

SECOND COMMITTEE: ECONOMIC DEVELOPMENT

SUMMARY RECORD OF THE FOURTEENTH MEETING

Held at the Capitol, Havana, Cuba, Monday, 29 December 1947 at 10.30 a.m.

Chairman: Mr. E. ABELLO (Philippines)

1. ARTICLE 13: GENERAL DISCUSSION (Continued)

Mr. DUNAWAY (Liberia) said that his delegation was in general agreement with the provisions of Article 13, but considered that any weakening of the safeguards against the use of protective measures would be fatal to the Charter.

Mr. TORRES (Brazil) emphasized that the Charter would be a compromise one and that all countries would have to make sacrifices if a document covering the interests of all nations was to be drawn up. Referring to quantitative restrictions, he pointed out that Brazil's attitude towards those restrictions had been influenced by the fact that the Charter had to be regarded as a whole. It was better to have an imperfect Charter which could be improved than to sign a theoretically perfect document which could not be changed to give satisfaction to those who had been injured by its operation. Therefore the voting system should be just and the Executive Board should represent in an equitable manner the various economic structures of the world. It had still to be decided which organ would examine quantitative restrictions and his delegation would support the setting up of an Economic Development Committee to guide the Executive Board in such matters. Quantitative restrictions should be kept under control and should not be misused, and the decisions of the ITC concerning their use should be subject to the strict criterion of impartiality and fairness.

The delegation of Brazil considered that the rules laid down in Article 13 should be more precise; Article 13 should state the organ which would examine questions covered by that Article and should refer to a right of appeal to the Conference from its decisions. Mr. Torres further suggested that the process of consultation referred to in paragraph 2 (b) should be limited to the principal supplier and such other suppliers of the product in question as the ITC might decide. The phrase "and on its long-term effects on the standard of living within the country contemplating the measure" should

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be added to paragraph 2 (c). The Sub-Committee dealing with Article 13 should study paragraph 4 (b) with great care to see whether a flexible criterion might be laid down as a guide to a country wishing to secure permission to use quantitative restrictions. A note should be added to Article 13 explaining that the word "Organization" meant the Executive Board of the ITO, and that there would be a right of appeal from the decisions of that body to the Conference as was at present provided in paragraph 3 of Article 90. It should be understood that the measures adopted unilaterally under paragraph 4 (c) would continue pending a ruling by the Conference, should the interested country appeal to it from a decision of the Executive Board. The wording of the last sentence of paragraph 5 (c) should be clarified to show that the time limit for action by the Conference of ITO would be laid down by the Conference itself.

2. ARTICLE 13: EXAMINATION OF AMENDMENTS (Document E/CONF.2/C.2/22)

Mr. GUTIERREZ (Cuba), referring to the amendments submitted by his delegation to paragraphs 1, 2 (a), (b) and 4 (b) and (c) of Article 13, said that that Article was the result of a compromise between the most divergent opinions, and was generally accepted by his delegation. Although the Cuban delegation supported the point of view that the decision of the ITO should be binding in case of a controversy regarding the application of protective measures by a country, it was evident that in certain cases of emergency it would be fatal to a country's economy to await the prior authorization of the ITO before protective measures were brought into effect.

The delegation of Cuba considered that maintenance was a form of development and had therefore suggested the insertion of the word "maintenance" in paragraph 1. It also felt that a term such as "quantitative restrictions" should not be left to individual interpretation. Paragraph 4 (b) was well drafted, but Mr. Gutierrez felt that the amendment suggested by his Government would make its meaning clearer.

Mr. CABILI (Philippines) said the amendment to Article 13 submitted by his delegation was consequential on the amendment submitted to Article 14, and he reserved the right of his delegation to withdraw the former should the latter not be adopted. The delegation of the Philippines regarded the work of reconstruction of war-devastated and under-developed countries as a transitional matter, and therefore considered that the word "reconstruction" should be deleted from Article 13. Article 13 should not contain any reference to questions of a transitional character.

Mr. THOMAS (New Zealand) said his delegation felt that there might be occasions when a country found it necessary to afford assistance to industries or branches of agriculture which were already established, and considered

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that that position should be covered in the Charter. The idea of maintenance should therefore be made quite clear in the text of paragraph 1 of Article 13. The adoption of the New Zealand amendment would involve a consequential amendment to paragraph 4 (c).

Mr. IGONET (France), supported by Mr. BAYER (Czechoslovakia), said he could not agree with the amendment submitted by the delegation of the Philippines that the word "reconstruction" should be deleted. It was impossible for countries which had suffered war damage to foretell at present which of their industries might need the help of protective measures. He therefore strongly urged the maintenance of the word "reconstruction".

Mr. MACLIAM (Ireland) supported the amendments submitted by the representatives of Cuba and of New Zealand. His Government considered provisions for the imposition of special measures to maintain as well as to develop industries of particular importance, and was anxious to see such provisions embodied in Article 13.

Mr. REISMAN (Canada) said his delegation viewed with concern the amendments proposed by the representatives of Cuba and of New Zealand, and considered that they should not be incorporated in the Charter. Article 20 of the Charter envisaged the use of quantitative restrictions for protection only in the case of economic development and provided for the maintenance of existing industries by the use of tariffs and subsidies. To introduce the concept that quantitative restrictions might be used for normal protective purposes would endanger one of the basic principles of the Charter. The second amendment proposed by the delegation of Cuba that a country should be permitted to adopt such restrictions in order to protect itself against similar measures adopted by countries, when in balance of payments difficulties, was equally dangerous.

Mr. ROBLES (Guatemala) supported the amendments submitted by the representative of Cuba, but suggested that the word "maintenance" should be replaced by the word "promotion". He could not agree with the amendment presented by the delegation of the Philippines that the word "reconstruction" should be deleted as no one knew how long the post-war reconstruction period would last.

Mr. ADARKAR (India) stated that the amendments proposed by his delegation consisted mainly of a new paragraph to Article 13 and other amendments were consequential upon the insertion of that new paragraph. It had been considered necessary to refer to Articles 18, 20 and 31 in the amendment as measures dealt with in those Articles were more or less similar in effect and could be used alternatively to promote the same end. As the issue raised by the Indian amendment had also been raised as a result of amendments submitted by other delegations in Committee III, the delegation of India would

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agree to its amendment also being submitted to that Committee for consideration.

Mr. COREA (Ceylon) agreed in principle with the statement of the representative of Brazil, but considered it would be better not to have a Charter than to have one which would prevent economic development. The amendment to Article 13 submitted by the delegation of Ceylon was similar to that submitted by the delegation of India. Article 13 as at present drafted referred to measures which conflicted with the obligations incurred by members in the course of negotiations and also with the provisions of Chapter IV. The delegation of Ceylon accepted the principle of prior approval being obtained from ITO before restrictions were imposed. It considered, however, that where a country's economy would suffer seriously from the delay resulting from a request for prior approval that country should have the right to adopt such measures immediately, at the same time informing the ITO of its action. The ITO would then investigate the matter and inform the member of its decision, which would be binding.

Pointing out that it was not yet known which organ of the ITO would deal with differences arising out of the imposition of quantitative restrictions, Mr. Corea said his delegation had some misgivings in case the members composing that organ were convinced that quantitative restrictions should be abolished or allowed in exceptional circumstances only. Article 13 could be viewed in a different light if the whole matter were referred to a judicial body or to a board which had no direct interest in the matter.

Mr. Corea emphasized that it should not be forgotten that the Charter would have to be ratified by countries with very different standards and the same rules could not be applied to all of them.

Mr. NOVOA (Mexico) said that Article 13, as it now read, was useless, complicated and dangerous. The procedure which it set forth was not only lengthy, it was also ambiguous. The meaning of the word "promptly", for example, was nowhere clearly defined in the Charter. Before a country could contemplate the creation of new industries, it would be necessary to ascertain from where the tools, the technical advice and the resources were to come. The indefinite time limit laid down in Article 13 would be a great handicap in that connection.

Article 13 was complicated by the inclusion of references both to measures contrary to the provisions of the Charter and measures against the terms of treaties previously adopted. A request for permission to establish restrictive measures could result in a country's having its market flooded with products which it was attempting to keep out, as a result of previous knowledge on the part of countries producing those products.

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The right to establish quantitative restrictions was recognized in Article 13 but was subject to conditions which would make their adoption impossible. It was generally agreed that quantitative restrictions could not be used for the general protection of the economy of a country and that their adoption had to be subject to precise limitations. The Mexican delegation felt, however, that it was for the country itself to decide when such restrictions were justified.

The Mexican amendment perhaps did not provide the only solution and its aim also could be achieved by making certain changes throughout Article 13. Any amendment which was to prove acceptable, however, would have to take into consideration the necessity for speed and the confidential character of projects for the establishment of restrictive measures.

Mr. LIEU (China) emphasized that his delegation did not object to prior approval by the Organization in principle, but only with reference to Article 13. His Government had no intention of applying quantitative restrictions indiscriminately, but in connection with the promotion of economic development there would be instances where protective measures would be needed urgently and where the delay which would occur in obtaining prior approval could have a disastrous effect.

The Article, as it now read, did not provide sufficient opportunity for the establishment of restrictive measures, nor did it take into consideration the importance of the time element. The essential aspect of economic development was increased domestic production, yet new industries could be ruined during the time in which the Organization was consulting with the member states concerned.

Mr. Lieu did not insist on the exact wording of his amendment. Some proposal along the lines of the Indian amendment would be acceptable, though he felt that it should apply to other provisions of the Charter as well as to Articles 18, 20 and 31.

Mr. de Leon BELLOC (Argentina) again expressed his opposition to the idea of an Organization which would become the directing force in the economic policy of each member state. He supported all amendments which advocated the abolition of the necessity for prior approval by the Organization.

Mr. FARINA (Uruguay) said that although his delegation was prepared to accept many provisions which were against the interests of Uruguay, it was unable to agree to the Geneva Charter without certain changes. The Organization must not become a supra-governmental body and therefore, prior consultation with it should not be made obligatory.

Mr. IGONET (France)

Mr. IGONET (France) recalled that, originally, his delegation had taken the position that the subordination of member states to an ITO which might at times act unwisely, was undesirable. It had come to the conclusion, however, that a decision of the Organization was more one of an umpire than of a supreme autonomous body.

A country had to take into account the economies of other countries for otherwise, a country, the economic life of which had been damaged, would take retaliatory measures. Such measures, in the long run, would adversely affect not only the countries against which they were directed, but also the country which had applied them.

It might be possible to reword the Article so as to meet the views of certain delegations concerning undesirable delays, but he approved the retention of the necessity for prior approval by the Organization.

The meeting rose at 1.05 p.m.

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