THIRD COMMITTEE: COMMERCIAL POLICY

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

NOTES OF THE TWENTY-FIRST MEETING

Held on Wednesday, 14 January 1948, 10.30 a.m.

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

(Reference: E/CONF.2/C.3/6)

ARTICLE 18 - NATIONAL TREATMENT ON INTERNAL TAXATION AND REGULATION

"National Treatment" rule; exceptions thereto (paragraph 1)

Item 7: (United States)

This proposal was agreed in principle and referred to the Working Party for redrafting, the following suggestions to be taken into consideration:
(a) substitution of the phrase "applied at the time of importation" for the phrase "imposed on imports";
(b) clarification of the words "compensate" and "equivalent", e.g., a tax and a charge, not exactly equal, could have the same protective incidence.

Suggested addition to the last sentence of paragraph 1 - (Mexico)

The delegate of Mexico proposed the following addition to Article 18, discussion of which was deferred from the previous meeting pending availability of the text:

"1. The provisions of this paragraph shall not apply to exemptions from internal taxes for development purposes which fulfill the following requirements:
(a) Exemptions which are granted for a maximum period of five years, and
(b) which are open on equal terms for the unexpired portion of the period of exemption to all firms, irrespective of the nationality of the owners, producing or desirous of producing any article so exempted, and
(c) which are granted on a non-discriminatory basis exclusively for the promotion of new industries, and

/(d) which do not
which do not involve an increase of tax rates prior to the granting of the exemption."

The Mexican delegate explained that the purpose of this amendment was (a) to permit exemptions from excise taxes on particular products for development purposes (The Sub-Committee agreed previously that exemptions from customs duties or income taxes would not come within the terms of Article 18); (b) to provide for "national treatment", in accordance with the provisions of Article 18, with respect to such exemptions by explicit safeguards.

A majority of the Sub-Committee, while sympathizing with the objective of promoting economic development, did not favour the Mexican proposal for the following reasons:

1. In the case of unbound items, an increased tariff duty could be applied, which would be preferable to the imposition of a differential internal tax.
2. Exemptions from internal taxes on bound items would result in an increased margin of protection to domestic producers, thereby impairing duty bindings.
3. The suggested safeguards, with the possible exception of (d), would provide merely for non-discriminatory treatment as between industries located within the country permitting the exemptions, irrespective of nationality, but would not prevent increased protection for local as compared to imported products.
4. Exemptions from internal taxes for development purposes should be subject to the procedure for release from negotiated commitments provided under Article 13.
5. Existing differential internal taxes could be maintained for development purposes under the provisions of Article 14, pending a review by the Organization under Article 13.

The delegates of Colombia and Cuba supported the Mexican amendment, the latter suggesting that difficulties arising out of exemptions from internal taxes on bound items could be examined on a case-by-case basis under Articles 89 and 90. Most of the Members of the Sub-Committee, however, felt that resort to Article 89 and 90 would not be an efficient way of handling this problem.

The delegate of the Philippines, not a Member of the Sub-Committee, supported the Mexican proposal, pointing out that the Philippines, having by law exempted new industries from all local taxes for a period of five years, would
years, would like to provide for an exception under Article 18 to permit the continued operation of this law. It was pointed out that the Mexican amendment dealt solely with exemptions from excise taxes on products.

The Mexican delegate saw no reason to accept the suggestion that his proposal be referred to Committee II (Economic Development). Mexico would, under the existing draft of Article 13, have recourse to the procedure for releases from negotiated commitments for development purposes provided therein, and would have freedom with respect to action on bound items.

**Item 48 - (United Kingdom)**

It was agreed to refer this item directly to the Working Party since it involved no substantive change.

**Suggestion by International Monetary Fund regarding interpretation of Article 18 with respect to multiple currency practices**

The representative of the International Monetary Fund suggested that the following interpretation of Article 18, adopted in Geneva but inadvertently omitted from the Report of the Second Session of the Preparatory Committee, be inserted into the text of the Charter or included as an interpretative note:

"The Sub-Committee considered that if such charges are imposed on or in connection with imports or exports as such, or are imposed on the international transfer of payments for imports or exports, they would not be internal charges and, therefore, would not be covered by Article 15 (18); on the other hand, in the unlikely case of a multiple currency technique which takes the form of an internal tax or charge, such as an excise tax on a particular product, then that technique would be precluded by Article 15 (18). It may be pointed out that the possible existence of charges on the transfer of payments insofar as these are permitted by the International Monetary Fund is clearly recognized by Article 14 (16)."

It was pointed out that Sub-Committee C of Committee III had agreed to retain the interpretative note to paragraph 5 of Article 35 which was the same in substance as the note agreed in Geneva with respect to Article 15 (18).

The Sub-Committee accepted this interpretation and agreed to its inclusion as a note to the Charter, after appropriate re-wording by the Working Party.