

FIFTH COMMITTEE: INTER-GOVERNMENTAL COMMODITY AGREEMENTS

SUMMARY RECORD OF THE FIFTH MEETING

Held at Havana, Friday, 5 December 1947 at 4.00 p.m.

Chairman: Mr. George HAKIM (Lebanon)

The CHAIRMAN proposed that the Committee continue the first reading of Chapter VI on the understanding that any further amendments received by the due date would be considered later.

He announced that the membership of the Drafting Sub-Committee set up at the last meeting to handle certain specific drafting points would be expanded later and the Sub-Committee given increased functions. This Sub-Committee could then consider the various suggestions made during the first reading and endeavour to reconcile conflicting views. When the Sub-Committee submitted its report to the full Committee, the final reading of the Chapter would take place.

ARTICLE 53 - AMENDMENT PROPOSED BY THE DELEGATION OF ITALY

The CHAIRMAN reported that in the previous meeting Articles 52, 53 and 54, except 54 (c), had been approved in first reading. However, Italy had since proposed an amendment to Article 53, paragraph 3, and he suggested that this amendment should be considered before proceeding with the first reading.

Mr. VOGLIOLO (Italy) stated that his amendment substituted the word "certain" for the word "exceptional" in the first sentence of paragraph 3. He explained that this amendment was intended to broaden the application of commodity agreements, particularly for semi-processed products and asked that a member of the Preparatory Committee explain the reasons for the use of the word "exceptional".

Mr. PETER (France) explained that Article 53, paragraph 3 was intended to take care of semi-processed products but to keep it under the strict control of the Organization, and that the word "exceptional" was used in order to limit the interpretation of the paragraph especially in view of the fact that Chapter VI is an exception to the other provisions of the Charter.

The delegate for Italy accepted the explanation and withdrew his proposal.

ARTICLE 54

The CHAIRMAN announced that the explanatory note to Article 54 would be

/referred to

referred to the Sub-Committee.

ARTICLE 55 AND ARTICLE 56, PARAGRAPHS 1

Mr. COREA (Ceylon) announced that he would propose some amendments to Articles 55 and 56. He contended that the procedure of study groups and Commodity Conferences appeared to involve duplication and would cause delay. He asked whether after a study group was established a Commodity Conference was really necessary and whether it should be possible to continue a study group while its recommendations were being carried out.

There followed a discussion in which it was pointed out that although paragraphs 55 and 56 are closely linked, there is no requirement that there must always be both a study group and a commodity conference. In many cases a study group would be necessary to explore the possibilities of agreement and to collect the necessary information on which to base an agreement, and sometimes it might be desirable to prolong the life of the group. However, where countries have the basis for agreement at hand, a commodity conference could be called immediately without resorting to the study group procedure. It was for the interested governments to decide whether a study group was necessary.

Mr. COREA (Ceylon) said that these explanations did not entirely clarify the matter and argued that it should be possible for a study group to make an agreement and thus dispense with a conference.

Mr. MANSOUR (Egypt) supported the delegate for Ceylon and asked about the functions of a study group.

Mr. SCHWENGER (United States) said that the wording of Articles 55 and 56 tried to express the experience of the many years concerning inter-governmental collaboration on primary commodities. It was designed to afford the greatest possible flexibility. Study groups were not intended merely to collect statistics, but also to explore the possibility of inter-governmental agreement. Should a study group discover the basis for agreement immediately there was nothing in Articles 55 and 56 to prevent an agreement being signed at once. Experience, however, had shown that agreement was difficult of achievement, and the Articles had been drafted with that consideration in mind. It would be futile to call a conference without first having reached a certain degree of mutual understanding.

Mr. JIMENEZ (El Salvador), Mr. GUTIERREZ (Bolivia), Mr. MANSOUR (Egypt) and Mr. PARGA (Colombia) drew attention to the second alternative in Article 56 (1), regarding members requesting a conference, and asked about the situation of countries whose domestic economies depend to a large extent upon the export of one commodity but do not represent a substantial proportion of world production, consumption or trade in that commodity. The question

/was raised

was raised whether one such country could ask for a conference. It seemed unjust if one vitally interested country could not ask for a conference.

In the ensuing discussion it was stated that the wording of the draft Charter was not intended to deprive any country of its rights, but in practice a commodity conference would not be likely to take place unless most of the countries affected were ready to take part.

Mr. JIMENEZ (El Salvador) asked for further consideration and requested more time to present his views.

The CHAIRMAN stated that delegations had until Saturday evening to submit formal amendments; but the Conference had not forbidden further amendments of a consequential nature.

In the hope of meeting the view of the delegate from El Salvador, Mr. WOULBROUN (Luxembourg) suggested an amendment to the effect that on the basis of a request by any Member particularly affected, the Organization should consult with other interested Members regarding the need for a conference.

After some discussion it was decided to refer this proposal to the Sub-Committee for consideration.

Articles 55 and 56, paragraph 1, were accepted on the first reading with the understanding that the discussion would be re-opened after the receipt of any formal amendment.

ARTICLE 56, PARAGRAPH 2

Accepted without comment.

ARTICLE 56 - ADDITIONAL PARAGRAPH PROPOSED BY THE DELEGATION OF PERU

Mr. CHAVEZ (Peru) gave a brief explanation of his proposed amendment to Article 56 (document C.4/4). In his opinion, members invited to a conference concerning a commodity in which they were particularly interested should make every effort to reach a common solution. If they had previously adopted unilateral measures in an attempt to solve their difficulties, they should be expected to renounce those measures and submit to the decisions of the conference.

Mr. CAPLAN (United Kingdom) stated that he had not had time to study the Peruvian amendment but pointed out that if a member had adopted unilateral measures, in contradiction to the principles of Chapter IV, it would surely have been reminded of the fact before it received an invitation to the conference. On the other hand, though the provisions of Chapter VI were designed to promote a multilateral approach, they did not prohibit unilateral action when this did not have a harmful effect on other countries and it would be unreasonable to bind a Member to suspend such action.

It was decided that in order to give the Committee more time to consider the proposal, discussion of the Peruvian amendment would be postponed.

/ARTICLE 57

ARTICLE 57

Mr. ZAFRA (Philippines) stated that his delegation would submit an amendment at a later date. Its purpose was to strengthen the terms of paragraph (c) to the effect that countries participating in an agreement should have some positive protection against any measures which might be adopted by non-participating countries against the provisions of the said agreement.

Subject to discussion of any formal amendments which might be submitted, Article 57 was accepted on first reading.

Mr. JIMENEZ (El Salvador) wished for an explanation of the difference between the recommendations of a conference and those of a study group; Mr. MANSOUR (Egypt) requested an explanation of the whole of Article 58.

In reply to the representatives of El Salvador and Egypt, Mr. PETER (France) drew attention to excerpts from the Report of the Sub-Committee on Inter-Governmental Commodity Agreements of the Second Session of the Preparatory Committee (contained in conference document C.5/1). The expression "control agreements" had been used as it implied restriction of trade or the regulation of prices. Paragraph 3 dealt with the Organization's right to decide whether an agreement was, or was not, a control agreement, that is, whether it was subject to the terms of Section C. All other agreements came within the purview of Sections A and B.

He also pointed out that the last sentence of paragraph 6 would perhaps meet the views expressed by the representative of Ceylon concerning the danger of lengthy delay before agreements could be concluded.

Mr. COREA (Ceylon) appreciated the effort to clarify the matter, but stated that he was opposed to a safeguard which stated that only in exceptional cases could action be taken to avoid delay in the conclusion of an agreement.

Mr. LACARRA (Mexico) felt that the expression "unreasonable delay" was obscure. He also considered that any direct negotiations between countries under paragraph 6 should have a provisional character until the Organization had agreed that they should come into force.

Mr. CAPLAN (United Kingdom) said that a distinction should be drawn between the conclusion of an agreement and the coming into force of that agreement. He also drew attention to the last sentence of paragraph 5, and suggested that it be redrafted by the Sub-Committee so as to ensure a smooth transition to a commodity control agreement when minimum price provisions become operative.

Mr. JIMENEZ (El Salvador) asserted that if a conference could only make recommendations which were dependent on subsequent parliamentary action, another procedure would have to be laid down - that is, the method of direct negotiations.

/Mr. DE VRIES

Mr. DE VRIES (Netherlands) pointed out that a distinction must be made between the recommendation of a study group and that of a conference. It had certainly been the intention of the Preparatory Committee that countries represented at a conference would make definite commitments. The last sentence of paragraph 6 was meant to indicate that the ITO must be closely concerned with agreements reached by direct negotiation. It was especially important for the ITO to be closely concerned with commodity agreements in view of the fact that in some respects these agreements represented a departure from the provisions of Chapter IV of the Charter. He referred to the need for a Commodity Commission within the ITO.

Mr. McCARTHY (Australia) pointed out that the conference was the most important stage in the negotiation for a commodity agreement. It was here that the agreement was concluded except for necessary government ratification. The escape clause provided in paragraph 6 was intended to take care of exceptional circumstances where a conference found it impossible to reach agreement, for example, because of a relatively few dissenting governments.

After further discussion concerning the use of the word "recommended" in paragraph 6, and the possibility of substituting the word "decided", it was agreed to refer the matter to the Sub-Committee, together with the suggestion of the delegate for China that the first sentence of paragraph 6 should read as follows:

"The members shall enter into a new commodity Control Agreement only through a conference called in accordance with Article 56."

This completed the first reading of Article 58.

The meeting rose at 7.15 p.m.
