

SECOND COMMITTEE: ECONOMIC DEVELOPMENT

SUMMARY RECORD OF THE FIFTEENTH MEETING

Held at the Capitol, Havana, Cuba
Tuesday, 30 December 1947 at 10.30 a.m.

Chairman: Mr. E. ABELLO (Philippines)

1. ARTICLE 13: EXAMINATION OF AMENDMENTS (document E/CONF.2/C.2/22)
(continued.)

Mr. SHAMMA (Lebanon) supported in principle the amendments submitted by the delegations of India and of Turkey. He considered that a distinction should be made between obligations assumed as a result of negotiations and those assumed under other provisions of Chapter IV. In the case of the latter subsequent approval should be substituted for prior.

Mr. MEURS (Netherlands) said the Netherlands delegation supported the principle of prior approval and therefore agreed with the present draft of Article 13.

Referring to the amendments submitted regarding the question of prior approval, he felt the principle was generally accepted that members should negotiate in accordance with the provisions of paragraph 3. Difference of opinion arose as to whether negotiations should take place before or after the adoption of protective measures. A decision on that matter could not be taken until the problem of prior approval had been solved. His delegation strongly opposed any amendments which would weaken the power of the ITO.

Mr. SKAUG (Norway) supported the remarks of the representative of the Netherlands and the statement made at the previous meeting by the representative of Brazil. The latter statement contained certain very valuable ideas for improving the present draft of Article 13 and should be submitted to a sub-committee for further study.

Mr. HASNIE (Pakistan) said his delegation could not accept Article 13 as at present drafted, and supported the amendment submitted by the representative of India as it provided an excellent compromise.

/Mr. GOSSCHALK

Mr. GOSSCHALK (Committee Secretary), replying to an enquiry from Mr. ARAUJO (Colombia) said that as indicated in E/PC/T/186/Corr.1 the word "Any" on the sixth line of page 16 of the draft Charter began a new section which referred to all three sub-paragraphs (a), (b) and (c) of paragraph 1 and not merely to sub-paragraph (c).

Mr. ARAUJO (Colombia), referring to the amendment to Article 13 submitted by the delegation of Colombia, said that his delegation was not opposed to any other of the amendments submitted to Article 13 in so far as those amendments made for clarification and more elasticity.

The delegation of Colombia considered that once the ITO had received proof of certain facts supporting a country's request to maintain or impose protective measures to develop, reconstruct or promote a certain industry, it should, after careful study, authorize such a member to adopt those protective measures.

Mr. Araujo referred to the wheat-producing area of Colombia and pointed out that in order to maintain full employment in that area and to avoid increasing the price of bread it was necessary to maintain certain quantitative restrictions as regards imports. The provisions of Article 14 could not be applied to such a case as that Article only referred to transitional measures.

Mr. HAIDER (Iraq) said that Articles 13 and 14 dealt with the same subject, Article 14 with existing measures and Article 13 with future ones. However, both Articles envisaged different kinds of measures and procedures. Articles 13 and 14 dealt with two kinds of measures (1) measures which were in conflict with any obligation which the Member has assumed through negotiations, and (2) measures in conflict with other provisions of Chapter IV.

The second class could be sub-divided into four groups:

- (a) existing measures which are substantially allowed by Article 14;
- (b) new measures similar in nature to existing measures and intended to solve similar problems;
- (c) new measures not similar to existing measures but which are of an urgent nature for development;
- (d) measures not similar to existing ones and not of an urgent nature.

Article 13, however, tried to deal with too many points at the same time with the result that it became exceedingly difficult to achieve general agreement on all points. He was of the opinion that Article 13 might be broken up into two or more articles. A new Article might be created dealing with measures in conflict with obligations assumed through

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negotiations. In his opinion there should be prior approval coupled with consultation with Members for these measures.

If the Charter showed a great deal of leniency toward existing restrictive measures, it was because it recognized the fact that there were certain problems which countries had faced in the past and still faced today, which required the maintenance of such restrictive measures. Underdeveloped countries might be faced in the future with problems similar to those which other countries had faced in the past and which therefore might require similar solutions involving restrictive measures. There was no reason why the Organization should act differently as between future and existing measures.

With respect to urgent measures needed for development (not similar to existing measures) the Iraq delegate favoured a procedure along the lines suggested by the Turkish delegation.

Miss FISHER (United Kingdom) said that the main object of Iraq's amendment - to ensure that the Organization would be consistent in determining what types of measures were permissible, whether such measures were in force or not - seemed to be covered already by the provision in Article 14 paragraph 1, that the Organization should examine an existing measure "as if it had been submitted to the Organization for its concurrence under Article 13."

Mr. MULLER (Chile), referring to the suggested new paragraphs to Article 13 proposed by his delegation, said they sought to define the cases in which the ITO should not refuse permission to certain countries to maintain and impose restrictive measures. He supported the amendment submitted by the delegation of Colombia and the remarks made by the representative of that country at the present meeting.

Articles of the Charter which tended to limit the sovereignty of members of the ITO should be very carefully drafted, and the delegation of Chile wished Chapter III to state specifically that members might appeal against a decision taken by the Organization. For that reason it had suggested the addition of a new paragraph 6 laying down the procedure to be followed in such a case, and stating that members might have recourse to the procedure outlined in Chapter VIII.

Mr. JIJON (Ecuador) withdrew his amendment in favour of that proposed by Mexico.

Mr. LLOSA (Peru) supported the principle of the amendments which had been introduced at this meeting. Safeguards had to exist in case of a negative decision from the Organization.

Mr. NYUN (Burma) explained that his amendment did not affect the substance or general structure of Article 13. In large part, the objections to the Article were based not on the principle of consultation with the
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Organization, but on the rigidity of the procedure which had been laid down.

Only principal supplying countries and not all member states should be consulted by the Organization and in cases where the Organization was convinced that particular measures would not result in a restriction of world trade, it should be free to authorize the application of such measures before answers had been received from the member states which had been consulted.

The CHAIRMAN stated that discussion had shown that there was unanimity among the delegates in recognizing the necessity of permitting Member States to adopt non-discriminatory protective measures under certain circumstances. There had been proposals to distinguish between cases where such measures were incompatible with obligations assumed through negotiations pursuant to Chapter IV and those which conflicted with other provisions of Chapter IV. The major cleavage of opinion, however, was in the requirement of prior approval by the Organization before such protective measures could be established. A great number of States had proposed or supported amendments to limit or dispense with such prior approval. The present text of Article 13 had also drawn the support of several States. A further examination of the Article with a view to reaching agreement was therefore essential.

The CHAIRMAN asked the Committee to decide whether Article 13, with its amendments, should be transmitted to a Sub-Committee of this Committee or to a joint Sub-Committee of the Second and Third Committees. It could be referred to a Sub-Committee of this Committee, which would have the authority to consult the Sub-Committee on Articles 20 and 22 of the Third Committee.

Mr. COOMBS (Australia), supported by the representatives of the United Kingdom, Brazil and the United States, suggested that the Chairman should consult with the Chairman of the Third Committee as to whether there should be a joint Sub-Committee or two separate Sub-Committees.

Mr. NOVQA (Mexico), supported by the representative of China, considered that the subject was one for discussion by a Sub-Committee of Committee II.

Mr. COOMBS (Australia) explained that the object of his original suggestion had been to avoid double discussion of the same subject matter. The Chairman of the Third Committee should be approached as to the possibility of that Committee referring to a Sub-Committee on Articles 13 and 14, any amendments which dealt with exceptions to the provisions of Article 20 concerning economic development.

The representatives of Norway and Czechoslovakia supported the remarks of the Australian representative. The representative of Mexico also supported his suggestion on the understanding that only exceptions to the provisions of Article 20 which exclusively concerned economic development,

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would be referred to the Sub-Committee of the Second Committee.

Mr. MULLER (Chile) was unable to accept the point of view of the Australian representative. The exceptions to the provisions of Article 20 should not be discussed in connection with Article 13.

At the suggestion of the Colombian representative, the Chairman said that he would consult with the Chairman of the Third Committee and that in the meantime the Committee would proceed to a discussion of Article 14.

Article 14

Miss FISHER (United Kingdom) explained that the purpose of the United Kingdom amendment was to avoid giving an advantage to countries which joined the Organization at a later date, over those which joined immediately.

Mr. COOMBS (Australia) recalled that the United Kingdom proposal had been considered in Geneva and had not been accepted. One of the justifications for safeguarding existing protective devices had been that they were established procedures upon which administrative systems were dependent. Under those circumstances, a country which decided to join the Organization in ten years' time should have the same rights concerning their existing trade patterns.

Mr. de LEON BELLOC (Argentina) explained that his amendments were designed to gain greater elasticity and to limit the functions of the Organization.

Mr. TINOCO (Costa Rica) explained that his amendments aimed at a more flexible procedure whereby the list of products mentioned in paragraph 1 (b) would not have to be transmitted to other governments until the Charter had been ratified by the constitutional organs of the countries concerned. Secondly, a country could not be expected to implement the Charter until it had been finally adopted by its constitutional organ and, therefore, a similar change had been suggested in paragraph 1 (c).

Mr. DENEL (Turkey) felt that it would be administratively difficult to transmit the list of products on the day of general adherence to the Charter, for the Charter would only have legal effect on the date of deposit of the instrument of acceptance.

Mr. COPOLLA d'ANNA (Italy) said that his amendment to paragraph 1 (b) did not differ much from the others which had been proposed. Unless some change were made, Italy would have to postpone signing the Charter, as it would be unable to submit a list of products before the end of the Conference.

The representatives of Lebanon, Iraq, Afghanistan and Syria warmly supported the amendment of the Turkish representative. The representative of Costa Rica said that he would withdraw his amendment to paragraph 1 (b) if the Turkish and Ecuadorian amendments were acceptable to the Committee.

The meeting rose at 12.50 p.m.
