THIRD COMMITTEE: COMMERCIAL POLICY

SECTION (a)

SUMMARY RECORD OF THE NINTH MEETING

Held at the Capitol, Havana, Cuba, on 12 December 1947 at 4.00 p.m.

Chairman: Mr. F. L. WILGRESS (Canada)

1: CONTINUATION OF DEBATE ON ARTICLE 17 (First Reading)

Mr. D'ASCOLI (Venezuela) stated that the debate had centred on two categories of amendments to Article 17, namely (1) those which limited the action of ITO to initiate tariff negotiations; and (2) those which aimed at preserving the right of Member States to adjust their respective customs tariffs.

Both groups of amendments had originated from the same preoccupation, e.g., that countries might not be free to refuse negotiating on certain articles in which they had a special interest. He felt that agreement could be reached by embodying in the Chapter the principle that the obligation to lower tariffs would not hinder the right of young countries to safeguard their incipient industrial development by protective duties. Industrial development of underdeveloped countries would redound to the benefit of the more highly industrialized nations, since their purchasing power would be increased and would provide larger world markets.

He quoted import statistics of certain countries, including Argentina, Australia, Brazil, Chile, Colombia, Cuba, Mexico, Peru, Uruguay, etc. to prove that the industrialization of underdeveloped countries was always accompanied by a corresponding increase of imports.

Mr. BRIGNOLI (Argentina) considered that the arguments of the representative of Venezuela were conclusive. The purpose of the amendment to paragraph 1 of Article 17 (document 11/Add.3) submitted by the Argentine delegation was to strengthen the rights of Member States. He believed that the principle would be endangered if negotiations for the purpose of lowering tariffs and eliminating preferences were to be opened at the request of the Organization; the imperative aspects of paragraph 1 of Article 17 should be removed.

/Mr. COOMBS
Mr. COOMBS (Australia) felt more and more convinced that the Article failed to specify in detail a number of matters which were perfectly clear to the countries represented at Geneva. There, it had been decided to avoid laying down precise rules regarding the conduct of negotiations and to allow them to be shaped by practical experience. This experience had since been gained and the results could now be incorporated in greater detail. For instance, it could be specified that negotiations could be conducted on an item-by-item basis, and that each country was free to reserve items in which it had a particular interest, from the negotiation, provided a reasonable contribution was made to the reduction of tariffs. The only standard laid down in the text, by which any contribution could be assessed was in the second sentence of paragraph 2, and this, being very general, permitted the Organization to take all relevant factors into account. However, there was room for greater clarity and precision. Article 17 could be improved by stating that negotiations would be conducted on a selective basis and by elaborating the criteria by which individual contributions were to be judged. He thought that the Sub-Committee should examine the points of view expressed in the debate on the precise degree of obligation covered by the Article.

Mr. GOMEZ (Brazil) believed that certain drafting changes were essential, and his delegation would reserve their position until the final discussion of the Article.

Mr. MULLER (Chile) explained that the purpose of his delegation's amendment was due to the necessity for some clarification concerning the refusal of a country to grant the reductions established under Article 17. A contradiction existed between the obligation to conduct negotiations for tariff reductions and the sanctions imposed under Article 17. Clear and precise wording should be found to cover the criteria on which sanctions were to be based.

Mr. LLERAS (Colombia) thanked the Australian representative for his suggested compromise solution, which he felt would be satisfactory to the authors of the amendments.

The Australian representative had made it clear that due regard would be paid to the economic position of underdeveloped countries including the question of the balance of payments.

His delegation would not insist on their amendment dealing with monetary depreciation, if it were clearly admitted that in cases of currency depreciation a given country would be free to readjust its tariffs, and that the diminished incidence which would automatically
follow from such depreciation would constitute a tariff reduction.

Mr. COREA (Ceylon) stated that the amendment introduced by his
delegation had been clarified by the clear statement of the representative
of Australia. He wished however to have it confirmed that if refusal to
negotiate was based on the fiscal nature of customs duties, it should not be
considered a valid reason for refusal by another party to negotiate. It must
be recognized that no reduction of duties could be considered which were
essentially of a fiscal nature, on which a country relied for its revenue
and for purposes of economic development. He suggested the addition of a
paragraph to Article 17 which would make allowance for the nature of the
reasons why negotiations were refused. A country should not be penalized by
failure to reduce fiscal tariffs.

Mr. ALAMILIA (Cuba) pointed out a typographical error in the amendment
submitted by his delegation (document C.3/1/Add.3), namely that the word
"change" should be substituted for "exchange" in the third line. The
amendment was based on the text of the second paragraph of the footnote
appearing on page 18 of the Geneva draft. His delegation thought it necessary
to state that agreement on tariff reductions should not affect any previous
commitments except with the consent of the parties concerned, since otherwise
the Article might be construed as an acceptance by all parties of the
annulment of all former commitments. It was universally recognized that
international commitments could not be modified without the consent of the
contracting parties.

Mr. SUETENS (Belgium) supported the suggestion of the Australian
representative. If more rules on the conduct of negotiations for tariff
reductions were required, he hoped they would be drafted in the proper
manner. Larochefoucauld had said that "men make promises in accordance with
their hopes and keep their promises in accordance with their fears." The
text should be so drafted that the same spirit which had prevailed at the
time of drafting, would also prevail in its application.

Mr. DOMOND (Haiti) explained that his amendment would clarify the right
of states to initiate negotiations, and supported the representative of
Ceylon regarding the right of a state to seek concessions even though it
might not itself grant tariff reductions, particularly on tariffs which
were a source of fiscal revenue.

Mr. HAIDER (Iraq) expressed his satisfaction with the statements of
members who had taken part in the work at Geneva to the effect that the
precedents established there would be applicable to future negotiations.
He could not agree with the representative of France that all preferences,
new and old, should be eliminated, nor with the representative of Switzerland
/that no preferences
that no preferences could be beneficial for development or expansion of world trade. Preferences for development or customs unions should be considered on the same basis as fiscal or protective tariffs. The first sentence of Article 17 was restricted to those preferences enumerated in Article 16 (2); the preferences in Articles 15 and 42, therefore, were not subject to negotiation. It would be a contradiction to encourage preferences for development and at the same time to provide for their elimination.

Mr. LAMSVELT (Netherlands) said that the countries which had drafted Article 17 and which represented 75 per cent of the world's trade had come to the conclusion that preferences should be eliminated because they were discriminatory and detrimental to world trade. With this the Netherlands agreed and would continue to work toward that end. Many preferences had already been abolished and the Benelux countries were prepared to renew their attack on the remaining ones.

Benelux believed in low tariffs and their own tariff was among the lowest in the world. The doubts expressed by some delegates about sub-paragraph (b) which spoke of low and high tariffs were not justified; every country knew in which category it belonged.

The Netherlands could accept the present text of Article 17; it would carefully watch any changes made.

Mr. MELANDER (Norway) was in general agreement with the statement of the representative of Australia that some points could be clarified without altering the substance. His amendment was a proposal to include the note in the Geneva text as a new sub-paragraph of Article 17, in conformity with the rule on interpretative notes made by the General Committee; it stated that countries were free to conclude bilateral tariff negotiations. This would cover the point made in the first part of the amendment of Uruguay.

Mr. LLORENTE (Philippines) likewise agreed with the text of Article 17, and with the statements of the representatives of Australia and Colombia. As had been observed by the representative of China, Article 17 did not provide a time limit for the termination of preferences referred to in Article 16 (2) and they might therefore become permanent. In order to make the paragraph more flexible, he suggested the insertion of the word "gradual" before "elimination." The preferences in existence between the Philippines and the United States could not be immediately eliminated without disastrous results.

He stressed that the reduction of tariffs should be applicable rather to high tariffs than to tariffs designed for revenue purposes or as a protection of industries covered by Articles 13 and 40.
Mr. Ryder (United States of America) stated that the requirement of negotiations looking toward the substantial reduction of tariffs and elimination of preferences was a fundamental feature of the Charter and that his delegation would oppose any effort to do away with it; the intention had always been that the negotiation would be on a selective basis, as could be seen by the First Report of the Preparatory Committee and the negotiations in Geneva; his delegation had no objection to amendments leading to a clarification of the intent of the text provided the substance would not be altered.

The Chairman suggested the following terms of reference for the sub-committee: to examine the proposals and amendments relative to Articles 16 and 17 (other than those relating to paragraphs 2 and 3 of Article 16 which are to be referred to the joint sub-committee of Committees II and III) with a view to reaching agreement on a text to be recommended to the Committee.

Replying to a question by D'Ascoli (Venezuela), the Chairman stated that the amendment submitted by Venezuela would be referred to the sub-committee set up to study Articles 16 and 17; if the sub-committee found it more appropriate that it be studied under another Article, it would so report to the Committee.

The terms of reference were approved.

The Chairman suggested the following representation in the sub-committee: Australia, China, Colombia, Cuba, Denmark, France, Netherlands, New Zealand, Peru, United Kingdom, United States of America, Uruguay.

Mr. D'Ascoli (Venezuela) thought a country of the Near East might be represented and upon the suggestion of Mr. Entezam (Iran) Turkey was added.

The composition of the sub-committee was approved.

Mr. Auge (Czechoslovakia) supported the proposal of the representative of Norway that a statement should be included in Article 17 to the effect that countries should be free to conduct bilateral negotiations tending to reduction of customs tariffs; and also supported the amendments tending to include the provision that a country whose currency was depreciated should be allowed to raise its customs duties. The latter was included in the original London report but the provision in the General Agreement was not so far reaching.

There were two kinds of depreciation: one which was the last result of an inflation, and one that was put into effect to stop the deflationary process. The sub-committee should take this matter into consideration.

/Mr. Larosa (Italy)
Mr. LAROSA (Italy) reserved the right of his country to establish new customs tariff to replace the present one, which dated back to 1922. A new tariff was being worked on and would be established shortly on the lines of the recommendations made by the League of Nations.

Mr. BLUETZAJN (Poland) asked that the sub-committee should consider the situation of countries devastated by the war, and allow them to make certain changes necessary because of the disruption in their economic structure. Some of those countries had temporarily suspended their customs duties in order to facilitate imports. Some were members of the International Monetary Fund, which had allowed them to delay notification of their initial parity, and their currencies were convertible. The sub-committee should take account of these special cases, and an adjustment of their tariffs should be permitted.

There being no comments to paragraphs 2 and 3, the CHAIRMAN considered the first reading of Article 17 concluded.

ARTICLE 18 (First Reading)

The CHAIRMAN suggested that the order outlined in the Agenda (E/CONF.2/C.3/13) be followed.

Mr. LLERAS (Colombia) was in complete agreement with the principles of Article 18. His amendment was submitted to facilitate the transition of his country from its present situation to a non-discriminatory system envisaged in the Charter. The reduction and abolition of internal taxes levied on imports must be a gradual process. The text should be clarified by specifying "internal charges of any kind other than those existing at present."

Mr. TIRADO (Costa Rica) explained that his amendment was intended to permit the adjustment of ad-valorem tariffs in the event of currency depreciation.

Mr. SHEARER (United Kingdom) stated that his amendment was to ensure the true intent of the Article; imported goods should not be subjected, even indirectly, to higher duties than like goods domestically produced.

Mr. AUSTERE (Czechoslovakia) supported the amendment of the United Kingdom. Replying to the representative of Costa Rica, he stated Article 18 did not prevent a country from raising its internal taxes. The rule was only that there should be no discrimination between goods of domestic and foreign origin.

Mr. DJIBOUTI (Syria) stated that the phraseology of Article 18 as to like or substitutable products might lead to dangerous interpretations. His amendment specified that products in respect to which concessions had been granted, should be exempt from new internal taxation. Other items should be treated
should be treated in the same way as was the case in respect to customs tariffs.

The CHAIRMAN felt that the principle embodied in Article 18 was that domestic industries should not be protected by means of internal taxation. The proposal of Syria and Lebanon, therefore, would change the fundamental principle contained in that Article.

Mr. CHANG (China) maintained his government's earlier reservation to delete the second and third sentences of paragraph 1, Article 18. If the purpose of those sentences was to safeguard concessions, other provisions existed in the Charter, particularly Article 89, to cover possible evasions.

Mr. McCARTHY (Ireland) stated that the purpose of his amendments was to take account of the practice in his country. One aimed at introducing the principle of negotiation to paragraph 1, Article 18; and the intent of the amendment to paragraph 3 was to permit mixing regulations at present in force in his country.

Mr. SAHLIN (Sweden) stated that Sweden had a long-range agricultural programme not intended to lead to expansion at the expense of imports. For technical reasons the provision for subsidies could not be fully utilized; it was necessary to regulate imports by duties, in some cases by quantitative restrictions. The stress of the second sentence of paragraph 1 should be on domestic production irrespective of the degree of foreign material entering into that production; the amendment to that sentence was a drafting change.

Mr. COREA (Ceylon) said that his attitude toward Article 18 depended upon the action taken in regard to Articles 13 and 20. He thought the second part of paragraph 1 of Article 18 completely negated the intent of the first part, in that it seemed to discriminate in favour of substantial domestic industry.

Mr. RYDER (United States of America) thought a wrong interpretation had been placed on that part of paragraph 1. This actually was of great importance to countries producing raw materials: substantial producers could not put an internal tax on an imported similar product without also putting the same tax on its product. In reply to a question by Mr. CHANG (China), Mr. Ryder stated that if, for instance, synthetic rubber were not produced in substantial quantity, a country could not put a tax on imported natural rubber in order to help build up a synthetic rubber industry.

Mr. COREA (Ceylon) asked whether that meant that in the case of vegetable oils, if an existing internal tax on imports were to be maintained, a similar tax would have to be enforced on the internal production, to which Mr. RYDER (United States of America) replied in the affirmative.

/Mr. Corea did not
Mr. Corea did not feel that this entirely clarified his point as to discrimination in favour of substantial production.

Mr. GONZALEZ (Uruguay) stated that the amendments proposed by Colombia, Ireland, Lebanon and Syria, and Uruguay were justified since any reduction or any special treatment applied to internal taxation should be the object of negotiation.

Mr. ROYER (France) supported the amendment of the representative of China to delete the second part of paragraph 1 of Article 18.

The meeting rose at 7.20 p.m.