

SECOND COMMITTEE: ECONOMIC DEVELOPMENT

SUMMARY RECORD OF THE TWENTY-THIRD MEETING

Held at the Capitolio, Havana, Cuba, Friday, 12 March 1948, at 4.00 p.m.

Chairman: Mr. Ramón BETETA (Mexico)

DISCUSSION OF THE REPORT OF SUB-COMMITTEE C ON ARTICLES 13 AND 14
(E/CONF.2/C.2/41)

Mr. MAHADEVA (Ceylon) asked that the reservation made by his delegation on the whole of Article 13 should be recorded in the Report of Committee II to the Conference.

Mr. MANJID (Afghanistan) stated that his delegation had made a provisional reservation on Articles 13 and 15 at the meeting of Heads of Delegations (E/CONF.2/51) due to lack of instructions from his Government. He wished to mention this because he had not yet received the awaited instructions.

Mr. LLORENTE (Philippines) stated that the automatic prior approval criteria provided for under the proposed Article 13 of the Co-ordinating Committee did not even cover the minimum requirements of the Philippines as well as of Member countries similarly situated. Criterion No. 1 of that proposed Article recognized the validity of the claim of Member countries for special protection to their industries, which might or might not be efficient or desirable, as long as they were industries established immediately prior to the war and nurtured by abnormal conditions. Such a recognition without a corresponding concession to Member countries which did not have and could not have had the opportunity to establish new industries during the war should be viewed, and rightly so, as highly discriminatory, and as a link which would considerably weaken the high purposes of the Charter.

The representative of the Philippines also reminded the Committee that his delegation withdrew its amendment to Article 13 and expressed its stand to support any proposition which would make the procedure under Article 13 more expeditious, would provide for automatic approval of protective measures when they satisfied the criteria to be stated in the Charter, or would recognize the necessity of a transitional period for Member countries whose economies had been partially or completely disrupted by the war. He expressed deep

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regret that the Co-ordinating Committee not only failed to recognize the special needs of devastated areas but even pondered unique protection to Member countries which might have secured unusual advantages and benefits during the war.

The Committee then passed to the examination of Article 13, paragraph by paragraph.

Paragraphs 1, 2 (a), 2 (b), 3 and 4 (a) were approved without comment.

Concerning paragraph 4 (b), Mr. ARAUJO (Colombia) stated that, in order to give a complete picture of the history of this Article, he thought it should be noted in the record of the meeting that the delegation of Colombia had submitted its amendments to Article 13 in December 1947, and at that time established the rule of automatic approval as a formula for compromise between the opposed points of view which required either that prior approval of the Organization for protective measures be waived completely, or that Members interested in instituting protective measures should be unconditionally subject to the Organization. The delegation of Colombia later supplemented this statement of its point of view in a report read in the appropriate Sub-Committee. The report was referred to a Working Party for examination. The delegation of Colombia submitted to the Working Party a specific proposal enumerating the so-called automatic criteria, only some of which, unfortunately, were accepted in the text recommended by the Co-ordinating Committee. This list of automatic criteria was considered by a subsidiary working party and was the subject of a report submitted to the Working Party as a whole. Finally, the head of the Colombian delegation urged the Co-ordinating Committee that, in Article 13, formulae more in accordance with the so-called automatic criteria should be adopted and, more especially, that such criteria should be established for the protection of agriculture in specified circumstances. As it was impossible to persuade the Co-ordinating Committee to go beyond the text now being discussed, the delegate of Colombia was obliged to refuse to support the Committee's proposal as a formula for compromise. Although the delegation of Colombia has had to accept the majority decision, it wishes to place on record the foregoing on which its disagreement with the accepted text is based, in spite of the fact that the Colombian proposals were partly satisfied by the latter. The foregoing also explained the delegation's attitude to the Charter as a whole, as it would be stated in the Conference and subsequently before public opinion and the Parliament of Colombia.

Mr. LEON BELLOC (Argentina) stated that in his opinion paragraph 4 (b) (ii) was contrary to all past custom and to the attitude taken on the subject by

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preceding Inter-American conferences. This paragraph, in his opinion, amounted really to the forbidding of the industrialization of undeveloped countries by the industrialized countries.

Mr. GUTIERREZ (Cuba) did not agree with the interpretation given to the sub-paragraph by the Argentine delegate. In his opinion there was no prohibition to industrialization involved in the sub-paragraph. This sub-paragraph had to be interpreted in its context. All the paragraph meant was that in order to use indigenous primary commodities in a better way, measures could be taken which otherwise would be inconsistent with the Charter.

Mr. LORENTE (Philippines) agreed with the delegate of Argentina on the fact that the text of sub-paragraph (b) (ii) did not help to promote industrialization. In his opinion, all the paragraph did was to recognize that a country had the right to take all unnecessary measures to counteract the effect of a fall in the sale of the indigenous primary commodity due to restrictions imposed abroad.

Mr. CHARLONE (Uruguay) stated that his delegation maintained the same opinion as it had already expressed at the Heads of Delegations meeting.

Paragraphs 4 (a), 4 (b), 4 (c), 4 (d) and 4 (e) were then approved.

After brief discussion it was agreed to accept two consequential drafting amendments proposed by the delegation of Australia to delete the words "statement or" in the eighth line of paragraph 4 (f) and to substitute the word "notification" for the word "decision" in the eleventh line.

Paragraph 5 and the interpretative note following it were approved without comment. Subsequently in connection with paragraph 7 of the Report it was agreed that the words "or if the by-product of such transformation" be added after the words "primary commodity" in the interpretative note.

DISCUSSION OF ARTICLE 14

The preamble of paragraph 1 was approved without comment.

An amendment of the delegation of Australia to insert the words "decisions ; under" before the words "the provisions" in the fifth line of paragraph 1 (a) was accepted.

Mr. McLIAM (Ireland) enquired whether the date of notification had not been omitted from paragraph 1 (b). It was agreed that this date had been omitted, that it should be the date of deposit of the Member's instrument of acceptance of the Charter and that the Central Drafting Committee should be asked to insert the appropriate words at the appropriate place in paragraph 1 (b). Subject to this paragraph 1 (b) was approved.

Mr. HEWITT (Australia) proposed that in the first line of paragraph 2 a comma should be inserted after "any Member" and that in the second line
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after the word "Trade" there should be inserted the words "in respect of whose measures decisions have been made under the provisions of paragraph 6 of Article XVIII of that agreement," and stated that under the present text of the paragraph a country becoming a Contracting Party just prior to the entry into force of the Charter would be in a position to maintain a protective measure without having to notify the Organization; these measures could under the provisions of paragraph 1 remain in force indefinitely. This situation was made possible by the fact that Part II of the General Agreement on Tariffs and Trade, which contained the provisions by which the Contracting Parties examined and gave decision upon the maintenance of a measure, was suspended on the day of the entry into force of the Charter. The aim of the amendment was to empower ITO to take the decisions which the Contracting Parties to the GATT would have taken, had not their authority been removed by the entry into force of the Charter.

In reply to the representative of Turkey, Mr. FOWLER (United States of America) expressed the view that a country would have little difficulty in submitting a statement concerning the measures which it was applying, within one month following membership.

Mr. TORRES (Brazil) reserved his right to comment on this paragraph after it had been considered by the Central Drafting Committee.

Paragraph 2, as amended in accordance with the proposal of the Australian delegation, was approved by the Committee. The Central Drafting Committee was asked to pay special attention to the drafting of the paragraph both in English and French.

Paragraph 3

Mr. HEWITT (Australia) drew attention to the amendment of his delegation to insert the words "to the conditions of any such approval and" after the word "subject", which was designed to make clear that the maintenance in force of the measure would be subject to the conditions of the approval by GATT.

It was agreed to approve paragraph 3 as submitted by Sub-Committee C but to ask the Central Drafting Committee to add a form of words such as those proposed if necessary in order to ensure the maintenance of the conditions as well as of the measure.

Paragraph 4

In reply to the representative of Liberia, Mr. GUTIERREZ (Cuba) explained that the word "negotiations" referred to any kind of negotiations including bilateral agreements concluded outside the framework of the Charter and GATT.

Subject to the reservation of the Irish representative of his right to raise this question again if necessary, paragraph 4 was approved by the

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Paragraph 5

This paragraph was approved without comment.

Mr. NOVOA (Mexico) supported by Mr. TORRES (Brazil) stated that Article 13 in no way prohibited a country from establishing any type of industry it so desired. The only prohibition set forth in the Charter was with respect to the use of quantitative restrictions, or other measures in conflict with the provisions of Chapter IV of the Charter as a means of protection for new industries. Article 13 provided a procedure in accordance with which measures inconsistent with Chapter IV might be approved. On the suggestion of Mr. REISMAN (Canada) it was agreed that the statement of Mr. NOVOA (Mexico) represented the unanimous view of the Committee.

Report of Sub-Committee C

Paragraphs 1, 2, 3, 4, 5 and 6

These paragraphs were approved without comment.

Paragraph 7

Mr. USMANI (Pakistan) proposed the insertion after "Article 13" in the second line of the words "consideration was given to the view of the Co-ordinating Committee and the proposal of the delegation of Pakistan (See Annex A)" and the commencement of a new sentence with the words "It was agreed" as expressing the view of the Committee. He also proposed the addition at the end of the paragraph of a new sentence, viz. "Accordingly it was decided to insert the interpretative note set out at the end of the text of Article 12 in Annex B."

The amendment was accepted by the Committee.

Mr. ADARKAR (India) pointed out that the interpretative note referred only to the processing of a primary commodity and made no mention of the processing of a by-product of the particular branch of industry.

After a short discussion, the Committee agreed to insert the words "or of a by-product of such transformation" after the words "primary commodity" as expressing the view of the Committee.

Paragraph 7 was approved with the aforementioned changes.

Paragraph 8

Mr. LIEU (China) drew attention to the fact that the words "international trade" were also mentioned in paragraph 4 (d) (ii) (II) of Article 13 and suggested that a reference to it could be inserted in paragraph 8 of the Report. The paragraph was approved with this modification.*

Paragraph 9

Mr. HEWITT (Australia) proposed that the interpretation of the words

* In line 1 of paragraph 8 "reference" becomes "references". In line 2 add "and 4 (d) (ii) (II)" after "4 (b) (iii)" and substitute "these were references" for "this was a reference".

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"materially affected" should apply to paragraph 2 as well as to paragraphs 3 and 4 (d) of Article 13 as otherwise the materially-affected Members referred to in paragraph 3 could be interpreted to be only the principal suppliers.

Mr. ROWE (Southern Rhodesia) supported the point of view of the Australian representative. Miss FISHER (United Kingdom) agreed that the materially affected members referred to in paragraph 2 of Article 13 need not necessarily be the principal suppliers but that the whole of paragraph 9 of the Report could not apply to paragraph 2.

After further discussion, the Committee accepted provisionally the amendment proposed by Mr. FOWLER (United States of America) set out in E/CONF.2/C.2/41/Add.1.

Paragraphs 10, 11, 12, 13, 14 and 15

These paragraphs were approved without comment.

The meeting rose at 7.00 p.m.