SECOND COMMITTEE: ECONOMIC DEVELOPMENT

SUB-COMMITTEE C ON ARTICLES 13 AND 14

NOTES ON THE TENTH MEETING

Held at the Capitol, Havana, Cuba, on Wednesday, 28 January 1948 at 3.00 p.m.

Chairman: Mr. GUTIERREZ (Cuba)


The United Kingdom representative proposed the following sentence to be inserted at the end of the third sentence of paragraph 2 (c): "Such measures shall in any case be terminated as soon as the re-negotiations are completed or discontinued."

The representative of Mexico proposed that the words "the Organization determines that" be inserted before the words "the re-negotiations" in the United Kingdom amendment.

The representative of China proposed the substitution of the phrase "preceding the date on which the Member initiated action under this paragraph" for the words "preceding the date on which the Member's original notification was made under sub-paragraph (a) of this paragraph" in paragraph 2 (c).

The United States representative proposed that the words "sub-paragraph (a) of" be inserted before the words "this paragraph" in the Chinese amendment.

Paragraph 2 (c) as amended by the representatives of the United Kingdom, Mexico, China and the United States was approved by the Sub-Committee.

The Sub-Committee also agreed with the conclusion reached by the Working Party that the decision of the Sub-Committee established by the Sixth Committee to consider Chapter VIII of the Charter, as set out in document E/CONF.2/C.6/49, met the purpose of the Cuban proposed amendment to paragraph 2 (a) (ii).

Paragraph 2 (a) and (b) of Article 13, as approved by the Sub-Committee at its Sixth Meeting, with the addition of paragraph (c), would thus read as follows:

/"2. (a) If a
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

(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 expeditious 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 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.

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

(c) If as a result of action initiated under this paragraph, there should be an increase in the importations of the products or products concerned, including products which can be directly substituted, therefor, which if continued would be so great as to jeopardize substantially

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substantially the plans of the applicant Member for the establishment, development or reconstruction of the industry, industries or branches of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with the Organization, adopt such other measures as the situation may require provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this sub-paragraph. Except in unusual circumstances such measures shall not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member initiated action under sub-paragraph (a) of this paragraph. The Organization shall determine, as soon as practicable, whether such measures should be continued, discontinued or modified. Such measures shall in any case be terminated as soon as the Organization determines that the re-negotiations are completed or discontinued. It is recognized that the contractual relationships referred to in sub-paragraph (a) of this paragraph involve reciprocal advantages, and therefore any other Member with whose contractual rights such action conflicts and whose trade is materially affected by the action, may suspend the application 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 the Organization before doing so."