

SECOND COMMITTEE: ECONOMIC DEVELOPMENT

INTERIM PROCEDURE FOR DEALING WITH PROTECTIVE MEASURES
FOR DEVELOPMENT PURPOSES

Amendments to the Text of Article 14 (1) and to the Terms
of Reference of the Interim Commission, Proposed by the
United Kingdom Delegation

The United Kingdom delegation has already proposed an amendment to Article 14 (1) which would have the effect of establishing the same date (1 September 1947) for all Members of the Organization, in respect of existing protective measures to which the procedure of Article 14 applies. The date on which notification of such measures should take place has been the subject of considerable discussion in Committee II, and in the Sub-Committee on Articles 13 and 14, where a strong preference has been expressed by a number of delegations for a date related to the deposit of a Member's instrument of acceptance rather than its signature of the Final Act of this Conference. The difficulty of assembling all the necessary information before the end of this Conference has been emphasized in this connection.

2. Provided that the same base date is established for all Members (including the parties to the G.A.T.T., which have already notified such measures in respect of their territories) the United Kingdom delegation would be prepared to see the date of notification under Article 14 (1) (b) related to deposit of the instrument of acceptance and suggest that the procedure might be simplified if a given period of time (say one month) before the date of deposit of the instrument of acceptance were decided upon in respect of all Members and not merely those which have been represented at this Conference. In the interval between the date of notification and the deposit of the instrument of acceptance an opportunity would, of course, be given to those Members which had already deposited their instruments of acceptance to consider the measures notified.

3. The United Kingdom delegation accordingly propose that Article 14 (1) should be revised as follows:

"Any Member may maintain any non-discriminatory protective measure
in force on 1 September 1947, which has been imposed for the
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establishment, development or reconstruction of particular industries, or particular branches of agriculture, and which is not otherwise permitted by the Charter; Provided that

- (a) if such Member was signatory to the G.A.T.T. it notified the other signatory Governments to that agreement not later than 10 October 1947, of the nature and purpose of such measure and of each product in respect of which it is to be maintained,
- (b) any other such Member shall, within 1 month prior to the date of the deposit of its instrument of acceptance of the Charter, have notified the Organization, or, if the Charter has not yet entered into force, those Governments which have signed the Final Act of the United Nations Conference on Trade and Employment.

Any Member maintaining any such measure shall within one month of assuming Membership in the Organization notify it of the measures concerned, the considerations in support of its maintenance and the period for which it wishes to maintain the measure. The Organization shall, as soon as possible but in any case within twelve months of such Member assuming Membership in the Organization, examine and give a decision concerning the measure as if it has been submitted to the Organization for its concurrence under Article 13".

4. The question also arises of the machinery for consideration of

- (a) measures notified under Article 14 (1)

and

- (b) measures undertaken between 1 September 1947, and the date on which the Charter enters into force.

5. It is assumed that after the Charter enters into force, one of the first tasks of the Organization will be to review the measures notified under Article 14 (1) (a) and (b) and that until the Organization has given a determination such measures will remain in force.

6. If the amendment is adopted all such measures undertaken since 1 September 1947, will technically, fall under the provisions of Article 13, i.e., according to the present text the prior approval of the Organization is required. Clearly, however, the Organization cannot make a determination until the Charter enters into force. On the other hand in the view of the United Kingdom delegation it would be unreasonable to expect countries to delay development schemes which in their view necessitated protective measures in conflict with Chapter IV of the Charter, in the intervening time, merely because no machinery was available for carrying out the procedure of Article 13. It is proposed, therefore, that the Interim Commission of the I.T.O. should be empowered to examine the particulars of

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all such measures undertaken since 1 September 1947, should conduct all the preliminary work in such cases (i.e. inform other Governments and receive such Governments' comments) should formulate recommendations on them to be placed before the first Conference of the I.T.O., and should, meantime, advise the Government proposing to institute such a measure of the Commission's opinion.

7. The recommendations of the Interim Commission would not, of course, have a binding effect on Governments. Where the recommendation of the Interim Commission was favourable, however, the measures might remain in force until the Organization reached a determination upon them. This would, of course, be a departure from the procedure which (as some members of the Sub-Committee have already pointed out) would otherwise take effect - i.e. that all such measures undertaken since 1 September 1947, would automatically lapse when the Charter came into force and applications in respect of them would be submitted to the Organization in accordance with the procedure established under Article 13.

The United Kingdom delegation accordingly propose that the following addition should be made to the terms of reference of the Interim Commission:

"To receive from Governments, signatories to the Final Act of the World Conference, notification of any proposed measures instituted between 1 September 1947, and the date on which the Charter enters into force which are in conflict with non-negotiated commitments under Chapter IV; to inform other signatory Governments materially affected by the proposed measures and to receive their views; to advise applicants whether, in the view of the Interim Commission, such measures would be permitted under Article 13 of the Charter and to propose recommendations for the consideration of the Organization at its first session".
