

REPORT OF THE CO-ORDINATING COMMITTEE  
TO THE HEADS OF DELEGATIONS\*

The Co-ordinating Committee, consisting of the following individuals acting in a personal capacity: Messrs. Abello,\*\* Beteta, Coombs, Ferrero, Hakim, Holmes, Lleras Restrepo, Malik, Muller, Philip, Wunsz King and Wilcox, under the Chairmanship of M. Max Suetens, was established by the Heads of Delegations at their meeting on 4 February 1948, in order to expedite the successful termination of the Conference by recommending compromise solutions for differences relating primarily to questions of economic development.

The Committee therefore devoted its attention to establishing a basis for agreement on Article 13, Article 15 and the Tariff Committee and the proposed Economic Development Committee.

The attached\*\*\* drafts relating to Article 13, Article 15 and amendments concerning the Tariff Committee and the proposed Economic Development Committee represent the result of the Committee's consideration of these matters.

The Committee recommends that the Heads of Delegations consider these drafts from the standpoint of obtaining an overall solution to the problems involved and of reaching a decision on the proposals as a whole. If an agreement on these lines is reached it is recommended that it be accompanied by withdrawal of a number of amendments and reservations entered pending the settlement of the final drafts of the Articles involved in the overall settlement. The Committee also considers that, as a decision on the report of the Sub-Committee on Article 75 (E/CONF.2/C.6/53) has been postponed pending a settlement of the matters referred to above, that report should also be included as part of the overall settlement.

If this procedure is acceptable to the Heads of Delegations, and it proves possible to reach agreement on the substance of the drafts submitted, it is recommended that the drafts be referred to the appropriate Committees as the basis for the adoption of final texts.

\* This revised document is issued in order to incorporate corrections in Annexes 1 and 3

\*\* Mr. Abello was unable to attend the later meetings.

\*\*\* There is also circulated, at the request of Senor Lleras Restrepo, a statement made by him to the Co-ordinating Committee regarding the draft of Article 13.

ANNEX I

Article 13

Governmental Assistance to  
Economic Development

1. The Members recognize that special governmental assistance may be required to promote the establishment, development or reconstruction of particular industries, or particular branches of agriculture, and that in appropriate circumstances the grant of such assistance in the form of protective measures is justified. At the same time they recognize that an unwise use of such measures would impose undue burdens on their own economies, unwarranted restrictions on international trade and might increase unnecessarily the difficulties of adjustment for the economies of other countries.

2. (a) If a Member in the interest of its economic development or reconstruction considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, but which would not conflict with the provisions of that Chapter, such Member

(1) shall enter into direct negotiations with all the other Members which have contractual rights with a view to obtaining agreement. The Members shall be free to proceed in accordance with the terms of any such agreement, provided that the Organization is informed of the results of the negotiations; or (ii) shall initially or may in the event of failure to reach agreement under sub-paragraph (i) above apply to the Organization. The Organization shall determine, from among Members which have contractual rights, the Member or Members materially affected by the proposed measure and shall sponsor negotiations between the applicant Member and these Members with a view to obtaining expeditious and substantial agreement.

The Organization shall establish and communicate to the Members concerned a time schedule for such negotiations, following as far as practicable any time schedule which may have been proposed by the applicant Member. The Members shall commence and proceed continuously with such negotiations in accordance with the time schedule laid down by the Organization. At the request of a Member the Organization may, where it concurs in principle with the proposed measure, assist in the negotiations. Upon substantial agreement being reached, the applicant Member may be released by the Organization from the obligation referred to in this paragraph, subject to such limitations as may have been agreed upon in the negotiations between the Members concerned.

(b) If as a result of action initiated under this paragraph, there should be an increase in the importations of the product or products concerned, including products which can be directly substituted therefor, which if continued would be so great as to jeopardize substantially the plans of the applicant Member for the establishment, development or reconstruction of the industry, industries or branches of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with the Organization, adopt such other measures as the situation may require; Provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this sub-paragraph. Except in unusually circumstances, such measures shall not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member initiated action under sub-paragraph (a) of this paragraph. The Organization shall determine, as soon as practicable, whether such measures should be continued, discontinued or modified. Such measures shall in any case be terminated as soon as the Organization determines that the re-negotiations are completed or discontinued. It is recognized that the contractual relationships referred to in sub-paragraph (a) of this paragraph involve reciprocal advantages, and therefore any other Member which has a contractual right in respect of the product to which such action

/relates,

relates, and whose trade is materially affected by the action, may suspend the application to the trade of such Member of such substantially equivalent obligations or concessions under Chapter IV, the suspensions of which the Organization does not disapprove. Any Member intending to suspend such application shall consult the Organization before doing so.

3. In the case of any non-discriminatory measure affecting imports which would conflict not only with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, but also with the provisions of that Chapter, the provisions of paragraph 2 (a) (ii) shall apply; Provided that before granting a release the Organization shall afford adequate opportunity for all Members which it determines to be materially affected to express their views. The provisions of paragraph 2 (b) shall also be applicable in this case.

4. (a) If a Member in the interest of its economic development or reconstruction considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with any provision of Chapter IV, but would not conflict with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, such applicant Member shall so notify the Organization and shall transmit to the Organization a written statement of the considerations in support of the adoption, for a specified period, of the proposed measure.

(b) The Organization shall concur in the proposed measure and grant release from such provision for a specified period if, having particular regard to the applicant Member's need for economic development or reconstruction, it is established that the measure

(i) is designed to protect a branch of industry, established between 1 January 1939 and the date of signature of the Final Act of the present Charter, which was protected during that period of its development by abnormal conditions arising out of the war; or

(ii) is designed to promote the establishment or development of a branch of industry for the processing\* of an indigenous

\* Texts to appear in Report: The Chinese delegation has expressed some doubt about the meaning of the word "processing" which appears in (ii) and (iii) of sub-paragraph 4 (b). It was agreed that the word "processing" meant the treatment of a primary commodity in its early and intermediate stages; it would not refer to highly developed industrial processes such as the manufacture of precision instruments.

/primary commodity

- primary commodity, when the external sales of such commodity have been materially reduced as a result of new or increased restrictions imposed abroad; or
- (iii) is necessary in view of the possibilities and resources of the applicant Member to promote the establishment or development of a branch of industry for the processing of an indigenous primary commodity, or for the processing of a by-product of such a branch of industry which would otherwise be wasted, in order to achieve a fuller and more economic utilization of the applicant Member's natural resources and manpower and, in the long run, to raise the standard of living within the territory of the applicant Member and is unlikely to have a harmful effect in the long run, on international trade;\* or
- (iv) is unlikely to be more restrictive of international trade than any other practicable and reasonable measure permitted under this Charter which could be imposed without undue difficulty and is the one most suitable for the purpose having regard to the economies of the branch of industry or agriculture concerned and to the applicant Member's need for economic development or reconstruction.

Provided that

- (i) any proposal by the applicant Member to apply any such measure, with or without modification after the end of the initial period, shall not be subject to the provisions of this sub-paragraph; and
- (ii) The Organization shall not concur in any measure under the provisions of sub-paragraphs (i), (ii) or (iii) which is likely to cause serious prejudice to exports of a primary commodity on which the economy of another Member is largely dependent.

The applicant Member shall apply all measures under this sub-paragraph in such a way as to avoid unnecessary damage to the commercial or economic interests of any other Member.

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\* Text to appear in Report: It was agreed that "international trade" as cited in (iii) of sub-paragraph 4 (b) meant international trade in general and not trade in the specific product to which the measure related.

/(c) If the proposed

(c) If the proposed measure does not fall within the provisions of sub-paragraph (b);

(1) the Member may enter into direct consultations with the Member or Members which, in its judgment, will be materially affected\* by the measure, with a view to obtaining agreement.

At the same time, the Member shall inform the Organization of the proposed measure and of the consultations relative thereto in order to afford the Organization an opportunity to determine whether all materially affected Members are included within such consultations. Upon complete or substantial agreement being reached, the Member interested in taking the measure shall apply to the Organization for release. The Organization shall promptly examine the application to ascertain whether the interests of all the materially affected Members were duly taken into account. If the Organization reaches this conclusion, with or without further consultations between the Members concerned, it shall release the applicant Member from its obligations under the relevant provision of Chapter IV, subject to such limitations as it may impose; or

(ii) shall initially or may in the event of failure to reach complete or substantial agreement under sub-paragraph (i) above apply to the Organization. The Organization shall promptly transmit the statement submitted by the applicant Member to the Member or Members which are determined by the Organization to be materially affected by the proposed measure. Such Member or Members shall, within the time limits prescribed by the Organization, inform the Organization whether, in the light of the anticipated effects of the proposed measure on the economy of such Member or Members, there is any objection to the proposed measure. If there should be no objection on the part of the affected Member or Members to the proposed measure, the Organization shall immediately free the applicant Member to apply it.

\* Text proposed by United Kingdom to be inserted in Report:

The question was raised with reference to paragraph 4 (c) as to the meaning of the words "materially affected". It was agreed that this term would not be restricted to those countries, which in the past had been the principal suppliers and that it would be proper for the Organization to have regard, for instance, to the interests of those Members which supplied a large proportion of the imports of the applicant Member in the product concerned, those Members which were substantially interested in exporting the product to world markets and those Members, whose economies were materially dependent on exports of the product.

/(d) If there

(d) If there be any objection, the Organization shall promptly examine the proposed measure, having regard to the provisions of the Charter, to the considerations presented by the applicant Member and its need for economic development or reconstruction, to the views of the Member or Members determined to be materially affected, and to the effect which the proposed measure, with or without modifications, is likely to have, immediately and in the long run, on international trade, and, in the long run, on the standard of living within the territory of the applicant Member. If, as a result of such examination, the Organization concurs in the proposed measure, with or without modification, it may release the applicant Member from its obligations under the relevant provision of Chapter IV, subject to such limitations as it may impose.

5. If in anticipation of the concurrence of the Organization in the adoption of a measure referred to in paragraph 4 of this Article, there should be an increase or threatened increase in the importations of the product or products concerned, including products which can be directly substituted therefor, so substantial as to jeopardize the plans of the applicant Member for the establishment, development or reconstruction of the industry, industries or branches of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with, the Organization, adopt such other measures as the situation may require pending a decision by the Organization on the Member's application; Provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made.\*

6. The Organization and the Members concerned shall preserve the utmost secrecy in respect of matters arising under this Article.

7. In the case of measures referred to in paragraph 4 of this Article, the Organization shall, at the earliest opportunity but ordinarily within fifteen days after receipt of the statement referred to in paragraph 4 (a) or, in the case of measures dealt with in accordance with the provisions of sub-paragraph 4 (c) (i)\*\* of the application referred to in that sub-paragraph

\* Text proposed by the Chinese delegation to appear as an interpretative note: It was agreed that paragraph 5 would permit a Member to prohibit entirely or reduce the imports of a product to the extent needed to ensure that, over the whole period following the date of notification of the Member's application, that product was not imported at a rate greater than in the most recent representative period preceding the date of notification.

\*\* It was decided to ask the drafting committee to consider whether this reference should also apply to sub-paragraph 4 (c) (ii).

/of this

of this Article advise the applicant Member of the date by which it will be notified whether or not it is released from such obligation or obligations as may be relevant. This date shall be the earliest practicable but shall not be more than ninety days subsequent to the receipt of such statement or application; Provided that, if before the date set, unforeseen difficulties arise, the period may be extended after consultation with the applicant Member. If the applicant Member does not receive such decision by the date set, it may after informing the Organization, institute the proposed measure.

ANNEX 2

ARTICLE 15

PREFERENTIAL ARRANGEMENTS FOR ECONOMIC DEVELOPMENT

1. The Members recognize that special circumstances, including the need for economic development or reconstruction, may justify now preferential agreements between two or more countries in the interest of the programmes of economic development or reconstruction of one or more of them.
2. Any Member or Members contemplating the conclusion of such an agreement shall communicate their intention to the Organization and provide it with the relevant information to enable it to consider the contemplated agreement. The Organization shall promptly communicate such information to all Members.
3. The Organization shall examine the proposal and, subject to such conditions as it may impose, may, by a two-thirds majority of the Members present and voting, grant an exception to the provisions of Article 16 to permit the proposed arrangements to be made.
4. Notwithstanding the provisions of paragraph 3, the Organization shall permit the necessary departure from the provisions of Article 16, in accordance with the provisions of paragraphs 5 and 6, in respect of a proposed agreement between Members for the establishment of tariff preferences which it determines to fulfil the following conditions and requirements:

- (a) the territories of the parties to the agreement shall be contiguous one with another, or all parties shall belong to the same economic region;
- (b) any tariff preference provided for in the agreement is necessary to ensure a sound and adequate market for a branch of industry or agriculture which is being or is to be created or reconstructed or substantially developed or substantially modernized;
- (c) the parties to the agreement undertake to grant free entry for the product or products of the branch of industry or agriculture referred to in sub-paragraph (b) or to apply to such products custom duties sufficiently low to ensure that the objectives provided for in sub-paragraph (b) shall be achieved;
- (d) any compensation granted to the other parties by the party receiving preferential treatment shall, if it is a preferential concession, conform with the provisions of this paragraph;
- (e) the agreement contains provisions permitting the adherence of other Members, which are able to qualify as parties to the agreement under the provisions of this paragraph, in the interest of their programmes of  
/economic development

economic development or reconstruction on terms and conditions to be determined by negotiation with the parties to the agreement. The provisions of Chapter VIII may be invoked by such a Member in this respect only on the ground that it has been unjustifiably excluded from participation in such an agreement;

(f) the agreement contains provisions for its termination according to its purposes and within a period necessary for the fulfilment of such purposes but in any case not more than ten years, provided that any renewal shall be subject to the approval of the Organization and shall not be for periods greater than five years each.

5. When the Organization, upon the application of a Member, approves a margin of preference in accordance with paragraph 6, as an exception to Article 16 in respect of the products covered by the proposed agreement, it may, as a condition of its approval, require a reduction in an unbound most-favoured-nation rate of duty proposed by the Member in respect of any product so covered, if in the light of the representations of any affected Member it considers that rate excessive.

6. (a) If the Organization finds that the contemplated agreement fulfills the conditions set forth in paragraph 4 and that the conclusion of the agreement is not likely to injure substantially the interests of Members not parties to the agreement, it shall within two months authorize the parties to the agreement to depart from the provisions of Article 16 as regards the products covered by the agreement. If the Organization does not give a ruling within the specified period, the authorization of the Organization shall be considered automatically received.

(b) If the Organization finds that the agreement, while fulfilling the conditions set forth in paragraph 4, is likely to cause substantial injury to the external trade of a Member not party to the agreement, the Members contemplating the agreement may enter into negotiations with that Member. When agreement is reached in the negotiations, the Organization shall authorize the Members contemplating the preferential agreement to depart from the provisions of Article 16 as regards the products covered by the preferential agreement. If, within two months from the date on which the Organization suggested such negotiations, the negotiations have failed and the Organization considers that the injured Member is unreasonably preventing the conclusion of the negotiations it shall permit the necessary departure from the provisions of Article 16 by fixing a fair compensation to be granted by the parties to the agreement to the injured Member or, if this is not possible or reasonable, by ordering such modification of the agreement as will give such Member fair treatment. The provisions of Chapter VIII may be

/invoked by

invoked by such Member only if it does not accept the decision of the Organization regarding such compensation.

(c) If the Organization finds that the agreement while fulfilling the conditions set forth in paragraph 4 is likely to jeopardize seriously the economic position of a Member in world trade, it shall not agree to any departure from the provisions of Article 16 unless the parties to the agreement have reached a mutually satisfactory understanding with that Member.

(d) If the Organization finds that the prospective parties to a regional preferential agreement have, before 21 November 1947, obtained from countries representing at least two-thirds of their import trade, the right to depart from most-favoured-nation treatment in the cases envisaged in the agreement, the Organization shall, without prejudice to the conditions governing such recognition, grant the authorization provided for in paragraph 5 and in sub-paragraph (a) of this paragraph, provided that the conditions set out in sub-paragraphs (a), (e) and (f) of paragraph 4 are fulfilled. Nevertheless, if the Organization finds that the external trade of one or more Members, which have not recognized this right to depart from most-favoured-nation treatment, is threatened with substantial injury, it shall invite the parties to the agreement to enter into negotiations with the injured Member, and the procedure of sub-paragraph (b) above shall apply.

#### INTERPRETATIVE NOTES

##### Paragraph 4 (a)

The Organization need not interpret the term "economic region" to require close geographical proximity if it is satisfied that a sufficient degree of economic integration exists between the countries concerned.

##### Paragraph 5 (d)

It is understood that the words "have, before 21 November 1947, obtained from countries representing at least two-thirds of their import trade, the right to depart from most-favoured-nation treatment for the purpose of establishing regional preferences as envisaged in the agreement" cover rights to conclude preferential agreements which may have been recognized in respect of mandated territories which became independent before 21 November 1947, in so far as these rights have not been specifically denounced before that date.

#### CONSEQUENTIAL AMENDMENT OF ARTICLE 13

Insert in paragraph 2 of Article 13, after the word "reconstructed" in the first line, "or for the purpose of increasing a most-favoured-nation rate of duty in connection with the establishment of a new preferential agreement in accordance with Article 15".

/ANNEX 3

ANNEX 3

PROPOSAL DEALING WITH THE TARIFF COMMITTEE,

THE COMMITTEE ON ECONOMIC DEVELOPMENT AND RECONSTRUCTION, ETC.

1. The Co-ordinating Committee considered three alternative proposals submitted by the delegation of the United States, for dealing with the problem of the Tariff Committee, the proposed Committee on Economic Development and Reconstruction and a possible Commercial Policy Committee.
2. It was agreed that the second proposal would be accepted as a basis for the work of the Committee. Under this alternative:
  - (a) there would be no provisions in the Charter for a Tariff Committee, a Committee on Economic Development and Reconstruction or a Commercial Policy Committee.
  - (b) Members, not parties to the G.A.T.T. would enjoy G.A.T.T. concessions for two years, but these concessions would thereafter be withdrawn unless the Member concerned had become party to the G.A.T.T.
3. The Committee considered in addition amendments to this proposal submitted by various members of the Committee.
4. The Committee agreed to submit the following text of the Articles or paragraphs affected:

A. ARTICLE 70\*

"The Organization shall have a Conference, an Executive Board, [a Tariff Committee,] Commissions as established under Article 79, and such other organs as may be required. There shall also be a Director-General and staff."

B. PARAGRAPHS 1 AND 2 OF ARTICLE 74\*

1. The powers and duties attributed to the Organization by this Charter and the final authority to determine the policies of the Organization shall [ , subject to the provisions of Article 81, ] be vested in the Conference.
2. The Conference may by an affirmative vote of a majority of the Members of the Organization, assign to the Executive Board the exercise of any power or the performance of any duty of the Organization, except such specific powers and duties as are expressly conferred or imposed upon the Conference [or the Tariff Committee] by this Charter."

\* Square brackets indicate deletions from the Geneva draft.

/C. PARAGRAPH 4 OF ARTICLE 17

C. PARAGRAPH 4 OF ARTICLE 17

"(a) The provisions of Article 16 shall not prevent the operation of paragraph 5 (b) of Article XXV of the General Agreement on Tariffs and Trade, and shall cease to require the application to the trade of any Member which has failed to become a party to the General Agreement within two years from the entry into force of this Charter for such Member of the concession granted in the relevant schedule of the General Agreement by any other Member which has requested such Member to negotiate with a view to becoming a contracting party to the General Agreement on tariffs and trade without concluding an agreement; Provided that the Organization by a majority vote may require such continued application to any Member which has been unreasonably prevented from becoming a party to the General Agreement pursuant to negotiations in accordance with the provisions of this Article.

(b) If a Member which is a contracting party proposes to withhold tariff concessions from the trade of a Member not a party to the General Agreement on Tariffs and Trade, it shall give notice in writing to the Organization and to the affected Member, which may request the Organization to require the continuance of such concessions, and if such a request has been made the tariff concessions shall not be withheld pending a decision by the Organization under paragraph 4 (a).

(c) In any judgment as to whether a Member has been unreasonably prevented from becoming a party to the General Agreement, and in any judgment under Chapter VIII as to whether a Member has failed without sufficient justification to fulfil its obligations under this Article, the Organization shall have regard to all relevant circumstances, including the developmental, reconstruction and other needs and the general fiscal structures of the Member countries concerned and to the provisions of the Charter as a whole. If in fact such concessions are withheld, so as to result in the application to the trade of the other Member of tariffs higher than would otherwise have been applicable, such other Member shall then be free, within sixty days after such action becomes effective, to give written notice of withdrawal from the Organization. The withdrawal shall take effect upon the expiration of sixty days from the day on which such notice is received by the Organization.

/s/ DELETE ARTICLE 81:

D. DELETE ARTICLE 81: THE TARIFF COMMITTEE

5. The Committee agreed that the fact that no provision was made in the Charter for a Tariff Committee, a Committee for Economic Development and Reconstruction or a Commercial Policy Committee, would not preclude the establishment by the Organization of any of these Committees in the future.

6. In relation to paragraph 4 (a) of Article 17, it was agreed that whereas this paragraph provides that Article 16 does not require the continued application of the tariff concessions embodied in the schedules of the G.A.T.T. to the trade of a Member which has failed to become a party to the G.A.T.T., it does not permit the withdrawal of other forms of most-favoured-nation treatment required by the Charter, e.g. in relation to internal taxation, the administration of quantitative restrictions, etc.

7. It was also agreed that since Members would under the provisions of Article 17 be required to become contracting parties to the G.A.T.T., it was desirable that they should be aware of the obligations which would be imposed upon them as contracting parties. In this connection attention was drawn to the fact that

(a) It has been proposed to amend the G.A.T.T. to permit the admission of a country as a contracting party upon a vote of two-thirds of the contracting parties instead as of a unanimous vote as at present required;

(b) it was decided to suggest to the heads of delegations that they should recommend to the contracting parties that they amend the text of paragraph 5 of Article XXV of the G.A.T.T. as follows:\*

"5. (a) In exceptional circumstances not elsewhere provided for in this Agreement, the CONTRACTING PARTIES may waive an obligation imposed upon a contracting party by this Agreement; Provided that any such decision shall be approved by a two-thirds majority of the votes cast and that such majority shall comprise more than half of the contracting parties.

The CONTRACTING PARTIES may also by such a vote

[(a)] (1) define certain categories of exceptional circumstances to which other voting requirements shall apply for the waiver of obligations, and

\* Underlining and square brackets indicate additions to and deletions from text of paragraph 5 as contained in Volume 1, page 58 of the General Agreement on Tariffs and Trade.

[(b)] (1)

[(b)7(ii)] prescribe such criteria as may be necessary  
for the application of this paragraph.

- (b) If any contracting party has failed without sufficient justification to carry out negotiations with another contracting party, of the kind described in Article 17 of the Charter for an International Trade Organization, the CONTRACTING PARTIES may, upon complaint and after investigation, authorize the complaining contracting party to withhold from the other the concessions incorporated in the relevant Schedule to this Agreement. In any judgment as to whether a contracting party has so failed, the CONTRACTING PARTIES shall have regard to all relevant circumstances, including the developmental, reconstruction and other needs and the general fiscal structures of the contracting parties concerned and to the provisions of the Charter as a whole. If in fact the concessions referred to are so withheld, so as to result in the application to the trade of the other contracting party of tariffs higher than would otherwise have been applicable, such other contracting party shall then be free, within sixty days after such action becomes effective, to give written notice of withdrawal from the Agreement. The withdrawal shall take effect upon the expiration of sixty days from the day on which such notice is received by the CONTRACTING PARTIES.
- (c) The provisions of sub-paragraph (b) shall not apply as between any two contracting parties the Schedules of which contain concessions initially negotiated between such contracting parties.

ANNEX 4

STATEMENT MADE BY MR. LLERAS RESTREPO (COLOMBIA)  
TO THE CO-ORDINATING COMMITTEE  
AT ITS MEETING ON 25 FEBRUARY 1948

I have been instructed by my Government to set before the Co-ordinating Committee the position of my country towards the new draft of Article 13, submitted by the United States delegation as the best way to reach an agreement between the supporters of the original Geneva Charter and the countries which have raised objections to the general application of some of the dispositions of that project.

Without doubt we have arrived to the crucial point of our discussions, and it is essential to analyze fully all the factors implied. However, I need to explain again, the reasons which motivate, and, in our opinion, justify, the attitude my country must adopt towards the proposed formula. I dare to think that this is not unuseful, even in the present stage of the Conference, and ask for your careful consideration of the very serious points I am going to present and explain in this session.

I should like this committee to remember what the attitude of Colombia has been since the time of the earliest proposals for a Charter on Trade and Employment. In the first session of the Economic and Social Council, where the United States originally presented plans for the Organization we are establishing now, Colombia asked for and obtained a reform of the proposition concerning the creation of the preparatory commission, ordering this commission to take into account the special conditions prevailing in countries in an early stage of development. Later, we communicated both to the meetings of London and Geneva that we considered it absolutely necessary to create in the body of the Charter special regulations directed to the defense and promotion of economic development. Nevertheless, on all these occasions my country expressed great sympathy towards the constitution of a system of international co-operation in the field of trade and employment. This sympathy was only the natural sequence of our traditional policy, as we have always supported the idea of a judicial organization able to direct international relations in the light of equity and general convenience. We certainly did not wish to break this tradition, and we always hoped that a way could be found to permit us to participate in the new plan without sacrificing the essential interests of our people.

/The inclusion

The inclusion of Article 13 in the Draft Charter permitted our government to accept the invitation to attend this conference, against the fact that a very strong opposition exists to some other dispositions of the Charter. We did not consider the provisions of this Article fully satisfactory, but we expected that some reforms, strictly just and logical, could be accepted. We have not even considered accepting the Charter without the provisions of this Article. The Geneva text opened new possibilities, but we always thought that more definite rules would be necessary to guarantee our country at least a minimum of security for its economic future. A country handicapped by all the factors proper to tropical zones, the most mountainous in America, subject to very irregular climatic conditions, with tremendous problems in transportation, is clearly in an inferior position to compete with other countries more favoured by nature. We cannot think of employing agricultural machinery to the same extent as other countries; equipment and products must be transported across three tremendous mountain ranges; apart from certain specialized zones the agricultural soil is of very poor quality; neither in the industrial nor the agricultural field have we enough skilled technicians, and capital available is not sufficient for our requirements. In these conditions, the renunciation of the possibility of applying special protective measures, could hardly be contemplated. In studying Article 13, we saw that this possibility was clearly admitted, but the Geneva Draft left an almost unrestricted power in the hands of the Organization to grant or refuse permission to establish such measures. From the beginning we considered it necessary to limit this power, and a Colombian amendment to Article 13, presented as early as last November, was directed towards the enumeration of cases in which the Organization may not withhold consent.

The Colombian delegation did not present any amendment which could be considered as being radically opposed to the general structure of the Charter, and its position during all the discussions has been fully co-operative and conciliatory. I want you to remember this fact because we do not wish our attitude to the problem we are now discussing to appear as a demonstration of undue obstinacy, but we cannot give our consent to any solution which does not guarantee the minimum of security we consider necessary to our essential interests. For this reason, I cannot take any responsibility as a member of this committee to recommend an incomplete and inadequate formula. I think that this formula can and should be

/reformed

reformed if we wish to obtain a general and sincere agreement. Let me tell you what our objections are, and what reforms we should like to see accepted.

If we examine Article 13 as it appears in the Geneva Draft Charter, we find in the first place that paragraph 1 recognizes that in appropriate circumstances, the grant of special governmental assistance in the form of protective measures is justified. At the same time, the Draft Charter recognizes three different kinds of harmful effects that these measures may have, if they are unwisely used: undue burdens on the own economy of the country concerned, unwarranted restrictions on international trade, and difficulties of adjusting for the economies of other countries. In the presence of these two recognitions, the Draft Charter resolves to give the Organization the power of decision in any particular case. Consequently, it seems that the function of the Organization is to avoid the unwise use of protective measures; but what is the real meaning of the words "unwise use"?, and, as the decision will be adopted by representatives of countries that could be directly or indirectly interested in the matter, what guarantee can we have that "unwise" will not cover anything against the interests of those countries?

The authors of the Draft Charter believed it necessary to complement that vague phrase and in paragraph 2 c. enumerated a list of circumstances to which the Organization shall have regard. These circumstances are as follows:

1. The provisions of the Charter.
2. The considerations presented by the applicant member.
3. The stage of economic development or reconstruction of the applicant member.
4. The views presented by members which may be substantially affected.
5. The effect which the proposed measure is likely to have on international trade.

We must take note that this enumeration does not exclude the consideration of any other factor concerning the proposed measure, so that the Organization could for instance refuse its permission if it considered that the proposed measure imposed an undue burden on the economy of the applicant member, or that the measure is not necessary because the same result could be reached by the imposition of a customs tariff and inasmuch as the Organization is not limited to these circumstances the enumeration has not a decisive importance.

/In paragraph 4 b

In paragraph 4 b the Draft Charter presents the only effort to attain what is now usually called "automatic approval": this paragraph states that the Organization shall concur in the proposed measure if it is established that such measure:

- i. Is unlikely to be more restrictive of international trade than any other practicable and reasonable measure permitted under the Charter which could be imposed without undue difficulty; and
- ii. That it is the one most suitable for the purpose having regard to the economics of the industry or the branch of agriculture concerned, and to the current economic condition of the applicant member.

I said that this paragraph is only an effort to include in the Charter the so called automatic approval, because the two points mentioned above do not refer to facts which can be proved objectively. They leave the Organization a great freedom of judgment, and it is easy to understand that, in any particular case, great differences of opinion may arise between the applicant member and the Organization in the appreciation of factors as to whether a measure is the most suitable to apply to a given industry in a given stage of economic development. Then I think no automatic system is contemplated in the Geneva Draft, and that this draft only gives the Organization certain directions of a very general character, but leaves the Organization a very broad field for the exercise of its own judgment. Moreover, it is necessary to take into account that paragraph 4 b in giving these directions orders the Organization to have regard also to the provisions of paragraph 2 c, that is, to consider the five circumstances I have already enumerated. In such conditions no one can say that a real automatic approval is contemplated in the Geneva Draft.

Faced by these regulations, what has the attitude of undeveloped countries been? Some of them chose the way of proposing exceptions to the different articles of the Charter which prohibit special protective measures. The draft agenda of Committee III is full of this kind of amendment, particularly in relation to Article 20 on quantitative restrictions. There are also amendments contemplating a system of exceptions to the articles concerning internal taxation, mixture regulation, etc. The Colombian delegation preferred to present an amendment to Article 13, as I have already explained. It was our intention not to break the general structure  
/of the Charter

of the Charter, and we always thought that through certain reforms in Article 13, it would be possible to guarantee to some extent the interests of undeveloped countries. The amendments presented to other articles of the Charter have been rejected one after another, and finally the hopes for a solution of all the claims embodied in these amendments are concentrated in a new draft of Article 13.

Most of the undeveloped countries asked for a general exception permitting them to establish protective measures without any limitation whatsoever. Others asked for liberty to apply protective measures in certain special cases but without prior approval by the Organization. Others, more modest or less audacious and courageous chose the way of accepting prior approval, asking only for an automatic system in certain special cases. This last request was the way adopted by the Colombian delegation and I have the feeling that the moderation of our attitude aroused certain criticism on the part of more aggressive champions of radical solutions. Apart from these differences in degree, what is the main demand of undeveloped countries? To limit the powers of the Organization, leaving a certain freedom of action to these countries, or at least imposing on the Organization the obligation of granting its consent when certain concrete facts shall have been demonstrated. It is interesting to compare the solution offered in the terms of a true ultimatum by the American delegate with the claim of the undeveloped countries.

It is obvious that the amendments contemplating complete freedom for the imposition of restrictive measures have been rejected and are at present dead and buried. I regret this end but it is not a surprise to me. Before continuing, let us pay our respects to their tomb.

The United States proposal rejects equally the thesis of no prior approval. It is another petition from the undeveloped countries that Mr. Wilcox is preparing to kill in cold blood. I do not know whether the intended victim has sufficient strength to resist or whether its shade will disturb the sleep of its killer, but the fact remains: the prior approval is always requested in the proposal of the United States.

In a previous session of this committee I declared that the Colombian delegation was prepared to accept the requisite of prior approval. I explained then what our position was, but I should like to describe it more fully. We considered this prerequisite convenient and acceptable because it gives the Organization the opportunity to establish that no

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country acts beyond the limits the Charter may fix. Nevertheless we want these limits to be sufficiently precise and clear; we wanted the enumeration of certain cases whose existence once proved would make it obligatory for the Organization to grant release, without discussing the suitability of the proposed measure, the effects of this measure on the economy of the applicant member, or any other factor. We proposed an enumeration of such characteristics because we think that the role of the Organization as a defender of the interests of international trade should have a limitation. There are in fact some vital interests whose defense is so legitimate that it seems impossible to place in the hands of other countries the power to decide by what measure such interests may be safeguarded.

Take, for instance, the case of undeveloped countries whose agriculture has not reached a satisfactory stage of technical improvement; and whose territory offers peculiar difficulties to the use of modern equipment. They are not in a position to modify such conditions in a short period. The government cannot say to the peasants "You are producing at a cost higher than the international price; therefore you must suffer the harmful consequences of foreign competition without any defense other than a customs tariff which is always difficult to increase and is subject to negotiation for its reduction; you must suffer the instability of international prices and allow your standard of life, already too low, to be exposed to further reductions." The government cannot face the problems of famine, tropical diseases, clothing and shelter by singing the praises of the international distribution of work and free trade. Our duty is to guarantee these people stable and remunerative prices, and a safe market for their products. We do not wish to cause any prejudice to other countries but it seems absurd that we must pay for the wellbeing of people of other countries with the misery of our own peasants.

I want to present here the enumeration of certain circumstances which taken as a whole must justify the adoption of protective measures without any discussion. If a country has important groups of population who have traditionally produced a certain agricultural product, and this country has also factories for the processing of that product; if the producers are unable at present to produce at a low cost due to the peculiar conditions of the territory and the lack of technical improvements; if as a consequence of the high cost of production and the international competition the standard of living of these people is abnormally low; if the fiscal position of the State does not permit any direct aid, have we,

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or have we not a case for the application of protective measures even for the application of the hated quantitative restriction?

I have been told that it is possible to face such situations simply by customs tariffs, or by a tariff quota, or by any of the other ingenious means which everyone is learning here to evade the positive effects of the Charter. I have received many of these lessons. I have also been told that such cases are so clear that the Organization will usually grant release. I beg the members of this committee to believe that I am not presenting my claims with respect to Article 13 due to ignorance on my part. I am not a member of the Geneva Brotherhood, but twenty years of constant contact with the economic problems of my country and a decade of the teaching of economics permit me to understand a document of this nature, even if it has as many secrets as the Geneva Charter. I affirm that agricultural activities, particularly in a country like Colombia present peculiar problems and difficulties which may make the use of special protective measures necessary. The Charter accepts this principle not only in the first part of Article 13 but also in the entire chapter on subsidies, and mainly in Article 29 where special exceptions have been included for the use and benefit of some countries. I should also like to ask how many monopolies on agricultural products have been created in anticipation of the Charter by most of the European countries. If all these steps were thought necessary, how is it possible to say that the way is open and easy for the countries not covered by the above-mentioned exceptions, not rich enough for employing subsidies, and who do not want to change their system of free enterprise for the system of State trading?

All this is true and Article 13 was intended to cover agricultural products and must continue to cover these products. When we arrive to the question of automatic approval. I repeat what I have already said here, namely, that this automatic approval has its only justification in the recognition of the fact that there are some cases so clear, so vital to the interests of a country, that the Organization may not withhold consent to the application of such protective measures as the country concerned may find necessary. This is the point for which we have fought here during three months, but when we arrive to the final stage, we do not find this vital interest of our people covered by the procedure of automatic approval.

What is offered to us in exchange? Only the points covered by /sub-paragraphs 1

sub-paragraphs i and ii of paragraph 4 b of the United States proposal. These sub-paragraphs are the only ones of which it is possible to speak as cases of automatic approval, as I shall demonstrate later. Well, we have said that the Charter was not equitable from the point of view of undeveloped countries; we have said that substantial reforms were necessary. After suffering the defeat of many amendments, the undeveloped countries have concentrated their efforts on Article 13 and now we find that the position of hundreds of thousands of our peasants is not covered by the long awaited reform. Instead we can go and say to our countries that sub-paragraph i of 4 b of the new Article 13 applies the procedure of automatic approval only for a limited period to the manufactured industries created during the war. Instead of that, we can say to our people that another case of automatic approval is contemplated in sub-paragraph ii. It is true that no one knows what to do with this sub-paragraph and that many of the delegations have tried in vain to imagine a concrete situation to which this sub-paragraph could be applied. It does not matter: some new words were incorporated in the text of the new Bible and that must be sufficient, perhaps excessive. In the opinion of my government and my delegation what is offered in the field of automatic approval is completely inadequate and totally unjust. We have asked repeatedly for the inclusion of some sentence covering special agricultural situations and we have been disposed to study whatever precautions were suggested to avoid an undue use of the provision or to avoid unnecessary harm to other countries. It seems that we have not been lucky; but we are feeling deeply the necessities and hopes of our people and we cannot leave them to the unlimited decisions of other countries, when we have already felt to what extremes the blind fight of selfish interests can go. Therefore we are obliged to present again our petition before this committee and ask it to study the problem whether it is or is not enclosed within the square brackets of the United States proposal.

I have said already that the other points of paragraph 4 b cannot come under the name of automatic approval; point iv is the same provision contemplated in the Geneva Charter with the only difference that it changes the words "current economic condition of the applicant member" for the words "the applicant member's relative need for economic development or reconstruction". I don't think this change is in the least important and from some aspects is not likely to be specially beneficial for undeveloped countries.

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This leaves sub-paragraph iii. This paragraph begins with the words "Is necessary to promote the establishment etc." That means that the Organization will have a great field for the application of its own judgment, and consequently there is not automatic approval. To judge whether a measure is necessary or not implies the power of affirming that the industry could be protected sufficiently by customs tariffs alone. It is impossible to imagine a broader concept, and those friends of conciseness are now in a position to know how many phrases of the original Article 13 can be changed by a single word without in the least diminishing the power of the Organization. This remark makes it unnecessary to comment on the other sentences of this sub-paragraph.

It is my hope that this committee may be able to make a new effort to find a formula more complete and equitable, to cover particularly the case of agricultural products in certain peculiar circumstances. If, unfortunately, such a solution is not possible, I must declare that I cannot assume any responsibility as a member of this committee for recommending as a conciliatory formula the proposal presented by the United States delegate, and I beg the chairman to transmit to the Conference, together with the decision of this committee, a copy of the statement I have just read, as an explanation of my refusal to recommend the so called conciliatory formula.

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