THIRD COMMITTEE: COMMERCIAL POLICY

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

NOTES OF THE NINETEENTH MEETING

Held on Monday, 12 January 1948, at 3.00 p.m.

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

ARTICLE 18 - NATIONAL TREATMENT ON INTERNAL TAXATION AND REGULATION

"National Treatment" rule; exceptions thereto (paragraph 1 and paragraph 5 second part)

The Chairman indicated his intention to establish a Working Party, consisting of the delegates of Colombia, France, Norway, United Kingdom and United States, to consider all proposals relating to Article 18 on which no final decision was reached in the Sub-Committee (with the exception of amendments relating to transportation under paragraph 2). This was agreed, with the addition of the delegate of Peru as a member of the Working Party on the suggestion of the delegate of Mexico.

Item 54 - (Colombia) (Ireland) (Uruguay)

The delegate of Colombia explained the purpose of this proposal in connection with the Sub-Committee's discussion of Item 42 (See Notes of Eighteenth Meeting, 10 January 1948, E/CONF.2/C.3/A/W.30).

The Uruguayan delegation was not represented at the meeting.

The delegate for Ireland explained that the purpose of his delegation's proposal was to provide for the elimination of existing differential internal taxes by mutually advantageous negotiations. The only specific case with which his delegation was concerned was that of an existing differential internal tax on imported motorcars. While the tariff on motorcars was not bound in any existing agreement, it was subject to an understanding under Ireland's Trade Agreement with the United Kingdom by which any proposed changes would be subject to review. Conversion of the existing tax to a customs tariff would also involve certain administrative difficulties in that the tax was collected by local authorities who would have to be reimbursed for any loss of revenue.

The delegate of the United Kingdom stated that his delegation would be prepared to discuss with the Irish delegation any difficulties arising out of the United Kingdom-Ireland Trade Agreement with a view to reaching some agreement.
agreement before the Charter came into force.

It was agreed to refer Item 54 to the Working Party on the understanding that an effort would be made to find a solution for the particular cases with which the Colombian and Irish delegations were concerned, without impairing the principle of Article 18.

Items 50 and 51 - (Syria and Lebanon) (China)

The Chinese delegate objected to the inclusion of the second part of paragraph 1 on the grounds that this provision as drafted

(a) constituted a modification of the principle of "National Treatment" established in the first sentence of the paragraph;
(b) would be difficult to interpret and likely to cause disputes;
(c) was so vague that it might constitute an unknown limitation on the taxing power of the country accepting it.

In his view, if a Member evaded a tariff concession made to another Member by imposing a compensatory internal tax, recourse would in an event be available under Article 89. However, if the obligation intended to be established by the second part of paragraph 1 could be defined clearly and legally, he could agree to it.

The delegate of France agreed with the principle intended to be established by the second part of paragraph 1. Nevertheless, he believed the present formulation might cause serious practical difficulties resulting in the limitation of a Member's fiscal regulations or in the impairment of the value to another Member of an existing tariff concession. Even if the second part were deleted, recourse would, in his view, be available to an affected Member under Articles 89 and provided it could prove that the value of tariff concessions had been impaired.

The delegate for France suggested the following wording which he believed would confine the issue to the real point, i.e., possible impairment of the value of tariff concessions, for inclusion:

(a) in the text of Article 18;
(b) as an Interpretative Note to the Charter; or
(c) in the General Agreement on Tariffs and Trade.

"If a Member considers that a tariff concession is impaired by the existence in another Member country of differential internal taxes on an imported product and a directly competitive or substitutable product, the sole object of which is to afford protection to the domestic production of that product, the Member shall be entitled to ask the other Member to enter into negotiations under Article 17 for the reduction or elimination of the differential tax in the manner provided for in respect of tariffs and preferences."

/The delegate
The delegate of the United States disagreed with the delegate of France that this provision should be confined to scheduled items.

The delegates of the United States, United Kingdom and Brazil considered that the provision contained in the second part of paragraph 1 was a necessary complement to the "National Treatment" rule established in the first sentence, but had no objection to its being reformulated in any suitable language which would accomplish the intended purpose.

The United Kingdom delegate pointed out that although the situation envisaged by this provision might not be susceptible of precise definition, in practice it would be easily recognizable.

The delegate of Cuba, while agreeing in principle with the provision under discussion, believed that unless this provision could be more precisely formulated it would be preferable to delete it.

The delegate of Australia pointed out that the General Agreement in Article II recognized the right of contracting parties to use supplementary tariffs or charges, additional to custom duties, and suggested that the issue might be solved by a reference to the relevant provisions of the General Agreement.

The Sub-Committee agreed that the principles established by the second part of paragraph 1 should be retained, subject to reformulation by the Working Group.

**Item 65 - (Argentina)**

The delegate of Argentina, while not disagreeing with the basic principles enunciated in Article 18, believed that an equitable solution must be found for the particular problems facing individual countries. Argentina was faced with two problems: (a) existing differential internal taxes essential for local revenue purposes, and (b) existing internal quantitative regulations for the protection of industries essential to the national interest.

It was suggested that the first problem referred to by Argentina was similar to that contemplated by the Colombian amendments (Items 49 and 54) and could be referred to the Working Group, and that the second problem involved protection within the terms of Article 13 and should be referred to the Committee responsible for that Article.

It was agreed to discuss the Argentina proposal further at the beginning of the next meeting.