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THIRD COMMITTEE: COMMERCIAL POLICY

SUB-COMMITTEE E (ARTICLES 20 AND 22)

REPORT OF WORKING PARTY NO. 9

ON ITEMS 55 AND 57 (INDIA) AND 56 (CZECHOSLOVAKIA)

(Reference: E/CONF.2/C.3/7)

1. Working Party No. 9 consisting of the representatives of Ireland, Mexico, Netherlands, Peru and the United Kingdom was set up at the Seventh Meeting of the Sub-Committee to consider Items 55 and 57 (India) and Item 56 (Czechoslovakia). The representatives of India and Czechoslovakia presented their views to the Working Party and the representatives of Canada and the United States also took part in the debate as observers.

Items 55 and 57 (India)

2. The Working Party understands the first sentence of sub-paragraph 3 (b) of Article 22 as requiring the Member in all cases to give not later than the beginning of the relevant period public notice of quotas fixed for a specified future period, but as permitting a Member, which for urgent balance of payments reasons is under the necessity of changing the quota within the course of a specified period, to select the timing of its public notification of the change.

The above in no way affects the obligation of a Member under sub-paragraph 3 (a) where applicable.

The Working Party recommends that the substance of the above note be inserted in the Report of Sub-Committee E to Committee III and if the Sub-Committee agrees to this the delegation of India will withdraw its amendments.

Item 56 (Czechoslovakia)

3. The Working Party discussed fully the reservation of Czechoslovakia contained in the footnote to sub-paragraphs 3 (b) and 3 (c) of the Geneva text. The Working Party considered that some provision should be made in the Charter for releasing a Member from its obligation to give public notice under sub-paragraph 3 (b) and 3 (c) in the case of a Member trading with a non-Member or non-Members; it was also felt,
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however, that adequate safeguards for exporting countries were essential.

The Working Party considered that Article 74 paragraph 3 would not be a suitable provision in the first instance for a Member desiring to secure such a release both because a waiver of an obligation under that paragraph could only be obtained by a two-thirds majority and also because it would require a decision by the Conference as distinct from the Executive Board. If, however, a Member failed to obtain satisfaction under the proposed new sub-paragraph 3 (d) (see below) the Working Party agreed that a Member would be free to have recourse to Article 74.

The Working Party accordingly recommends the adoption of the following wording to be inserted as a new sub-paragraph 3 (d) of Article 22:

"If the Organization finds, on request from a Member, that the interests of that Member would be seriously prejudiced by the necessity of complying in relation to certain products with the obligation of sub-paragraph (b) and the obligation under sub-paragraph (c) of this paragraph to give public notice, by reason of the fact that a large part of its imports of such products is supplied by non-Members, the Organization shall release such Member from such obligations to the extent and for such time as it finds necessary to prevent such prejudice. Any request made by a Member pursuant to this sub-paragraph shall be acted upon promptly by the Organization."

The Working Party expressed its view, and recommends that its view be inserted in the Report of Sub-Committee E to Committee III that, to enable prompt consideration of applications under sub-paragraph 3 (d) it would be desirable for the Organization to delegate its functions in respect of this sub-paragraph to the Executive Board; and that, provided an application under this sub-paragraph was made sufficiently early and accompanied by sufficiently full information to enable adequate consideration by the Executive Board before the commencement of the quota period the Executive Board should temporarily release the applicant Member from the requirement to give public notice for the period necessary for the Executive Board to make a decision on the application.
