

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

DRAFT CHARTER

Observations and Amendments proposed by the
United Kingdom Delegation.

Chapter IV

1. Observations in relation to territorial application.

It is important to determine what "country" and "Member" are to be taken to mean for the purposes of this Chapter. Broadly speaking there are three categories of countries:-

(1) countries, the Governments of which are recognised internationally as such and are capable of signing the Charter in their own right

(2) territories for which a country of class (1) has international responsibility, but which are self-governing in respect of matters provided for by the Charter (see Article 38(4))

(3) territories for which a country of class (1) has international responsibility and which do not fall into class (2)

Chapter V, Article 38 (1) in effect provides that countries of all three classes, since they are separate Customs territories, shall be deemed to be "Members" for the purpose of that Chapter and Article XXI (1), the corresponding Article of the draft General Agreement, which uses the term "contracting party", and which covers the subject matter of both Chapters IV and V of the Charter similarly defines that term as applying to countries of all three classes.

It is obvious that the word "countries" in the phrase "the industrial and general economic development of all countries" in Article 9 in this Chapter is equally intended to refer to countries of all three classes, but "Member" elsewhere in the Chapter seems to be confined to countries of class (1), whereas in Article 13 it is clearly intended that countries of all classes shall be entitled to take advantage of the provisions of that Article.

A similar point will arise on Chapter VI. It is suggested that the point should be noted and reserved for the present, and discussed as a general subject at a later stage in connection with Chapter IV, Article 38 (1) in Chapter V, Chapter VII and possibly Chapter VI.

2. Detailed amendments.

Article 13(2)a, lines 11 and following:-

The Organisation shall /promptly/ as soon as possible and in any event within 15 days inform those Members whose trade would be substantially affected by the proposed measure, and afford them an opportunity of presenting their views. Such views shall be presented as soon as possible and in any event within two calendar months of the receipt of the Organisation's communication. The Organisation shall then /promptly/ as soon as possible and in any event within one calendar month of the receipt of such views proceed to examine the proposed measure.....

Article 13(2); add two new sub-paragraphs:-

(d) If a Member considers that there has been unreasonable delay in the procedure provided for by this paragraph, it may at any time after five calendar months have elapsed from the date of the notification referred to in sub-paragraph (a) of this paragraph and pending its release by the Organisation from the conflicting obligation, provisionally adopt a measure falling under sub-paragraph (c) of this paragraph which it has notified the Organisation that it wishes to adopt; provided that the measure shall be withdrawn if the Organisation, after full consideration, decides that it is unable to release the Member from its conflicting obligation.

(e) If any Member is applying any protective measure of the kind referred to in sub-paragraph (a) of this paragraph at the date of entry into force of the Charter, the Member, if it desires to continue such measure, shall within two calendar months of that date transmit to the Organisation a statement as provided in that sub-paragraph. The Organisation shall examine the measure in the light of the matters referred to in the last sentence of that sub-paragraph and the Member may continue the measure pending a determination by the Organisation.

Observations.

1. It is suggested that countries which desire to take advantage of this paragraph are entitled to the same kind of protection against undue delay in considering their wishes as is provided in Article 53(a), and that the above provisions, which give the Organisation a minimum period of one and a half calendar months for the examination of the proposed measure and the views of the other Members affected are a reasonable compromise between undue delay and undue speed.

2. It is suggested that it is reasonable that countries which are applying protective measures of the kind referred to in this paragraph and wish to continue them, should be allowed to continue them until the Organisation has had time to consider the matter.