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SUB-COMMITTEE C ON ARTICLES 13 AND 14

NOTES ON THE ELEVENTH MEETING

Held at the Capitol, Havana, Cuba, on Saturday, 7 February 1948 at 6.00 p.m.

The Sub-Committee considered the amendments submitted to paragraph 1 of Article 13, by the delegations of Cuba and New Zealand (E/CONF.2/C.2/9 pages 32 and 34) and of Uruguay (E/CONF.2/C.2/6/Add.23).

The representative for Uruguay stated that the main purpose of the amendment of his delegation was to clarify the meaning of the Geneva text.

The representative for Cuba stated that his delegation proposed to extend the application of Article 13 to include maintenance of particular industries or branches of agriculture. In his opinion already established industries might require protection for more extended periods of time in order to maintain themselves. For example where if protection were withdrawn from the soap industry in Cuba, the resulting shift of factors of production and especially of labour might create painful social dislocations.

The representative for New Zealand stated that his amendment, which also proposed to include maintenance of industries among the purposes for which protective measures under Article 13 were allowed, was aimed at industries which have been established during the war. Such industries might for a certain time benefit from protection on balance of payment grounds, but it was entirely possible that after certain time balance of payment considerations would not any more apply; in these cases a country should be enabled to apply the measures of protection envisaged under Article 13.

The representative of India supported the amendments of Cuba and of New Zealand. He cited the example of his country which established a Tariff Board to examine the cases of industries established during the war and in the need of protection. Should it be decided that prior approval by the Organization would be needed, provisions ought to be made in the Charter to call such cases to consideration of the Organization.

The representative for the United Kingdom stated that in her opinion the Uruguayan amendment could not be dealt with until the text of the whole Article 13 had been disposed of. Concerning the amendments submitted by

/Cuba

Cuba and New Zealand she stated that the word "maintenance" could be interpreted in different ways. If the word "maintenance" implied that the measures contemplated under Article 13 did not only apply to the first stages of economic development but to somewhat more advanced stages, then it was covered by the present text of the Article or could be covered by a drafting which would clearly bring out the fact. If what was meant by "maintenance" referred to industries established during the war, these industries should be regarded as being in a special category and should be dealt with according to the criteria suggested by the Colombian delegate in the Working Party. If, however, "maintenance" meant protection of the industry at any stage of its development, then all countries could claim the right to impose quantitative restrictions.

The Colombian delegate pointed out the difficulty for the Organization to decide between cases of maintenance and of development.

The delegate for Australia pointed out that the word "maintenance" implied action of a more permanent nature than that required for development. Under those circumstances the nature of the decisions of the Organization under Chapter III would be transformed into allowing the uses of protective measures permanently.

The representative for Brazil thought that if it was meant to include "maintenance" within the scope of Chapter III, the position of under-developed countries would be made more difficult by the fact that developed countries would also profit from measures allowed under Article 13.

The representative for India stated that Members under Article 9 undertook not only to develop and reconstruct their economic resources, but also to raise standards of productivity. This last phrase implied modernization and rationalization of both industry and agriculture. During the period when this transformation was taking place, countries should be allowed to impose protective measures otherwise the industry or branch of agriculture could not survive the critical period of transformation. Chapter III and more particularly Article 13, should be interpreted in a very broad sense to include these cases. In his opinion, it was unlikely that countries would go on unnecessarily protecting their industries, because they would have the interest of their consumers before them and consequently limit the time during which protection was accorded.

The representative of Norway stated that public opinion in his country would certainly welcome the inclusion of the word "maintenance" due to the fact that this word safeguarded existing investments. He thought, however, that from the long run point of view this would not be advantageous. He, therefore, opposed the amendment.

/The representative

The representative for Iraq stated that insofar as the word "maintenance" applied to industries which had reached their full expansion, he could not support the amendment because in that case all industries in all countries would come under the provisions of Article 13.

The representative for Argentina supported all three amendments. In his opinion the Uruguayan amendment clarified a great deal the text of the Charter.

The representative for the United States for reasons already stated by the representative for Norway, did not support the Cuban and New Zealand amendments.

The representative for China stated that in his opinion Chapter III should be limited to the underdeveloped countries and to the countries to be reconstructed because the other parts of the Charter dealt adequately with the problems of more developed countries.

On the suggestion of the Chairman it was decided to refer the Uruguayan, New Zealand and Cuban amendments to Working Party No. 3.
