazilian Congress asking that the amendment of the laws should be expedited. This provided the basis of a compromise.

In view of the impossibility of examining the full implications of the 1948 Law the Contracting Parties agreed that no further action on the matter be undertaken at the present Session, but that at the next Session the question should be reviewed in the light of action taken by the Brazilian government at that date.