

SECOND COMMITTEE: ECONOMIC DEVELOPMENT

SUB-COMMITTEE C ON ARTICLES 13 AND 14

NOTES ON THE SIXTH MEETING

Held at the Capitol, Havana, Cuba, on Thursday, 22 January 1948 at 10.30 a.m.

Chairman: Mr. GUTIERREZ (Cuba)

The CHAIRMAN suggested that after the Sub-Committee had approved the text concerning negotiated commitments which did not conflict with the provisions of Chapter IV, it should refer the question of negotiated commitments which did conflict with the provisions of Chapter IV to a Working Party. The Sub-Committee could then begin its consideration of the question of non-negotiated commitments.

The Sub-Committee then proceeded to discuss in detail the draft text prepared by Working Party 1.

After an exchange of views, the preamble to paragraph 2 (a) and sub-paragraph (i) were approved.

"2. (a) If a Member in the interest of its programme of economic development or reconstruction considers it desirable to adopt any non-discriminatory measure 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

(i) 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".

After a short discussion it was agreed that the following sentence should be inserted at the end of the fourth sentence:

"At the request of a Member, the Organization may, where it concurs in principle with the proposed measure, assist that Member in the negotiations."

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It was agreed that the adoption of the procedure concerning negotiated commitments proposed by the Working Party, would not establish any legal precedent with respect to the question of prior approval by the Organization in connection with the procedure on non-negotiated commitments.

The letter "s" was added to the word "Member" in the thirteenth line of sub-paragraph (ii).

Sub-paragraph (ii) as amended, was approved provisionally, subject to consideration of an amendment proposed by the representative of Cuba at the following meeting.

"(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 expeditions 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 that Member 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."

Paragraph 2 (b) was approved without comment.

"(b) The Organization and the Members concerned shall preserve the utmost confidence in respect of matters arising under this paragraph."

No conclusion was reached concerning paragraph 2 (c). The discussion revolved around the desirability of maintaining or deleting the words "or threatened increase" in the second line; the phrase "pending a determination by the Organization that such an emergency action is justified"; and the final proviso of the paragraph which reads as follows:

"Any other Member with whose contractual rights such action conflicts, may, if the balance of reciprocal advantage resulting from that contractual relationship is materially impaired, suspend the application  
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to the trade of such Member of such substantially equivalent obligations or concessions under Chapter IV the suspension of which the Organization does not disapprove. Any Member intending to suspend such application shall consult with the Organization before doing so."

The meeting rose at 1.00 p.m.

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