

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

Summary Record of the 39th Meeting of Commission A
held on Thursday, 14 August, 1947, at 2.30 p.m.
in the Palais des Nations, Geneva.

Chairman: Mr. Max SUTENS.

ARTICLE 12 (continued)

The CHAIRMAN reminded the Committee that two amendments had been tabled, one by the Czechoslovak Delegate to delete, in the third paragraph of Article 12 ". . . or on behalf of any of its nationals . . .", and one by the Netherlands' Delegate to delete paragraph 3 of Article 12.

It was agreed to delete paragraph 3 of Article 12 and, on the United States Delegate's motion, to include in the official explanation of the text a note as follows:

"Paragraph 3 of Article 12 was deleted on the ground that this subject was already covered by the provisions of Article 86. In this connection, it was agreed that deletion of paragraph 3 would carry no implication that a Member could not, as under other parts of the Charter, present a complaint to the Organization arising out of a violation of Articles 12 or 12A and affecting the interests of a national of such Member."

Article 12 was adopted as amended.

ARTICLE 12A

Mr. J. MELANDER (Norway) stated that the Delegation of Norway would defer for the time being its decision as to whether or not it could accept Article 12A on the ground that it had not had sufficient time to study this important Article.

Dr. Z. AUGENTHALER (Czechoslovakia) reserved the position of the Czechoslovak Delegation on Article 12A.

At the suggestion of Baron de GAIFFIER (Belgium), it was agreed to add a note in its official explanation of the text setting forth the Belgian Delegation's position with respect to the interpretation of the terms just consideration or just compensation as follows:

"The Belgian Delegation wishes to have it recorded that, even though the word "prior" has not been included in the text, its interpretation of just consideration or compensation would include the idea that the amount of consideration or compensation to be paid should be fixed "prior" to the property being taken into public ownership or placed under public management or occupation."

On the motion of M. ROYER (France), it was agreed to modify the French text of paragraph 2 of Article 12A to conform with the terminology of Article 29.

It was agreed, as suggested by Mr. WUNSZ KING (China), to insert the word "reasonable" before the word "measures" in paragraph 2 (a) (iv).

Mr. R.L. FRESQUET (Cuba) moved (i) the inclusion of the note explaining the terms "just consideration" and "just compensation" used in paragraphs 2 (a) (iv) and 2 (b) of Article 12A which appeared in the Report of the Sub-Committee on Chapter IV, page 5, in the official explanation of the text; and (ii) amending the wording of the note to read " . . . because of a violation of a law in force . . ." instead of " . . . because of a violation of pre-existing law . . ."

Both of the proposals made by the Cuban Delegate were agreed

It was also agreed, on the motion of Dr. Z. AUGENTHALER (Czechoslovakia), to add to the explanatory note on "just consideration or compensation" the following:

"It has also been recognized that the provisions of paragraphs 2 (a) (iv) and 2 (b) are not applicable when the measures of transfer of ownership have been effected pursuant to the terms of a treaty of peace or in conformity with other international agreements related to the conclusion of the war."

On Dr. H.C. COOMBS' (Australia) motion, to meet the point raised by the representative of the International Monetary Fund, it was agreed to revise the explanatory note on transferability (Report of the Sub-Committee on Chapter IV, page 5) by deleting the words "but subject to any other international obligations of that Member which are not inconsistent with its obligations under the Charter" and substituting the following:

"This shall not prevent a country taking action to give effect to any greater obligations in respect of such transfers as it may have accepted in an international agreement provided that such action is consistent with its obligations under the Articles of Agreement of the International Monetary Fund."

Article 12A and the two explanatory notes thereto were adopted as amended.

Mr. L.C. WEBB (New Zealand) entered a formal reservation on the text of Article 12A pending receipt of the views of his Government.

Dr. H.C. COOMBS (Australia) reserved the position of the Delegation of Australia on Article 12A.

Article 13

The Committee agreed to Mr. Wunsz King's suggestion that the words "or particular branches of agriculture" or similar appropriate words should be inserted in paragraphs 1, 4(b) and 4(c) and in paragraph 1 of Article 13A. In this connection, Dr. G. TORRES (Brazil) said that his Delegation might have to revert to this point at the Plenary Session on the ground that the inclusion of these references to agriculture would detract from the emphasis on development of industry which was intended in these Articles.

Mr. ROYER (France) stated that the French Delegation interpreted Article 13 as permitting help both to newly

founded and established industry and industries which have to be reconstructed for different reasons.

It was agreed to translate the words "substantial agreement" in the English text by "accord suffisant".

On the motion of Mr. H. HAWKINS (United States), it was agreed to include in paragraph 4(b) after the word "if" the following words "having regard to the provisions of paragraph 2(c)."

On the motion of Mr. R.J. SHACKLE (United Kingdom), it was agreed to delete the word "similarly" in paragraph 5(b) of Article 13 and to substitute the words "as provided for in paragraph 5(a)."

Article 13 was adopted as amended.

Article 13A

At the suggestion of Dr. G. TORRES (Brazil), it was decided to place paragraph 2 before paragraph 3.

Mr. J.J. DEUTSCH (Canada) proposed, and it was agreed, to delete the following words in brackets in paragraph 2: "including negotiations affecting preferential margins".

Mr. WUNSZ KING (China) stated that while maintaining its reservation referred to in Document E/PC/T/162, page 2, the Chinese Delegation was prepared, in the interests of unanimity and solidarity, to recommend Articles 13 and 13A to the Chinese Government for its further consideration.

Dr. B.N. ADARKAR (India) maintained the reservation of the Indian Delegation to Article 13 and the whole subject dealing with quantitative restrictions for protective purposes, but added that his Delegation had reported the matter to his Government and if the Commission would permit, would make a further statement on the subject within a few days.

Mr. NASSIF (Lebanon) maintained the reservation of the Lebanese Delegation.

Mr. L.C. WEBB (New Zealand) stated that he had referred to his Government for instructions.

Mr. A. FAIVOVICH (Chile) declared that the position of the Chilean Delegation in regard to Articles 13 and 13A depended upon the fate of the amendment to Article 25 and of Article 25 itself.

Article 13B

Dr. Z. AUGENTHALER (Czechoslovakia) maintained the reservation of the Czechoslovak Delegation.

Mr. A. FAIVOVICH (Chile) maintained the reservation of the Chilean Delegation, and Dr. G. TORRES (Brazil) stated that if simple majority was adopted for the approval of the preferential arrangements, he would not recommend it to his Government.

Dr. A.B. SPEEKENBRINK (Netherlands) pointed to the relation between the quorum on preferential arrangements and Chapter VIII.

On a proposal made by the Chilean Delegate, it was decided to refer the examination of Article 13B to the World Conference at Havana.

Dr. G. TORRES (Brazil) reserved the position of his Delegation pending discussion on the question of voting.

The meeting rose at 8.45 p.m.