SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

Article 37

Proposals for consideration by COMMISSION A

Wednesday 16th July

1. Sub-paragraph (v)

It is proposed that the following comment should be included in the Commission's Report:

"The Commission considers that it may be advantageous to include an explanatory note in the Report of the Preparatory Committee. This might read as follows:

'If a country decides to restrict the importation of goods in order to protect its human, animal or plant life or health, it should be able to provide proof that it would take internal measures of protection corresponding to those it takes against import, if the same conditions against which the protective measures are taken should prevail also in the importing country.'"

2. Proposed new paragraph

During a discussion on Article 15 in the Sub-Committee on Articles 14, 15 and 24 it was proposed that the use of differential internal taxes for the purpose of giving effect to price controls maintained by a country undergoing shortages subsequent to the war should be permitted for a transitional period. Therefore, the Sub-Committee has suggested that paragraph 2(v) to Article 25,
which now permits the use of quantitative restrictions for various transitional purposes, should be moved to Article 37 (general exceptions) and should be broadened to cover all measures otherwise proscribed by Chapter V. The effect of this would be to permit, during the postwar transitional period, the use of differential internal taxes and internal mixing regulations as well as quantitative restrictions in order to distribute goods in short supply, to give effect to price controls based on shortages and to liquidate surplus stocks or uneconomic industries carried over from the war period.

This proposal was referred to the Sub-Committee on Articles 25 and 27 which has agreed in principle to the removal of paragraph 3(e) from Article 25, but without any commitment as to its applicability to measures other than quantitative restrictions or as to the precise text.

It is proposed that the new paragraph of Article 37 would read as follows:

"2. Nothing in Chapter V shall be construed to prevent the adoption or enforcement by any Member of measures:

(a) Essential to the equitable distribution among the several consuming countries of products in short supply, whether such products are owned by private interests or by the Government of any Member;

(b) Essential to the control of prices by a Member country undergoing shortages subsequent to the war;

(c) Essential to the orderly liquidation of temporary surpluses of stocks owned or controlled by the government of any Member, or of industries developed in any Member country owing to the exigencies of the war which it would be uneconomic to maintain in normal conditions; provided that such measures shall not be instituted by any Member after the day on which this Charter enters into force except after consultation with other interested Members with a view to appropriate international action.

Measures instituted or maintained under this paragraph which are inconsistent with the other provisions of Chapter V shall be removed as soon as the conditions giving rise to them have ceased, and in any event not later than July 1, 1949, provided that this period may, with the concurrence of the Organization, be extended in respect of the application of any particular measure to any particular product by any particular Member for such further periods as the Organization may specify."