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UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

PREPARATORY COMMITTEE

of the

INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT.

Verbatim Report

of the

SIXTH MEETING

of the

PROCEDURES SUB-COMMITTEE

of

COMMITTEE II

held at

Church House, Westminster, S.W.1.

on

Tuesday, 5th November, 1946,

at 10.30 a.m.

CHAIRMAN: Dr. A.H. SPEEKENBRINK (Netherlands).

(From the Shorthand Notes of
W.B. GURNEY, SONS & FUNNELL,
58, Victoria Street,
Westminster, S.W.1.)

THE CHAIRMAN: Gentlemen, I open this meeting. Before we come to Article 19, I should like just to say this: we must try to get Article 8 finished off and in a convenient shape as soon as possible. We must come back for one moment to the question of public works. At our meeting before last we had a discussion about that. We had before us the British draft. It was proposed that in Article 8, paragraph 1, we should delete the last sentence that is, from the principle, and so on; and that in Article 9 we should delete the concluding words of the first sentence. So that that means that we should drop the question of public works altogether from Articles 8 and 9. That would only leave one thing to decide, whether that matter in that new Article should be discussed now or later, or whether we should say No, that it is such a special thing that it should not be in the Charter at all. I think it comes down to that. I should like the opinion of delegates with regard to this proposal. We should first discuss the proposal to delete these words from Articles 8 and 9 and then we will see whether there should be a new Article; but first clear up these two paragraphs.

Mr SHACKLE (UK): Mr Chairman, I rather doubt whether simply to amend these two phrases will really clear up the matter. It seems to me that if they were omitted and nothing more were done, it would then be very arguable that these matters of public works and contracts are covered by the general phrases in Article 8 (1) and Article 9 (1) respectively. These are quite widely worded, and I think it could very well be argued, when you took all matters relating to internal regulation, or including laws, regulations affecting it and so on, that those words alone are enough to cover these governmental, as you might call them, administrative contracts if nothing else is said. It is for that reason that I feel that if we want to treat public works and contracts at all specifically, we have got to have some special provision about

them. No doubt to do that it will be necessary to have these two deletions, but I think we have got to go beyond mere deletions. That is my feeling.

THE CHAIRMAN: I think this has a close connection with the whole question of state trading, and in Committee II we decided not to discuss State trading any more, but leave it more or less open until we have our next meeting at Geneva.

So perhaps it could be resolved that we simply delete it here and say there is still this problem to deal with and that it can only be properly discussed when we have the whole question of state trading dealt with in a full way, and that can only be done at the next meeting. Would not that be the solution for the time being?

MR McKINNON (Canada): Mr Chairman, from the point of view of the Canadian delegation, we first took some exception to the last sentence of paragraph 1 of Article 8 on the ground that it was a rather unusual addendum to a conditional most favoured nation clause, and we rather doubted the propriety of inserting it as part of the basic m.f.n. clause. Our objection to the somewhat corresponding sentence in 9 was at first a doubt as to what it meant, and, as we went along in our discussions, growing confusion as to what it did or might cover. Our last position, when we last discussed this, was that we thought it better to delete entirely both references from the Charter as being somewhat unusual provisions, and, though we might be perhaps losing something by so doing, we thought that the possible or potential loss in that respect was more than balanced by the removal of the confusion and doubt as to the meaning of this clause, let alone the manner in which they might be administered by different countries quite legally under the wording that is bound to come out because of our difficulties in agreeing upon it. Therefore our view would be very strongly that both the excerpts referred to in Mr Shackle's paper should be deleted from the Charter.

MR VIDELA (Chile): I entirely agree with the proposition put forward by the Canadian delegate. I also agree with the suggestion made by the Chairman, that in case there is something to discuss in relation to this matter it would be preferable to discuss it along with Article 26, as it is

intimately related to the question of state trading.

MR LECUYER (France)(Interpretation): Mr Chairman, may I support your suggestion that public works contracts are a very delicate and very difficult question? They involve the state and they make it necessary to create special conditions of allocation of contracts. They also in some degree, although it is not always obvious, involve the security of the state. On the other hand, it is obvious that these contracts are limited; it is clear that any enterprise cannot be entrusted with any work - any enterprise of any country. In those circumstances I believe it is preferable to reserve the position on this question at least on this Article.

MR HAWKINS (USA): Mr Chairman, I would be agreeable to deleting both provisions referred to in the first two paragraphs of the British draft. I am not agreeing to that because I think it is necessarily desirable from a policy standpoint to leave the subject uncovered in the Charter but merely because of the difficulty we are having in trying to find any solution to it; and I do not think the importance of the subject warrants the amount of confusion it is creating. There is one suggestion which I have, which is entirely tentative and offhand and occurred to me while the discussion was going on on the other side of the table, which is this. There is a field there with which we are having difficulty now - trying to formulate provisions. It would be desirable that the Trade Organisation, when it gets established, should look into this whole matter. I have not had time to look through the Charter to find out, but I wanted to be quite sure whether it would clearly come within the functions of the Organisation, and, if not, to include some provision that the Organisation should give attention to this and formulate some rules of conduct for dealing with it.

MR McKINNON (Canada): Mr Chairman, I think we would be very glad to support that as an alternative to our own suggestion. I am doing it on the presumption that presumably Mr Hawkins had in mind both provisions, the contract one out of Article 8 and the procurement by the governments out of 9.

MR HAWKINS (USA): And could I add that my suggestion is not necessarily that there be a clause inserted covering it but as to whether there is any general clause which clearly brings it within the scope of the Organisation.

MR ADARKAR (India): Mr Chairman, the Indian delegation would be quite happy to see these two provisions deleted, for the reasons given by you and the delegates of Canada, Chile and France. The further suggestions made by Mr Hawkins that if necessary the functions of the I.T.O. should be amplified so as to bring a study of this question within the scope of the I.T.O. would also be acceptable to the Indian delegation.

MR SHACKLE (U.K.): I think that both suggestions are agreeable to us, provisionally. It does seem to me, on a small point, that we shall have to be very careful about the drafting for the sort of Article I mentioned before, because I do not think that mere relations will cover the point, and I think that also applies to Article 26, because there you have some wide words which introduce it, and when one talks of public works it is clearly a mixture of supply of goods and supply of services. Those are points which no doubt the rapporteur will have in mind in drafting it.

MR GUERRA (Cuba): We are agreeable to the deletion of these two sentences in both paragraphs and also to the suggestion of Mr Hawkins.

THE CHAIRMAN: Then, gentlemen, I think it is agreed that we delete these sentences. We will ask our rapporteur to write out a memo. giving our reasons for deleting them, which

memo. should be sent also to the Committee on technical questions and to the Chairman of Committee II, so that it can be dealt with ... when we have the main meeting. Perhaps the rapporteur could draw attention to paragraph 4 of Article 64, which reads: "The Commission on Commercial Policy shall have the following functions: To develop and to recommend to the Executive Board programs designed to further the objectives of the Organisation in the general field of commercial policy, including co-operative projects of a technical nature in the field of commercial policy." Perhaps that could be added or something like that. I think it would be best to cover it here. It should be covered somewhere.

THE CHAIRMAN: Is that agreeable to you, Gentlemen? (After a pause:-) Then it is so decided. Gentlemen, on Article 8 the only question that remains is that that special paragraph should be discussed later on. That is the one on which the Cuban delegate asked for time to discuss it with his delegation. It is the first part of paragraph 2, to which we shall refer at a later stage, unless the Cuban delegate is prepared to finish with that this morning. I understand the Rapporteur has not had time to discuss that with delegates, so that I think it would be better to defer it till tomorrow morning, if the Meeting is agreeable. Then, Gentlemen, having done everything we can today to Articles 8 and 9, I think we now ——

Mr GUERRA (Cuba): Mr Chairman, I just want to mention that it would be proper at this time to remind this Subcommittee that, apart from this question of paragraph 2 to which the Chairman has just referred to, we had an amendment intended to be inserted in this place regarding the general application of the most-favoured-nation clause. We agreed and we declared the other day that we agreed to let this matter at this stage stand over in order to include an amendment in a more general way, and that pending the final decision taken on that amendment when it is discussed, we reserve our decision in regard to the final form of this Article 8.

Mr McKINNON (Canada): Mr Chairman, it does seem rather a pity to have spent so much time on Article 8 and still leave itfor consideration, if I understood the delegate from Cuba properly, at some later date, probably in the full Committee or elsewhere. We seem now to have agreed, subject to the conference between the Cuban delegate and ourselves and the Rapporteur at noon; we seem to have been able to arrive finally at a wording of the most-favoured-nation Article that is pretty generally acceptable, even though, in order to achieve that, we had to make very considerable amendments and add certain exceptions, such as the clause that we debated so long yesterday. If the Cuban delegate were prepared to

go ahead and discuss his amendment this morning, I submit it would be in the interests of time if we should do so.

THE CHAIRMAN: I should like to say that I am in entire agreement with Mr McKinnon on this point. We should try to deal with all the problems in the logical order and not leave things over and have to return to them again at a later stage when we think we have done our work. So, if the meeting is agreeable to that, I would like to discuss now the Cuban amendment at this moment.

MrGUERRA (Cuba): I perfectly understand the position taken by the delegate from Canada. Perhaps I may now attempt to give some clarification of the amendment and the reason for the procedure that we suggest. As Mr McKinnon has said, we are in agreement as to the final form of paragraphs 1 and 2 of Article 8 which have been approved here. Our amendment is not going to change in any sense the draft that we have agreed to. It is merely directed to adding a new paragraph. It is directed to granting to the countries under the most-favoured-nation treatment fair conditions of competition with other countries with regard to labour conditions, dumping and very low standards of employment and to protect countries. Its purpose is not to make the most-favoured-nation clause of no application, but to give countries the right to put the question before the Organisation in order that the Organisation may determine whether unfair competition is really injuring the country that makes the application. As the amendment is of this nature, we thought, for precisely the reason to which the Chairman has referred - that we should try to proceed with our discussion in a reasonable order - that we should leave this amendment, and it may be possible to insert the amendment under Article 29 of the Charter among general exceptions, not only covering the most-favoured-nation treatment but also, it may be, applying to the granting of other concessions under the Charter. As I have explained, the amendment does not change the draft already agreed to in paragraphs 1 and 2; it only adds an escape

clause giving a country which is injured a right to apply to the Organisation with regard to fair competition. I repeat that we thought that the more appropriate place for this would be in Article 8 under general exceptions, rather than as an amendment to the provisions of Article 29. We think this should cover not only the most-favoured-nation treatment but also other concessions granted to other countries under the Charter. If after this explanation this Subcommittee think it better to discuss the question here and now, we will accept that decision, though we think it would be more appropriately placed elsewhere. Our reservation of the position is due to the fact that we consider that amendment to be a very important one. I mean the right to apply with regard to the injurious effects of concessions given under the Charter. We think most-favoured-nation treatment as applied in relation to the proposed reduction, and elimination of preferences is very important for us, and that is the reason why we made the reservation in regard to this Article 8, subject to the final decision on our amendment at the proper place; but we will agree to any place at which the Committee think it would be more proper to discuss that amendment.

Mr McKINNON (Canada): Mr Chairman, it may be that the discussion is somewhat pointless in that the Cuban delegate has not referred to the actual amendment or additional clause that he has in mind; but if it is the clause contained in paper E/PC/T/C.II/16 of October 28th, and I presume it is, then I think we should discuss it now. That clause in its present wording would give my country the most complete escape from any obligation under the Charter, in that I doubt if we should be required under this to give favoured-nation treatment to any country in the world, with the possible exception of one or two. But we are not seeking an escape clause of that nature. We have already got a very large hole in the escape clause 29. I cannot emphasise too strongly that this would let us out of living up to any obligation under the Charter.

Mr GUERRA (Cuba): Mr Chairman, I have to apologize to the Sub-committee for being responsible for this sort of confusion created by this amendment of ours. Mr McKinnon is right. He referred to the amendment proposed under (a) of the document E/PC/T/C.II/16, that blue paper in which we originally expressed our amendment. We did not have time to circulate or give to the Secretary for distribution the amendment we have thought proper in substitution for the one to which he has referred just now. Originally we had thought of this amendment which we thought to introduce under Article 8; but after the general discussions that took place in the general and full Committee meetings, we realised the trend of the documents referred to by different delegates in the Committee in regard to the too general nature of the effect of this clause as proposed in our amendment: that it would really to a very great extent render practically inoperative the most-favoured-nation clause. For this reason we felt that this amendment in its original form would not be acceptable to the Committee or the Conference as a whole, and would not really be justified either in such terms. Therefore we thought we would change our amendment and propose a new one, and that is the one that I apologize for not having been able to hand to the Secretary so as to have copies typewritten and distributed. Considering the too general effect of this escape clause in the original form that we proposed, we substituted anew one which would make the application of this same idea much more restricted. Our original proposal was: "In order that any member may enjoy the most favoured import tariff granted to another member, it shall be necessary that any such member maintains wages, working conditions and social insurance benefits for its labourers similar to those of said other member". We have substituted for that one of a much more restricted character, in the sense that its aim is only to grant to any country that feels that in a particular case the operation of the most-favoured-nation clause in putting them

on the same level as they were under the most-favoured-nation clause is unfair the right to apply to the Organisation to determine that the unfair labour conditions that obtain in a third country are having an injurious effect on the trade of the country making the application. I realise the close relationship that this has to the countervailing duties against dumping; but the question is more complicated, because the countervailing duties constitute a method that may be applied by the country that is importing as against the country which is exporting to them goods produced under unfair labour conditions. We are attempting to deal with the case which is not the importing country but which in its exports is injuriously affected by the competing exports of a third country which produces for export goods manufactured under unfair labour conditions. That exporting country will need to be protected against unfair competition by steps taken by the importing country. Therefore countervailing duties could not be contemplated because it would involve action taken by a country other than the country which is injuriously affected by the unfair competition. We thought the only way to make such protective action possible was by putting into the Charter aclause which will, in the first place, give the country which is alleged to be suffering those injurious effects in its foreign trade the right to apply to the Organisation for enquiry and examination by the Organisation as to whether these injurious effects are actually taking place, and, secondly, to impose some obligation on the importing country to stop it, it may be with regard to the application of the most-favoured-nation clause or some other concession that they may have granted to that unfair competitor. That is a reason why we thought the proper place to put the amendment would be under general emergency provisions. We should remember that Article 29 contemplates some kind of injurious effects, and it gives, for instance, an importing

country the right to discontinue concessions granted previously when its domestic industry is suffering from too great an outflow of goods from another country. This escape or emergency provision is rightly not made of general application, but under certain conditions when these injurious effects are taking place. It covers perfectly the possibility of defence by an importing country against the kind of competition to which we are referring from another country against its internal industry; but it does not cover at all the defence of an exporting country which is competing in a market. That is the purpose of our amendment. While it is only fair that importing countries should be granted under emergency conditions the right to prevent injurious effects to their own industry arising from too cheap imports or too great an amount of imports, so also we think it is only right to grant the same right to exporting countries which will be injuriously affected in their export market by other exporting countries. Therefore we thought the proper place in which to put the amendment was under those general provisions and not under Article 8. We have here several copies of our substituted amendment. Unfortunately there is not a sufficiently large number of copies.

THE CHAIRMAN: Before we distribute that, we might have a more general discussion of this point, because I myself have a few remarks to make on what you have just said.

THE CHAIRMAN: Before we go any further, there is a suggestion that we should adjourn now and re-assemble in Room 243, as it is quieter there.

(The Committee then moved to Room 243.)

As I said after the American delegate gave his views on the Cuban amendment, I would like to say that I join very strongly with Mr McKinnon and share his opinion that to have an amendment in this way put in somewhere in the Charter would perhaps open the way even to abuse. At first hand my own opinion is that you would never have just one country suffering from the type of competition mentioned by the Cuban delegate, and in that case the escape clause of Article 29 and certainly also paragraph 2 of Article 55 should be sufficient to cover this case. Perhaps we should look at paragraph 2 of Article 55 more closely in this connection. I would very much prefer myself to have it dealt with in that way rather than having special consideration of it, because I think other countries may come up against the same sort of thing. Therefore I repeat that I join with Mr McKinnon in his opinion expressed here. Perhaps we could hear from Mr Hawkins on the subject now.

MR HAWKINS (USA): Mr Chairman, I have not a great deal to add to what has been said. I think I understand the Cuban delegation's idea and the reason behind it. I think that a Charter of this kind should contain provisions which would deal with the subject. I should like to say, however, that the way in which it is dealt with is of very great importance. An exception to the most favoured nation clause would leave the door wide open to abuse; it would virtually destroy it. I do not think that any automatic action would be safe. I would like to call attention to two draft provisions, one of which has just been mentioned by the Chairman, that is, Article 55(2), and another one which has been put in a draft of a sub-committee of Committee 1,

and which, when I read it, I thought was very likely put in at the suggestion of the Cuban delegate, though I do not know whether that is so or not. I would like to read that provision. 'The Drafting Sub-Committee of Sub-Committee I. has included in a draft on employment a paragraph, numbered four, which reads in this way: "Each member, recognising that all countries have a common interest in the maintenance of fair labour standards, related to national productivity, agrees to take whatever action may be appropriate and feasible to eliminate sub standard conditions of labour in production for export and generally throughout its jurisdiction." That draft, if it were adopted, would place upon each member the obligation to take whatever action may be appropriate or feasible. That provision, if adopted, in conjunction with paragraph 52 of our draft, if adopted, would seem to me to provide the sort of machinery needed. It would permit and in fact would require an investigation of particular circumstances where exploitation of labour was creating difficulties for another country. Presumably, however, the first step would be positive measures to correct that. I suppose that is what the Organisation would first try to do - to remedy the situation by seeking to put an end to exploitation. If, however, the country concerned failed to respond and to co-operate in putting an end to the exploitation of its labour which was causing difficulty to another country, there is paragraph 2 of Article 55, under which the Organisation, in the light of those circumstances, could suspend or set aside any obligation of any member with respect to imports from that country. Now, the authority in Article 55 is as broad as the chapter, chapter IV, so that it could set aside any provisions, and take action with respect to quotas, tariffs, or whatever seemed most effective. It seems to me that those

two provisions together might possibly go some distance towards meeting the Cuban delegate's viewpoint. Positive action to move the cause of difficulty would, I assume, be action taken under the full employment section, always with the possibility of a sanction if the remedial measures did not work.

MR GUERRA (Cuba): Gentlemen, as I see that we have shifted from the original point which caused the discussion of the amendment itself, perhaps the secretariat would distribute copies of our amendment among the delegates.

THE CHAIRMAN: Perhaps this clause could be read.

(The Cuban amendment was then read, as follows:-

"In any case of unjustified sub standard labour conditions in a nation creating, in regard to one or more specific purposes, unfair competition in the international markets, the member nation which considers itself thereby injured can request from other member nations the denial or the suppression to the said nation, in whole or in part, of any advantage, favour, privilege or immunity, demanded or enjoyed by it in accordance with the provisions of Chapter IV of the Charter. If the request of the injured country is not accepted, it shall have the right to submit the case to the Organisation, which shall investigate it and decide whether or not the said advantage, favour, privilege or immunity shall be granted or maintained in whole or in part." )

MR GUERRA (Cuba): Mr Chairman, as delegates have been able to hear, in our amendment we have gone a very long way back on our original position. The reason for that, to which I have already referred, was the fact that as it was worded before it was open to abuses, as the Chairman pointed out; and, as I said, it would make the most favoured nation clause practically inoperative in many cases. In this connection I would like to refer again to the remarks made by the Chairman. In the first place, we think that the amendment as it stands now will not be open to such general abuse and will not leave the door so open for making inoperative concessions granted at different times under the Charter among the different countries. The amendment as

it is now is very modest. It is directed only to giving particular member nations injured in their international trade by unfair competition of this specific kind the right to apply to the country adopting these methods the conditions here laid down, that is, the cancellation of any concessions that may have been granted to it previously. The amendment is so modest that in fact if that application of the member concerned was not accepted, the only action provided for then is to submit a case to the Organisation for investigation and decision as to whether or not the said position should be maintained or not. The Chairman in his remarks mentioned many different causes or reasons that could be invoked for trying to carry on abuse of this kind of escape clause, but in this connection I would only say that there is a very specific reason for these sub-standard labour conditions being considered within the general framework of the Charter. The Conference itself and the Charter is supposed to deal not only with trade but with employment. As a result of the important place which it was found the employment problem was taking in the general discussions in the Preparatory Committee it was found that the setting up of a special committee to deal with that was justified, and that it should set up a whole chapter of principles referring to employment. This question is not an end in itself but a means toward increasing or raising the standard of living and the general condition of employment and well-being of the people of the world. We feel, therefore, that if we are going to facilitate world trade at the cost of betraying the real purpose that that expansion should seek, which is to raise the standard of living, our work will be of no avail. We find ample justification, therefore, for drawing attention to sub standard labour conditions and

excessive exploitation of human labour as being totally improper means of expanding trade in specific cases, and as being against the spirit of the charter. This is only an emergency matter. It will be taken not in a general way but in specific cases regarding the countries where these conditions are found to be in existence.

In the second place, under the amendment the final judgment as to whether the injurious effects are really taking place and are really due to the existence of those sub-standard labour conditions is put in the hands of the Organisation. We have given a great deal of thought as to the proper place and the proper machinery to accomplish this aim. In this respect we are not at all particular and we are not insistent regarding the place in which we have thought it proper to put the amendment, or as to the drafting of the amendment itself and therefore the machinery and the procedure that should be finally agreed upon in the Charter; but we feel very strongly that if the Charter in different places which have been mentioned several times — Articles 29 and 55 (2) - makes an emergency provision for any country which is suffering injurious effects from unfair competition of any kind when that country is the importer and gives it the right to protect its internal industries and economy, which is in several different places recognised, then there is no real reason or justification for not offering the same possibility of emergency provision when an exporting country in regard to its industrial exports is suffering the same kind of injurious effects. Therefore we feel very strongly that the Charter in some form shoubd make provision for this. As I have said before, we have given a great deal of thought to the proper place and the proper form in which to provide for this. In this connection I should refer to different places that have been suggested. In the first place, we think that to include some provision of this kind within the general section dealing with employment problems will be faced with two difficulties: in the first place, that general sections, as far as we unde nd them, are only statements of general principles practically all of which are directed to establishing moral obligations in each particular country regarding the maintenance of fair labour conditions or the suppression of unfair labour conditions. But we know by long

experience - and we expect all the other countries have had the same experience - that the chance of enforcing in any effective way these moral obligations that the countries have undertaken under the general employments conditions to enforce is very small; that it is very difficult to contemplate the possibility of any country accepting the intervention of the I.T.O. or of any other Organisation in trying to establish within that country's frontiers proper labour conditions . Therefore, while these moral obligations are a sound basis in another place for the establishment of proper machinery for dealing with the problem, those moral obligations do not in themselves provide other countries with a guarantee.

Regarding the questions that arise on Articles 29 and 55, the difficulties are of a different character. We are not trying to suggest that there is no possibility of amendment or drafting such Articles in a way that will make it possible to establish procedure and machinery to deal with this problem; but as both Articles stand now they provide for methods of defence by a country which is suffering fromthat kind of unfair competition when that country is the importing country against exports that are pouring in from other countries. Articles 29 and 55 refer to the waiving in exceptional circumstances obligations of members undertaken in pursuance of other Articles. That does not afford any ground for doubting that the waiving of exceptional obligations only gives to a particular country the right to withdraw any concession that it has given to other countries; it does not provide atall for putting on a third country obligations to withdraw from the other exporting competing country any concessions under the Charter.

Sir, as I have said before, we are not particular about the place or the form in which the principle may be set up and the machinery provided. We are inclined to think there is a great

deal inwhat Mr Hawkins said before about the possibility of re-drafting some of these Articles in such a way as to provide the necessary machinery;. but we repeat that we consider, in the first place that our amendment as it stands now does not at all provide a wide open door for escaping from the obligations of the Charter. It gives somebody a right to make a specific request in a specific case, leaving in the hands of the Organisation the final decision. In the second place, the Charter provides in several different places for some kind of protection in an emergency situation for importing countries, and we see no reason at all why the same sort of protection, if it is justified in special circumstances, should not be given to countries which are suffering such injurious effects not as importers but as exporters competing in the world market.

Mr McKINNON: (Canada) Mr Chairman, I ask your permission to withdraw. Mr Deutsch will take my place.

THE CHAIRMAN: Yes. I appreciate that this is an important question, but I will ask delegates to be as short and concise as possible, because it is already 12.15 o'clock and we still have to reach a decision. I would also like to suggest this as a guiding thought in this matter: I feel very strongly that when entering into this agreement we cannot hope to cover every emergency. What we have to look for is the possibility of action against certain abuses, with proper escape clauses if a country feels itself severely affected. The third point I want to make is this: if I have rightly understood the delegate for Cuba, the object is not to lay down a rule which will apply only to one special country. This is a world problem and we have to find a more general solution in which several countries will combine. I should like to get some guidance from you as to the further discussion of this problem.

SENOR DON HUMBERTO VIDELA (Chile): I am in sympathy with the proposal of the Cuban delegation. I am looking at the draft clause which has been circulated: "(4) Each Member recognising that all countries have a common interest in the maintenance of fair labour standards, related to national productivity, agrees to take whatever action may be appropriate and feasible to eliminate sub-standard conditions of labour in production for export and generally throughout its jurisdiction." Besides this instance, I must refer to Article 11, anti-dumping and countervailing duties, because when this Article was under discussion I pointed out that this matter was in intimate relation with what is called by economists the relative disadvantage of production. At this point we have arrived at a very complicated problem, that is to say, the position of the undeveloped countries as opposed to that of the industrialised countries; that is to say, we have to take into consideration the handicap from which the undeveloped countries suffer as compared with the industrialised countries; and as I listened attentively to the Cuban delegate, I was thinking of a particular point. For instance, Chilean nitrates are extracted from the ground, while the competitive and like product is extracted from the air. I refer to this as an example of the relative disadvantage of production, and among other products we find examples similar to that; for instance, coal. When I was in Pennsylvania I could see that the coal was just under the surface. Indeed, where I was living one could even hear the knocks made by the underground workers. Comparing American coal with coal extracted in Great Britain, for instance, or on the Continent, I have a very interesting book issued by the Stationery Office in connection with the competition of coal among important countries, and one can see that while in the United States they require one man, in another country they may require three. That is one point. Referring to the particular point as to nitrates extracted from the ground,

you may say that we need ten men instead of one in order to extract the same amount of nitrate in order to compete with the synthetic. I have heard before in this Committee discussion of the same point, and I remember that the general conclusion was that in order to equalise the standards of life in the world we shall need to go by degrees. No undeveloped country can maintain its exports if they have to fulfil the condition of equalising the standard of life. I think I should refer to this point, although I entirely agree with the programme of this Conference relating to employment and social welfare and in particular with the position presented by the Cuban delegate.

Mr ADARKAR (India): Mr. Chairman, the Indian delegation have some difficulties in accepting the Cuban amendment. I am looking at this problem mainly from the point of view of the Asiatic countries against whom this allegation of unfair labour was very often made in the past, and I am afraid that if this amendment in the form in which it is presented goes through, the Asiatic countries in particular will be exposed to the gravest discrimination. The effect of the Cuban amendment is broadly this, that the I.T.O. will have no occasion whatever to investigate the matter if the country which makes the complaint is able to secure the consent of the country which gives the most-favoured-nation treatment, and no opportunity whatever will be given to the country against whom the complaint is made to defend its conduct. The first sentence of the Cuban suggestion reads broadly like this: that in any case in which there is this allegation made, the Member nation which considers itself thereby injured can request from any other Member nation the denial or suppression of the most-favoured-nation clause in whole or in part or any privilege, favour or immunity.

We suggest, Sir, that that is a position which is rather unhappy, because the country against whom the complaint is made should have an opportunity of defending its conduct, and from that point of view we would prefer the sort of procedure which has been outlined by Mr Hawkins. In the proposal made by Mr Hawkins we see a further advantage, namely, that in the amendment which has been circulated fair labour standards have been related to national productivity. There is a great point in that particular phrase. We think it is wrong to suggest that workers in all countries should receive the same wage. A wage (including in that expression the ordinary rewards of labour) has to be related to labour conditions, and it has to be related to national productivity. A distinction must be made between a wage which is fair in relation to national productivity and a wage which is fair in comparison to the wage paid elsewhere. To pay a wage which is lower than is warranted by the national productivity, which is the general average productivity of all industries in the country, is exploitation, but no exploitation is involved if the wage paid is duly related to the national productivity, even if it happens to be lower, perhaps much lower, than the wage paid elsewhere. So I would state briefly that a distinction must be made between the productivity of a particular industry and the productivity of a country as a whole. Until the Asiatic countries reach a certain level of productivity it cannot be practical to them to offer wages and other social benefits comparable to the wages and benefits paid by other countries which have attained a higher level of national productivity. We would therefore suggest, Sir, that this matter is very complicated and it would be best to leave it to be settled in the manner of either procedure outlined by the United States delegate. I would say, Sir, that if the I.T.O. is to authorise each member nation, even without conducting an investigation itself, to bring charges under the most favoured nation

clause. That may result in a position in which each member nation would be deciding matters which ought properly to be dealt with by an international organisation like the I.T.O. As you rightly pointed out, Sir, this is a matter which is of interest to all countries, and therefore it should be dealt with properly on an international level first, before any individual member takes action. That is all I have to say, and therefore I strongly support the suggestion that this matter should be dealt with under the employment clause, and the procedure should be more or less in line with that put forward by the United States delegate.

MR LECUYER (France)(Interpretation): Mr Chairman, if we wish to settle this very difficult and interesting question we should look at facts and at the intention of the Cuban delegate. Of course, we cannot think of an equalisation of the standards of living in various countries; at least, we cannot take that as a starting point. It is obvious that if an agreement is achieved under the Charter the standards of living will be very different, not only as between the various countries but also within those countries: for example, it is to be expected that the standard of living in Senegal will not for a long time be the same as that of France. Therefore Cuba contemplate the differences which may occur subsequently, and what is contemplated by the Cuban delegation here is not the progressive evolution which the Chilean delegate pointed out, and at which we all aim, but what is to be feared here is the action of a country which, in special circumstances and in order to facilitate industrial expansion or another kind of expansion, would maintain standards of living which would be far different from those which existed at the time, and would be reduced in a sudden and unexpected way, either on account of the voluntary action of the country concerned or on account of an

accident even. Therefore an emergency provision should be inserted in this Charter. There are some emergency provisions in this Charter, but I agree that they are not sufficient; they cover only injuries arising from excessive imports. But I believe that the interests of exporting countries should be protected against injury, and I think that a clause along the lines suggested by Mr Hawkins would cover the point of view of the Cuban delegation and at the same time would not present the disadvantage of being as general as the Cuban proposal.

MR ALAMILLA (Cuba): The French translation was not accurate, Mr Chairman. The French delegate ended by saying that export goods should also be covered, although in a more general way, in the suggestion of Mr Hawkins.

MR SHACKLE (U.K.): I would only say that I would support the general lines of the solution suggested by Mr Hawkins, but I feel that that is about as far as we can reasonably hope to go in reaching a solution of this problem.

MR DEUTSCH (Canada): Mr Chairman, I think there is much force in what the Indian delegate has said about the difficulty of implementing the proposals of the Cuban delegation in those words. We would strongly support Mr Hawkins' alternative method of dealing with it. In this connection I would like to refer the Cuban delegate to Article 30, where wide latitude is given to the Organisation to consider almost any type of complaint by a member country. The second sentence begins: "Moreover, if any Member should consider that any measure adopted by any other Member, whether or not it conflicts with the terms of this Chapter, has the effect of nullifying or impairing any object of this Chapter, such other Member shall give sympathetic consideration to such written representations or proposals as may be made with a view to effecting a mutually satisfactory adjustment of the matter. If no such adjustment can be effected,

either Member shall be free to refer the matter to the Organisation, which shall investigate the matter and make appropriate recommendations to the Members concerned." That is a very wide clause. It would admit any type of complaint, as far as I can see, and get it before the Organisation for consideration, which I think is the main object of the Cuban proposal.

MR GUERRA (Cuba): I would like to make one or two remarks to qualify some points put forward by the different delegates. In the first place, I would like to point out that the French delegate was very correct in saying that we do not think and we do not intend it to be thought that this amendment calls for a general equalisation of wages and labour conditions; we start from the fact that different countries have different labour conditions. As I explained before, we contemplate an emergency provision. It is easier to understand our position when you consider that we are facing negotiations directed towards lowering tariffs and for certain countries it means giving up readily the preferences they enjoyed before; and we are in fact contemplating not an equalisation now of the labour standards for all countries but just an emergency action directed towards preventing particular injurious effects derived from the fact that a country may take advantage of the new situation that will be created regarding the tariff and other trade arrangements that are contemplated for increasing their exports, not on the basis of more productivity nor on the basis of more technical developments but just on the specific basis of unfair labour conditions. I want to call the attention of the Committee to the fact that we had in mind very clearly the point raised by the delegate from India. Maybe we have not been successful in finding the right word, but when we put in the words "unjustified sub standard labour conditions" we certainly had in mind the lack of

relationship between labour standards in a particular industry and general productivity. That is the meaning of the word "unjustified"; and therefore we think the point raised by the Indian delegate is not correctly stated here in that way.

I would like to repeat and if possible make clearer the reason for this amendment by calling the attention of the Committee to the fact that the Charter, in some other place, refers specifically to the necessity of not exporting unemployment to other countries; and we think that if a country, without any relation to its general labour conditions or its productivity, chooses to take advantage of the new situation that will be created by the coming negotiations to increase its exports on the basis of lower wages and exploitation of labour, and thereby injures other countries, there will be a case of the exporting of unemployment, and that is something which ought not to be contemplated. Such inhuman exploitation can only result in the curtailment of employment in other countries. The Indian delegate referred to the possibility of dealing with this matter in a one-sided way without any previous decision by the Organisation. Maybe our mistake in regard to this particular point was due to the fact that there are some provisions in the Charter which are directed towards protecting importing countries. The draft of the American delegation allows for the importing countries first to take action on their own account and then to report the case to the Organisation.

Finally, we would like to say that a representative of the British Government has made a statement recently which lends weight to our position in this matter in the sense that it ratifies the general idea that the interests of exporting countries and their protection against the use of

sub labour standards should be dealt with by the International Trade Organisation. This is from a statement by Sir Stafford Cripps regarding the future of Japanese industries: "His Majesty's Government are fully aware of the damaging effect which low priced Japanese competition had on our export trade in many fields before the war. This competition derived much of its effectiveness from low labour standards and from Government manipulation of exchange, subsidies and other methods which can be regarded as inconsistent with proper commercial standards. It will be His Majesty's Government's policy to endeavour to eliminate such unfair competition not only in Japan but wherever it arises by international agreement and in any way which offers." That goes to show that the general idea we have that this matter should be dealt with in an organisation directed to regulating international trade is a proper subject matter to be taken into account; and more so when the same question has already been contemplated in the Charter, when that unfair competition affects the general industry of importing countries. Finally, I have only to say, as I said at the beginning, that we are not convinced at all that our amendment as it has been drafted is correct or that the machinery that we contemplate is the proper one. We would appreciate it if the United States' suggestion could be put in a concrete form so that we shall be able to see in what way we could deal with this matter and be able to make a final decision with a view to the concrete formula that the American delegation may propose.

THE CHAIRMAN: Gentlemen, before we adjourn I think I may state that we have made much progress on this very important and difficult problem. I would now like to invite our Rapporteur to see whether there is any change to be propsed, to discuss alterations with Mr. Hawkins, and take into consideration Article 4 where we have that new addition, perhaps Article 11, countervailing duties, and Articles 29, 30 and 55 (2). I think that is the whole position and we can discuss that once more and see whether it meets the delegates' points to their satisfaction. I only want to say one thing with regard to unjustified labour standards and conditions: I still feel that unjustified labour conditions in certain nations can only be judged by multilateral consultation and not unilateral consultation. I think that is the main point which should be taken into account here.

Mr GUERRA (Cuba): Yes, that is the point of view of the Cuban delegation.

THE CHAIRMAN: I see we shall have a meeting of full Committee II on Thursday morning and that it will be possible for us to meet tomorrow afternoon at 3 o'clock. So I hope our Rapporteur will be able to give us then a form of words which will be agreeable to all the delegates. The meeting is adjourned to tomorrow afternoon at 3 o'clock, and if possible we shall deal with Article 18. I would like you, if you have five minutes to spare when you prepare for this meeting, to read through the summary of our Chairman, Mr Coombs, on page 16 of paper E.PC/T/C.II/PV/7. Those are the minutes of our meeting containing the points discussed by our Committee.

(The meeting rose at 1.8 p.m.)