

UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL
PREPARATORY COMMITTEE
of the
INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report
of the
FIFTH MEETING
of
COMMITTEE II
held in
The Hoare Memorial Hall,
Church House, Westminster, S.W.1
on
Wednesday, 30th October, 1946
at
3 p.m.

Chairman:- Dr. H.C. COMBS (Australia)

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

THE CHAIRMAN: Gentlemen, at our meeting yesterday we commenced a discussion of that section of the agenda which deals with quantitative restrictions, with the understanding that the exception relating to the use of quantitative restrictions for the purpose of protecting the balance of payments would be deferred until a later stage. There was some discussion in which a number of delegates expressed their views. Briefly, we had in particular from the New Zealand delegation what amounted, I think, to a statement to the effect that New Zealand would desire, in view of the special nature of her international and development problems, to be permitted to use quantitative control of imports as a continuous instrument of economic policy. The majority of the comments that were made, however, dealt with the possible extension of the exceptions. Particular reference was made to an exception which may be necessary to enable a country which has used price control during the war to maintain it into the post-war period; and also for the possible use, with clear limitations, of quantitative restrictions for protective purposes where it can be shown that these are of less restrictive character than other forms of restrictions capable of producing the same degree of protection. The question is now open for further discussion.

MR AUGENTHALER (Czechoslovakia): Mr Chairman, gentlemen, I suppose that we are discussing today only Articles 19, 21 and 22 of the proposed Charter and not Article 20, which, as has already been said by the honourable delegate of the United States of America, requires a special meeting.

As to Article 19, we suppose that any country shall be entitled to maintain import restrictions for commodities which are an object of state monopolies. If we say monopolies we mean by that certain governmental monopolies

which traditionally have a financial character, i.e., have been introduced as a suitable method of indirect taxation. In Czechoslovakia it applies, for instance, to tobacco, explosives, salt, raw spirit and saccharin. We think that it is evident that in those cases state administration cannot admit freedom of imports because it would entirely frustrate the objective of the monopoly. It is well known that the meaning of monopoly in the classical sense includes this procedure. There is nothing new about that because the monopolies concerned are centuries old.

As to restrictions on imports and exports mentioned by the honourable Australian and Canadian delegates in connection with price control existing in different countries, we agree with those delegations that it seems illogical and practically impossible to abolish restrictions on imports or exports in such cases. If I agree here with the Canadian and Australian delegates, I hope I will not be considered a satellite of Australia and Canada.

We should be greatly obliged to the U.S. delegation if they could give us some more detailed explanations as to paragraph 2, alinea c., of Article 19, that is, about prohibitions necessary to the application of standards for the classification and grading of commodities. The wording as it is in this alinea in our mind can make possible the abuse of this provision.

Now I come to Article 21. This Article applies not only to Article 19 but equally to Article 20, which has not been discussed yet. It is evident from statements made by different countries that the reasons why one or another country feels the necessity of maintaining restrictions or prohibitions are extremely various and depend on the particular situation of the country concerned. Each

country developed a certain technique suitable not only to its economic situation but also to certain administrative and legal practices, and I should say even political feelings and public opinion. Those are, I agree, mostly psychological questions, but they play a very great part in the life of the countries concerned. That is why we suppose that it would not be suitable to put in a Charter, which actually is a document of great principles, provisions concerning mere administrative methods. For that reason we have the honour to propose a simpler wording of the Article concerned. We feel that the procedures as proposed in Article 21 would have probably in many countries an effect exactly opposed to the objectives of this conference and lead to very many unpleasant conflicts and disagreements, because publicity to the extent and in the way proposed in the Charter would provoke great pressure on the authorities in the sense of a greater restriction on imports. On the other hand, the conditions which give rise to import restrictions or prohibitions are especially nowadays rather conditions of economic and financial distress and must be manipulated with great flexibility which due to the proposed procedures would be greatly hampered.

I think I will not take too much of your time if I read out to you the whole wording of Article 21 as proposed by us, because I feel it will be made clear to you better than any other explanations or ideas on that matter. We propose the following wording:- "Article 21. (1) No prohibition or restriction shall be imposed by any member pursuant to this Section on the importation of any product of any other member country, or on the exportation of any product destined for any other member country, unless the importation of the like product to all third countries

respectively is similarly prohibited or restricted.

(2) Any member imposing such quotas allots a share of the total quantity or value to any other country having an important interest in the trade in the product with respect to which an allotment has been made, shares based upon the proportion of the total quantity or values supplied by such member countries during a previous representative period, account being taken in so far as practicable of any special factors which may have affected or which may be affecting the trade in that product.

(3) No conditions or formalities shall be imposed which would prevent any Member country from fully utilizing the share of any such total quantity or value which has been allotted to it. The provisions of this paragraph shall also apply to any tariff quota established or maintained by any Member.

(4) In the case of import restrictions, the Member imposing the restrictions shall provide, upon the request of any other Member who was trading with the respective countries in the product concerned during a previous representative period as provided in 2, all relevant information as to the administration of the restrictions.

(5) With regard to restrictions imposed in accordance with paragraph 2 of this Article or under paragraph 2 (e) of Article 19, the selection of a representative period for any product and the appraisal of any special factors affecting the trade in the product shall be made initially by the Member imposing the restriction, provided that such Member shall, upon the request of any other Member having an important interest in the trade in that product, or upon the request of the Organisation, consult promptly with the other Member or with the Organisation regarding the need for an adjustment of the base period selected or for the reappraisal of the special factors involved.

THE CHAIRMAN: Thank you. I think it would be of help to other delegates if we could have that copied.

VICOMTE G. DU PARC (Belgium-Luxembourg): (Interpretation): Mr Chairman, the Belgium-Luxembourg delegation has handed in a note concerning the question of quantitative restrictions. In the first part of this note it has indicated its general point of view concerning the suppression of these restrictions, and in the second part of the note the delegation suggests an amendment to Article 19, paragraph 2.d. The second part demands some commentaries to motivate our proposal. As far as the first part is concerned, our delegation wishes to remind you of the principles to which it

adheres, that is to say, those concerning the general softening up of tariffs and an abandonment of discriminatory practices. Our delegation has likewise insisted on the necessity of coordinating commercial policies of the different nations in order to avoid a development of any economic lack of equilibrium which might lead to a return to protectionist and discriminatory practices. Our delegation is favourable to the gradual suppression, as it is proposed in the projected statute, of all quantitative restrictions; but we feel concerning these matters that we should draw attention to the fact that in the common tariff foreseen by the Belgium-Luxembourg and Netherlands Union, these tariffs will be lower than they were before the war, which will represent our contribution to the collective effort toward lowering tariff barriers. We firmly hope that the other nations will wish to make equivalent sacrifices, and it is evident that our economy would not be able to bear the weight of such sacrifices if we did not have the assurance of some compensation in our exports.

As far as concerns the proposal of an amendment, I think it is useful to read to you this proposal. It concerns Article 19, paragraph 2.e, and the text proposed is as follows:

"Quotas of imports of agricultural products imported under any form whatsoever when these quotas are made necessary by the depreciation of prices practiced on the national market as a result of the combined action of national production and of the import of a given product: this quota can be brought into effect as soon as the depreciation of prices has reached such a point that the sales on the national market occur at a price lower than the normal one." We must understand under normal price the price which covers the cost of production in national production.

The reasons for this amendment are as follows: in the draft proposals it is indicated that the restrictions on imports fall under two conditions: to restrict the quantity of the same

national product or to suppress a temporary excess of the same national product by offering this surplus to certain groups of consumers. One or other of these provisions offers, as far as our country is concerned, some difficulties. The first arises from the fact that our national temperament is essentially individualist, and as a result of this, any regulation in any field whatsoever, and especially in the agricultural field, is extremely difficult. As a result of this, we cannot in our country have a policy sufficiently planned to allow the application of the restrictions suggested by the draft proposal as it was submitted to us. Moreover, it is very difficult to foresee in every detail in this field the conditions in such a way as to foresee perfectly the results of crops, whether on account of climatic or other conditions.

Finally, with regard to the second proposal, which is to suppress a temporary excess of the same national product by offering it to certain groups of consumers, this condition is rather difficult for us to achieve in our country, because there does not exist in the field of foodstuffs any sufficient difference between the various social classes which would permit us to discriminate easily between those which might benefit by this measure and those which would not have a right to. Of course, we agree fully with the part of paragraph e which concerns the obligation of making any provision concerning agricultural quotas to give them sufficient publicity.

THE CHAIRMAN: Thank you. The note to which the delegate from Belgium referred has, I understand, been circulated and is document No. 26 relating to this Committee.

DR. P.S. LOKANATHAN (India): Mr Chairman, the views of the Indian delegation on the subject of quantitative trade restrictions have been outlined in the document which we submitted to this meeting, and I do not wish to go over the ground again, partly

because I find that the views expressed therein have found a large measure of support at this meeting. Briefly stated, we feel that, in the first place, so far as regulated economies are concerned, we would not be in a position to dispense altogether with this instrument of quotas. We quite grant that in the past quantitative restrictions have been used very injuriously to the rest of the world by certain countries; but, on the other hand, we feel that they could be utilised in a much more helpful way. We are, therefore, conscious of the dangers of the use of quantitative restrictions, but, at the same time, we feel that it is quite possible so to use them as to make them an instrument of good rather than an instrument of harm; and therefore we have said that we agree in principle that such restrictions should be used as sparingly as possible, but we consider that suitable exceptions should be devised to permit their use for constructive purposes. This is mainly the cause that India is definitely embarking upon a planned or regulated economy, and we believe that it is not possible to dispense with an important instrument like quantitative trade control.

The second observation that I should like to make is this, that quite apart from planned economy and the need for quantitative control for that purpose, we feel also that the distinction which is sought to be made between tariffs and subsidies, on the one hand, and quantitative controls, on the other, is not, in our view, a right distinction, because all are in appropriate circumstances equally valid instruments of control.

Therefore, to condemn quotas or to condemn quantitative restrictions and regulations completely is to take a view which we do not share.

Another consideration which is relevant is this, that in the future, whatever be the amount of foreign exchange that may become available to each country, we feel that each country would like to use the full extent of its foreign exchange resources in the best possible manner, and one of the ways in which that could be done is to have some priority, and the exercise of that priority might necessitate the use of quantitative control.

For these reasons, therefore, our view is that we cannot completely avoid the use of quantitative restrictions. We are, however, prepared to make certain reservations. We are prepared, for instance, to agree to a condition that there should be previous consultation with any international trade organization that may be set up. We are also prepared, broadly, to agree to the principle of non-discrimination, of equality of treatment, as provided for in certain sections here; and also we are prepared to have criteria by which to test whether quantitative control is right or wrong imposed, in so far as its effects are restrictive or expansive. Therefore, we would like some body of criteria to be introduced by the I.T.O., so that all controls that will have on the whole not a restrictive effect, but an expansionist effect, might be tolerated.

Then I have one observation to make on Article 19.e., or rather two observations. I agree with the various delegations, and in particular with the Australian delegation, who have pointed out that it is necessary to use import restrictions, not merely for the purposes mentioned here, but also for price support policies of individual countries. I think here again

India is definitely committed to the policy of maintaining the prices of primary products, and although we are hopeful that action will be taken on international lines, it is quite possible that sometimes necessary national measures might involve certain restrictions on imports. Therefore, in addition to this restriction under e(i) and e(ii), we would like also an addition to provide for supporting the prices of products when it is considered necessary by the national economies.

I have a further observation on this question. It is stated here: "Moreover, any restrictions imposed under (i) of this sub-paragraph shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion between the two prevailing during a previous representative period". We take exception to that, partly on the ground that there is no justification for imposing such a rigid rule binding any country to keep the same ratio, and partly because the incidence of that rule, if it is to exist, will bear more heavily upon internal producers rather than on the exporters of such products to other countries. What I mean is this, that while an exporter of a primary product to other countries has alternative markets, and therefore if a product does not go to one country there may be markets outside, so far as the country itself is concerned, if you are going to say that the ratio of imports to the total domestic production should be kept the same as before, it would mean a much greater imposition of sacrifice on the national producers, and therefore for that reason, too, we are opposed to that.

I think at a later stage, when we go into the details, we shall have further points to make, but these are the broad considerations which we should like to submit at this stage, Mr. Chairman.

MR. C.L. TUNG (China): Mr. Chairman, the observations of the Chinese delegation on the question of quantitative restrictions consist of two parts. The first part consists of general remarks on the principles involved in quantitative restrictions, and the second part contains some specific comments on Article 19, paragraph 2.e. of the American draft Charter.

Taking the first part, general remarks: While recognising the need to avoid undue resort to quantitative restrictions as a means of trade regulation, the Chinese Delegation finds it difficult to subscribe to the proposition that adjustments of tariff rates alone could afford adequate protection for the interests of an economically under-developed country. The reason is very simple. The margin of a protective tariff has to be considerably high before it can be sufficiently effective to achieve the intended results. Such a course of action would not only contradict the aims of the proposed Conference, but would also culminate in an inordinate upswing of domestic prices to the detriment of its national economy. On the other hand, if the margin of protection were too low to be effective, foreign importations of competitive consumers' goods, even non-essentials or luxuries, would continue to overflow the domestic market to such an extent as to prevent or even nullify its efforts towards industrialization. As it is not easy to strike a happy medium, and too high or too low a tariff alike would bring disastrous consequences for an under-developed country, we feel it is imperative for such a country to regulate its foreign trade by the application of simple quota or tariff quota systems during a transitional period to be defined.

Moreover, a country with a long-continuing adverse balance of trade, like China, has to conserve her exchange

resources by limiting the entry of non-essential commodities in favour of essential commodities obtainable from abroad. Restrictions on the imports of luxuries and non-essential goods during a transitional period by the application of a system of license, are therefore not only indispensable but justifiable. As such restrictions are selective in nature, their judicious application would have the effect of merely changing the composition of imports but not in any way affecting the total volume of imports.

As regards the definition of a "Transitional Period" during which an under-developed country may resort to reasonable measures of quantitative restrictions, we are of the opinion that it should not be limited by any prefixed date; nor should it be determined by such conditions as monetary reserve or balance of payments which, being primarily the criteria for monetary stability, do not necessarily reflect the stage attained in industrial development. We would like, therefore, to propose the following definition of a "Transitional period of Industrial development" for the under-developed countries during which necessary and reasonable measures of quantitative restrictions may be imposed or maintained solely for the purpose of protection. That is, this period should be extended to such a time as (a) 50 per cent. of the wage-earning population are employed in modern industrial enterprises concerned with production and distribution; or (b) 50 per cent. of their national income is derived from modern enterprises of industry, trading and finance.

We submit these views in the hope that they will receive sympathetic consideration by this Committee and the Preparatory Committee and that provisions to this effect will be inserted in the final Trade Charter, so that all economically under-developed countries may thereby be enabled to expedite their progress in industrialisation and ultimately be able to contribute to the expansion of world trade.

II. Specific Comments

Another point bearing on the problem of quantitative restrictions is the highly important provision in the United States suggested Charter,

article 19, Paragraph 2, Sub-Paragraph (c) on the restrictions on agricultural imports. Clause (i) of this Sub-Paragraph lays down in effect that if a Member nation has to adopt import restrictions on any agricultural product, necessary to the enforcement of government measures which operate to restrict the quantities of the like domestic product permitted to be marketed or produced, the restrictions thus imposed should not be such as would reduce the total imports relative to the total of domestic production, as compared with the proportion between the two, prevailing during a previous representative period.

If our interpretation represents the real meaning of the Draft Charter on this point, the Chinese Delegation cannot but regard it as imposing grave handicaps on the development of economically under-developed countries. These countries, largely lacking any sizeable industry and commerce, have a predominantly agricultural economy, on which an overwhelming majority of their people depend for their existence. The price structure of agricultural products in such countries not only affects the standard of living of their rural population, but also determines the success or failure of any attempt at industrialisation. The Government of such a country must from time to time take appropriate measures to regulate the varieties and quantities of production and consumption, so as to stabilise the prices of its agricultural products and maintain a proper balance ^{between/} food stuffs and raw materials on the one hand and industrial manufactures on the other. This equilibrium is essential to the maintenance of a decent livelihood for the rural population and to a steady advance in industrial and commercial development. The standards and methods of adjustment in this matter are necessarily determined by such elements as increase or decrease of population, rise or fall in the costs of living, the total area under cultivation, the varieties of agricultural produce, the state of transport, market conditions and other complex factors. Above all, the quantities and kinds of agricultural imports must depend on the changing state of demand and supply in the country itself. These diversified and constantly changing factors

make it impossible for any agricultural country to accept the ratio between the imports and domestic production of like products for any previous period as the standard for regulating such imports in the future. It is thus clear that this provision in the Draft Charter would give rise to the most serious difficulties and impediments to the economic development of such a country.

For these reasons the Chinese Delegation feels that if the Draft Charter is to be adopted by the proposed Conference, Article 19, Paragraph 2, Sub-Paragraph (e) should be so thoroughly revised as not to imply any restraint on the right of all member governments to consolidate their national economy by making any qualitative or quantitative adjustments of their agricultural imports.

MR SPEEKENBRINK (Netherlands): Mr. Chairman, in making a few remarks on Chapter 3, Section (c), of the Draft Charter, dealing with the quantitative restrictions, I would like just, to prevent any misunderstanding, to state first that I am in entire agreement with the American Delegate when he said that these measures are objectionable, as they tend to restrict trade and may be used in a very discriminatory way. However, it may be that the hope of the drafters of the Charter -- which we all so fully share -- that, following its principles, we shall in a relatively short time arrive in the Kingdom Come of prosperity, will not be fully realised. It is for this reason that I should like, in the first place, to make some observations with regard to the transitional period mentioned in the second paragraph of Article 19. Generally speaking, we may conclude from this part of the Charter that during the transitional period quantitative restrictions will only be allowed under certain rather severe conditions and thereafter will, more or less, be condemned. Now I must confess that I cannot see how we can predict now that on July 1st, 1949, conditions will again be normal in all the countries of the world. As regards the Netherlands and the Netherlands Indies, I would be very happy indeed if I could share that conviction. Both territories have practically just started on their long and difficult road of reconstruction. Already, we find many obstacles on this road, owing to the shortage of important materials, semi-manufactured products and machineries of all kinds. Here, too, the temporary loss of the mid-European hinterland makes itself severely felt. Experience has so far shown that partly only by bi-lateral agreements with other countries based on import and export restrictions on both sides we have been able to secure certain quantities of these very important industrial commodities. Indeed, we do not like this system at all, and as the man whose job it is to conduct many of the negotiations, I may say that I would like to saw off this branch of the tree on which I myself am sitting. The question is, however: Can we ourselves afford in the present state of affairs to bind ourselves to such a rigid set of rules as are incorporated in that part of the Charter that is now under discussion? In this connection, there is a very important point to

make on our side, and, to prove this point, I must start with a confession, and that is that the Netherlands too are an aggressive nation. We have conquered territory from our eternal foe (that is, the sea) and you find proof thereof in the coat of arms of one of our Provinces (here you would call them "counties", I suppose), in which coat of arms you find the motto: "Luctor et emergo". As an aggressor, we have again to defend our gains, and you see, therefore, costly fortresses and fortress walls all over the western part of the country, only we call them "dykes" and their enclosures "polders". It is mostly in these polders that our farmers live and work who, with their colleagues in the eastern part of the country, form 30 per cent of the population of our country.

They live on small farms with on the average 10 hectares or about 25 acres of land. These three million inhabitants are dependent on agriculture, and changes in their way of living can only be brought about very gradually owing to the severe social issues involved. We foresee that certain adjustments may be necessary, but again, how can we know already how long the transitional period will last and in which direction and to what extent we must take our measures?

Our agriculture is founded on the importation of raw materials such as fertilizers and of the cheaper foods and feeding stuffs, and conversion of these raw materials - mostly for export purposes - into high grade products of agriculture, horticulture and animal husbandry.

After 1930, owing to the price collapse of primary products and the subsequent protective measures of the importing countries, the position of the Netherlands agriculture became untenable, and very serious social disturbances could only be avoided by drastic Government interference with all branches of the farm industry and the trade in its raw materials and finished products. These Government measures had a stabilising effect and, although they were to a certain extent protective, they had decidedly not a discriminatory character. If it would be of any help, I am quite prepared to submit a further detailed statement on the system that has been in force now for nearly fifteen years; for instance, I could do that when we discuss Articles 26 and 27 of the draft charter. At this stage of our discussions, however, I need only say that the import and export of agricultural products and of the high grade food products derived therefrom have been monopolised by the Government. I must emphasise that during these fifteen years imports and exports of

agricultural products remained on about the same level, while the domestic production was not increased. On the contrary, substantial reductions therein were effectuated. How far we will be able to mitigate this system must, owing to the circumstances I sketched before, depend to a very great extent on the ultimate results of the coming tariff negotiations. I have great doubts, however, as to whether the rigid provisions of the part of the charter now under discussion will enable us to find a proper solution for our present problems without serious social consequences which at all costs must be avoided after all the misery of the war. A limitation of the transitional period to July 31st 1949 seems impossible here, even with the possibility of extending this period in extraordinary and abnormal circumstances in respect of any product for further periods not to exceed six months each.

For the above mentioned reasons we also have certain objections to paragraph 2.e.(ii). I was going to read it but, as it has already been mentioned by several delegates, I do not think I need read it again at this time. We are of the opinion that the sentence stating that the surplus should be made available to certain groups of domestic consumers free of charge or at prices below the current market level should be deleted. We think that, for instance, a country should have the opportunity to create stocks of domestic products in order to meet requirements in times of shortage. We also doubt whether it would be wise only to speak of a temporary surplus, as in certain countries conditions may be such as to make it practically impossible to curtail production of certain products.

Furthermore, we would like to receive some clarification

regarding the expression "the like product" used in Article 19,2.e. If this means the exclusion of products used for the same purpose, I do not know whether we could agree to that.

Then I have another query with regard to Article 21, paragraph 2, where it is stipulated that if a member imposing quotas allots a share of the total quantity or value to any other country, it shall allot to the other member countries having an important interest in the trade shares based upon the proportions of the total quantities or value supplied by such member countries during a previous representative period. I take it that this stipulation is not applicable when a country has to restrict its imports owing to balance of payments difficulties, but I must confess that we have difficulty in understanding the very technical formulated escape clauses of Article 22, which we will discuss next time. I wonder whether it will be possible for us to use the previous representative period, as the war did so seriously disturb all normal commercial relations, so much so that we cannot speak in many cases of any continuity in these relations. Would it not be better to stipulate that in the case of a quantitative restriction a member should try not to disturb the relationship between the importing countries that might have developed if the imports had not been restricted?

Then there is the last important point I have to raise, and here I refer to another paper that was put in, the reference to which is E/PC/T/C.II/21. From this paper you will see that we are to a certain extent in agreement with the Belgian delegate when he drew attention to the special position of the Netherlands Indies. We feel that our attitude will have to depend to a certain extent or to a great extent on the outcome of the tariff negotiations.

because, as we have stated here, we may be placed permanently in an unfavourable position if these negotiations should only result in relatively small reductions for the relevant commodities. We would be bound not to increase our tariffs as it would be against the spirit of the charter, and we would have to accept an obligation not to maintain quantitative import restrictions except in the exceptional cases enumerated in section c. of the draft Charter.

We are therefore of the opinion that the provisions of the Charter are not sufficient to safeguard, after the transitional period, the vital interests of the countries put in the above-mentioned position. It would appear that, in order to be really acceptable, the draft Charter should contain additional stipulations so as to enable those low tariff countries either to maintain their combined system of low tariffs and quantitative restrictions or to give them freedom to increase certain tariffs to a level equal to the tariffs of those countries relying mainly on high tariffs and not on quantitative restrictions.

MR STEEN(Norway): Mr Chairman, the Norwegian delegation will support as much as possible the abolition of quantitative restrictions as outlined in the general conditions of the Charter. We have heard the explanation as given by the representative of the delegation of the United States. We are, however, a little in doubt still with regard to some of the exceptions as outlined in Article 19, 2.b. and c. With regard to b., we are not quite clear what "distress" means there - whether it is distress of an economic character or of some other character. With regard to c., we feel that the words "standards for the classification and grading" need further definition. We would accordingly ask the United States representative to give us, if possible, a further explanation or definition of these two points.

MR SHACKLE (U.K.): Mr Chairman, the general attitude of the United Kingdom delegation towards this problem of quantitative restrictions has already been indicated to some extent by the United Kingdom representative in the joint session of Committees I and II, on the question of industrial development, but I should like to re-state our position now and to amplify it to some extent. In general, and subject to certain exceptions, of which the most important is the use of quantitative restrictions to safeguard the balance of payments - that, of course, being an aspect which stands reserved for later discussion and which has a close connection with the problem of the transition period - apart, I say, from those exceptions, the United Kingdom delegation look on quantitative restrictions as a particularly injurious and undesirable form of trade barrier. We look upon it as injurious both to the countries which use that method and also to those countries whose exports are affected by it. The specially injurious character of quantitative restrictions is due to their rigidity, their restrictiveness, and their arbitrary and unpredictable character. Tariffs - even relatively high tariffs - may be likened to a wall which an energetic man can climb, or at least he can get over it if he has a long enough ladder. In this way tariffs, while they affect the competitive position, do not actually suppress competition. On the other hand, quantitative restrictions do not present a wall that can be climbed; they are an insurmountable barrier which can only be passed by going through a door; and at that door there stands a guardian who opens it and shuts it at his will.

In face of a barrier of that kind any amount of energy, of skill and competitive enterprise is unavailing. Those who are outside cannot get over the barrier. Those who are insider get protection which may be fully 100 per cent. effective. And then, again, there is the uncertainty as to when and how long and how much the guardian will open the door. That uncertainty is in itself a powerful discouragement. There is, one might almost say, nothing like uncertainty to hamper trade. We feel that quantitative restrictions, if they were widely applied, would really mean the end of our hopes of general expansion of international trade. If that expansion is not achieved, many of our problems will remain insoluble.

To take the case of the United Kingdom, it will be impossible for us without a general expansion of trade to achieve that increase of exports, an increase up to a level of some 175 per cent. of the pre-war volume, as we estimate, which is necessary for us if we are to balance our external accounts at a figure which will allow us a reasonable standard of life. Other countries which are finding difficulty in making their external earnings meet their external expenditure will no doubt be in similar case; and if we are unable to solve this problem of increasing our exports, the only alternative left to us will be still further and still longer to restrict our imports. If we have to do so, every country to which the United Kingdom is a market of importance cannot fail to feel the effects.

Therefore, while we do not regard this draft text before us as intangible and while we do not exclude the possibility of certain further well-devised and closely limited exceptions being introduced into it, the general approach of this draft to the problem of quantitative restrictions is one which meets with our strong support.

From that general statement I would like to turn to a certain number of particular points. First of all, there is Article 19, 2.c. That is concerned with the application of standards for the

classification and grading of commodities of international commerce. As regards that we feel that these standards should in general be so chosen as to be applicable to types of products which are imported as well as to home-produced types of products; in other words, the standards should not be so chosen that imports simply cannot comply with them; for obviously, if so, this method would simply be an additional means of protection. We notice that in Article 16 (6) of the draft Charter there is provision made which looks to attempts to reach internationally agreed standards, and we should hope that efforts will be made to ensure progressively that in so far as restrictions are maintained to safeguard these standards, the standards would become internationally agreed standards and in that way avoid the restrictive effect which might otherwise follow.

Then I come to Article 19.2.e, to which many delegates have already referred. As regards that paragraph we feel that it should apply not only to agricultural products but also to the products of fisheries. In the case of fisheries, the problem of sudden severe gluts is more serious even than it is with agriculture; and for that reason some form of regulation to deal with such sudden gluts is, if possible, even more urgent.

I have a second point in relation to Article 19.2.e. Other delegates — I think the Chilean delegate — have suggested that the scope of this paragraph should be extended so as to cover all types of goods and not merely agricultural ones. That is a suggestion which the United Kingdom delegation would not favour. We feel that there is a special case for having a provision of this kind for the benefit of agriculture and fisheries. That is because their products are specially liable to large variations of price and yield, and also because agriculture and fisheries are carried on in most countries by a large number of unorganised and often small producers. For this reason, some form of government sponsored control is often particularly

necessary for agriculture and for fisheries; and if you have such measures of control over the internal production and over the home producers, it is clear that you cannot allow imports to come in in an uncontrolled way, which would frustrate the object of your regulation scheme. Therefore, as I say, we feel that there is a special case as regards agriculture and as regards fisheries.

On the other hand, we feel that quantitative restriction is in general a dangerous weapon, one that is capable of abuse; and we feel that it will often be difficult to keep a proper check on the observance of a provision of this kind, and that it may be difficult to ensure that the measure of restriction which is applied to imports is not considerably more severe than the measure of control over home production. For that reason we do not think that the scope of this paragraph should be universally extended so as to cover, for example, manufactured products, industrial products, as well as the products of agriculture. When I say that, I do not exclude manufactured agricultural products.

I then come to the question of non-discrimination. That arises on Article 21. For reasons which I think will be apparent from what I have already said, we do not like the idea of relying on a previous representative period as the test of non-discrimination. We should prefer the concept of commercial considerations. That is the test which is suggested for non-discrimination in the State trading Articles, particularly Article 26. I do not want to pursue this question further now, because I think it is one which possibly we might more appropriately discuss when we come to deal with Article 26.

One last observation about Article 22: these are some detailed points. I would merely say that we feel that some re-drafting may be desirable; but they are points which are more closely allied to the balance of payments aspect, and for that

reason I would like to defer suggesting any changes till we come to discuss the balance of payments use of quantitative restrictions. Thank you, Mr Chairman.

THE CHAIRMAN: Thank you. Any other delegate? Would the delegate for the United States care to reply to a number of points where delegates have sought clarification?

Mr HARRY HAWKINS (USA): Mr Chairman, I will try to clarify some of the points about which questions have been raised. I am not sure that my notes are adequate to get them all; but if I miss any, whoever may be concerned might remind me of the question.

Yesterday the delegate of Lebanon raised a question regarding regional arrangements, indicating that he felt that the way should be left open for consideration of such arrangements in particular cases. As I understood him, he did not want to propose an exception now, but wanted the way left open for consideration of such cases as might be presented for consideration later. That would be possible under another provision of our draft of the Charter. I think it is Article 52 which provides that the Organisation may waive any of the obligations of Members, which would make it possible for such a question to be raised, considered and passed upon.

There were several questions arising in connection with several Articles regarding the meaning of "like products". I believe the Chilean delegate raised the question, and one of the delegates -- I believe Netherlands -- raised the question today in connection with Article 19.2.e. As most of you know, the term "like products" or "like product" has been used for many years in the most-favoured-nation clause of treaties. You are also probably aware of the fact that there is no precise definition. As I recall, the Economic Committee of the League of Nations once made a study and put out a Report on the subject; and my memory is that a "like product" is one that is practically identical with another. That I think is as far as my memory will

serve me on that particular Report. I think it is one of the subjects to which an International Trade Organisation would want to give continuing study in the light of precedents, in the light of cases that have come up and by the use of analogy.

However, I think the specific point raised by the delegate of the Netherlands can be definitely answered. In Article 19.2.e the words "like product" are used, but those words definitely do not mean what they mean in other contexts - merely a competing product. In other words, to take an extreme case, if a country restricted its output of apples, it could not restrict importations of bananas because they compete with them - to the extent that they do.

There were several questions relating to Article 19.2.a and in particular to the question whether, if a country were maintaining war-time price controls, it would be permitted to restrict exports which might otherwise go to countries which did not have controls and which had higher prices which would attract the goods. I do not think the paragraph as drafted would cover the case. I think the sense of our draft or the intention of the draftsman would cover it. It is a short supply problem and I think, as far as I now see the problem, it could and should be taken care of.

A further question raised in the same connection was whether an international agreement among countries having a surplus of a given product would come within the exception if it involved the regulation of trade. I think it would, under the exception as drafted; that is to say, a (ii) "the orderly liquidation of temporary surpluses".

There were several questions - two at least - regarding the meaning of sub-paragraph c under 2.a. of Article 19, which reads:- "Import and export prohibitions or restrictions necessary to the application of standards for the classification and grading of commodities in international commerce". One of the comments asked for further explanation. The explanation is, that a country seeking to maintain the reputation of a product in foreign markets might want to limit or prohibit the exportation of sub-standard products which would impair the general reputation of the product of the country. That seems to us legitimate. In the case of import restriction, such a restriction might be put on to protect consumers from having passed on them sub-standard products.

Now a comment was made on that exception to the effect that it is rather widely open to abuse. I agree. There is danger of it, but I agree with the suggestion of the United Kingdom delegate, that further refinement of the definition might prevent abuse. In a document of this kind, however, it does seem desirable to recognize the point that legitimate restrictions of that type should be permitted.

The delegate of Czechoslovakia offered a redraft of Article 21. I think that it would be necessary to compare his redraft rather closely with the one we have put forward before any intelligent comment could be made on it. I think that probably the comparison could best be made by the Drafting Committee, which would see that the differences are. As he read the document it did not strike me that there was any

revolutionary change, drastic change, but I cannot be sure of that.

The delegate of Belgium I believe suggested an exception under which restrictions might be imposed to maintain domestic prices of agricultural products at profitable levels. I am not using his exact words and that may possibly misrepresent what he said, but I took that to be the sense of it. I think that an exception of that sort would give a measure of protection of agricultural products to practically any extent that any country desired, unless I have misunderstood the nature of the exception. It seems to me it leaves the door wide open for possible drastic restrictions on all agricultural products.

The delegate of the Netherlands questioned the length of the transition period in Article 19, 2.a. and said that it seemed entirely too short, and I gathered that the latitude given even within that period was regarded as inadequate. I can only say that I do not feel unresponsive to the view he has put forward. I can well understand the difficulties in which some countries find themselves during that period, and, so far as the American delegation is concerned, would gladly consider any suggestions of a concrete sort that might be put forward. I would say, however - and I do not think Mr. Speekenbrink overlooked it - that there is a provision for extension of that period, but I take it he does not think that meets the case.

The delegate of Norway questioned sub-paragraphs b. and c. of paragraph 2 of Article 19, one of which relates to standards, on which I have already commented, but I might say a word on his inquiry regarding b., which reads: "Export prohibitions or restrictions temporarily imposed to relieve conditions of distress which are local to the exporting country and which are caused by severe shortages of foodstuffs or other essential products". He inquires whether the distress spoken of refers to economic distress or to a physical shortage of the product.

It refers to a shortage. It is intended to cover the case in which a given food product might be in very short supply owing to crop failure, so that if any considerable quantity were exported conditions possibly even approaching famine might result. The exception is intended to cover a situation of that kind.

I should just like to say that I agree with the United Kingdom's position on the question whether sub-para. c should cover more than agricultural products. I do not think it should apply to manufactured goods, and I agree with the reasons he gave for that view.

That, Mr. Chairman, covers the questions so far as my notes reveal them. I may have missed some.

THE CHAIRMAN: Gentleman, I feel we are faced with one of our more difficult problems in the consideration of this question. There appear to me, from the views expressed, to be some fairly fundamental differences in the approach of the different countries to this question. It seems to be bound up in the main with the attitude which the governments of those countries feel it proper to adopt towards the way in which the demand for imported goods shall be determined. It does seem to be generally accepted that in the period immediately following the war the needs of countries to re-establish and re-equip their economies do justify the imposition by governments of firm priorities, at least in the selection of goods for import. That is recognized even by those who take a fairly strong attitude towards the use of quantitative restrictions in general, and is embodied in the provision of a transition period during which the freedom of countries to use quantitative restrictions for the purpose of selecting their imports with a view to national policy rather than with a view to the satisfaction of individual consumers, would be recognized.

However, there seems to be some feeling amongst different delegations that that recognition is inadequate. To some extent, the views of those delegations can be met, as the Delegate for the United States has pointed out, by a possible extension of the transition period during which countries would be free to select their imports upon nationally-determined standards, to concentrate on capital equipment, essential materials and so on, and to eliminate goods which are traditionally regarded as luxuries and non-essentials. Several delegations, particularly those from New Zealand, China and India, apparently take the view that the needs of a country relatively under-developed and seeking to concentrate development or to speed it up give the right to select imports or to establish certain priorities over imports, so as to give the first claim on available resources, that the needs for capital equipment, essential materials and so on over the traditionally less essential types of goods is a longer continuing requirement; indeed, that it may be difficult to set any period to it in precise terms, either of a number of years or in more general ways, although the Chinese Delegate suggests an ingenious method of selecting countries which might be free to use quantitative restrictions in this way. It is difficult, on the face of it, to see the principles upon which some reconciliation of these conflicting points of view can be worked out. Apart from that rather fundamental issue where the countries concerned are primarily those which we have come to describe as the relatively under-developed, there were a number of suggested modifications of the general prescription of quantitative requirements by additions to and amplifications of the suggested exceptions. They refer particularly to such matters as exceptions necessary to maintain the effective continuance of war-time price controls into the post-war period, the effective conduct of state monopolies of certain classes of goods where they have been traditionally practised, the requirements which may be necessary in relation to schemes for the maintenance of price stability for primary products, and finally for the use of quantitative restrictions for frankly protectionist purposes, as

an alternative to subsidies or quotas, although in this case it did seem to be suggested that its use should be consciously limited to cases where it could be shown that the use of this form of protection could be shown to be less restrictive in character than alternative methods of obtaining the same degree of protection. I feel we must at this stage refer this matter now to a drafting committee, but it would appear from the discussions so far that that drafting committee will be faced with a fairly difficult task in bringing before us a single agreed draft covering this matter. It is obviously, I think, desirable, so far as we are able, to reconcile through some compromise solution conflicting points of view where they are based upon the reasonable interpretation of the legitimate needs of the economies of the countries advancing them. I should suggest, therefore, both to those groups of countries who have expressed the desire to maintain the general right of the Government to select or to give priorities to certain classes of imports over a prolonged period and to those who, like the United States and the United Kingdom, feel that quantitative restrictions are of all forms of restrictions of imports the ones open to the most serious objection, that they do seek in the days ahead to consider how far their positions, which at present appear to be too different for perhaps reconciliation -- to consider how far it would be possible for them to modify their requirements to admit of a compromise solution. Unless any Delegate feels that he can add anything to the discussion of this matter at the moment ----

MR SHACKLE (United Kingdom): It seems to me that there might possibly be a case for postponing the reference of this matter to a drafting sub-committee until we have discussed the balance of payments aspect. I have a feeling that the balance of payments use is intimately linked up in many ways with the general purposes for which quantitative restrictions may be used, and that it is rather hard to consider them in isolation. I think it is quite possible that the attitude of some delegations towards the whole problem may be affected to quite a substantial extent by the

nature of the conclusions we may come to about the use of restrictions for balance of payments for the purpose. I would, therefore, like to suggest for consideration that we might possibly postpone handling this problem over to the drafting sub-committee till we have also considered the use of quantitative restrictions to safeguard the balance of payments.

M. BARADUC (France) (interpretation): Mr Chairman, I should like to say that I associate myself entirely with all the thoughts just expressed by the British Delegate. Many troubles which have already been expressed by many delegations concerning Article 19 are shared by the French Government. The French Government believes that in reality several of those difficulties may be disposed of by the manner in which we may be allowed to regulate our own quantitative requirements in order to re-establish balance of payments. I know that the greatest worry of all of the Delegates is to find a solution -- perhaps in a compromise, but a solution -- which might satisfy all the delegations as far as possible. I believe, as the British Delegate says, that it might be wise to wait until we have been able to discuss all questions concerning quantitative restrictions and balance of payments and restrictions necessary to safeguard this balance, before we try to redraft once more Article 19.

THE CHAIRMAN: Gentlemen, I can see a number of advantages in the proposal put forward by the United Kingdom delegation. At the same time, in my official capacity, I must confess to some concern at the rate of progress (or the absence of progress) in the work of this Committee. All the other Committees have, I think, reached the stage at which practically the whole of their subject-matter is now in the hands of their various sub-committees and drafting committees. We still have major matters of policy to consider. We have the balance of payments question, which is obviously critical, and we have the major question of State trading and so on to discuss in full Committee before they reach the stage where they can be considered by the drafting committee. I am reluctant, therefore, to hold this matter up any longer than is absolutely necessary. However, perhaps it may serve if

it is possible for us to proceed with the other items and get those actively dealt with by drafting committees, for us to leave over this question of quantitative restrictions, including the balance of payments, till a later date. I would ask your co-operation, however, in speeding up the consideration of these matters when we do come back to them. With your concurrence, then, we will leave this matter at the present stage, with the intention of referring it to a drafting committee after we have discussed the balance of payments issues. I would be glad to hear from those countries who are concerned with this matter at what stage they would feel it possible for us to commence discussion here of the balance of payments issue. In the meantime, I suggest we adjourn till 25 minutes past five, and that we then commence discussion of Section F, which deals with State trading.

THE CHAIRMAN: Gentlemen, we proceed now to a discussion of the section of the agenda dealing with state trading, which refers also to articles 26 to 28 in the American draft charter.

MR BRENNAN (South Africa): On a point of order, with a view to being helpful, many of us are inclined, when we start getting warmed up to our subject, to speak particularly fast, without realising that we are talking as fast as we are talking. Could we not get over that difficulty by having it brought to our attention, without having to stop the proceedings for a moment, by means of a system which was, I understand, actually inaugurated when the Nuremberg trials were on (not that I suggest that the same situation obtains here). I understand it is practicable from the angle of the switches that we might have a light fixed somewhere round here, and when the gentleman in charge of the switches is conscious that his colleagues up above are not able to catch up with a speaker, he can throw over a switch that will cause the light to go on. If we adopted that system, it would also have this advantage, that when you, Mr Chairman, interrupt me, I am inclined to speed up, thinking I have only a minute to go, but with this other system I shall know that I have been going too fast and will accordingly go a bit slower.

THE CHAIRMAN: I think that is a very valuable suggestion, and I will certainly communicate it to the Secretariat and ask whether they can do anything about it - that is provided the other delegates agree that it would be helpful. Very well; we will pass that on to the Secretariat and ask that they take the necessary action.

MR HAWKINS (USA): Mr Chairman, I will try to outline briefly and simply the content of this section on state trading. It is not very complicated to state; it may be rather more

difficult to apply some of it. Article 26 lays down the rule of non-discrimination: in other words, the provisions of Article 26 as applied to state trading are the counterpart of the most favoured nation clause as applied to, we may say, customs duties. ~~The obligation or the definition of most~~ favoured nation treatment is applied as it would be applied under this provision by a country engaged in state trading, as buying in accordance with commercial considerations. I am abbreviating the language greatly, but that is the sense of it: that purchases should be made, in other words, where they can be made to the best advantage. Now, admittedly, the rule is a little vague, a little indefinite. There is nothing here to explain how it would be applied in varying circumstances. But here again it seems desirable in this field to lay down the principle which seems sound and seek to apply it in the concrete circumstances that may arise from time to time. In that way, over a period of time there will develop a body of case law, so to speak, which will serve to define and amplify the provision.

Article 27 relates to state monopolies for individual products, such, for example, as were mentioned by the delegate of Czechoslovakia in his statement this afternoon: that is, the tobacco monopolies, salt monopolies, and any other monopoly which a state may exercise over the trade in a particular product. The provisions in Article 27 represent, as regards state trading operations of this sort the counterpart of duty reductions where the trade is handled by private enterprise. The margin between the price paid to foreign suppliers and the price at which goods are sold to domestic consumers is a measure of the degree of protection accorded to domestic producers: in other words, that margin corresponds to an import duty. For that reason, the margin between the purchase and sales price would be subject to negotiation

in the same way as tariffs under Article 18. The same principle applies to the operations of monopolies which are exporting: in other words, the margin which is of interest is the margin between the buying price at home and the re-sale price abroad. The analogy there is the analogy to an export duty.

Article 28 refers to the case of a complete state monopoly of all import trade. The general effect of reductions in duties and other trade barriers by countries whose trade is handled largely or mainly by private enterprise is to bring about an increase in imports relative to domestic production: in other words, the effect is to allow imports to supply a larger share of the home market. The analogy here in the case of a country with a complete monopoly of its import trade is to undertake that total imports shall not be less than some figure to be agreed upon, subject, of course, to periodic adjustment.

Those, in simple outline, are the provisions relating to state trading. The effort has been made in each case to find an analogy to other types of trades, the more traditional types of provisions found in trade agreements and commercial treaties. I think that is all.

Dr. P.S. LOKANATHAN (India): Mr Chairman, I should like some comment on the last sentence of Article 27.

Mr HARRY HAWKINS (USA): The purpose of the provision is to prevent the agreement regarding the margin between the purchase and the retail price being defeated by withholding supplies from the market, thereby running up the internal price and affording a degree of protection beyond what is intended.

SENOR DON HUMBERTO VIDELA (Chile): Mr Chairman, the Chilean delegation wishes to state that it is in agreement in principle with the contents of Article 26, provided it is understood that an enterprise which may be considered as coming within the meaning of paragraph 2 of Article 26, in other words, be considered as a State enterprise, shall nevertheless be entitled purely for commercial considerations, such as meeting competition or maintaining a position in certain markets, to fix different prices in different markets without such action being regarded as discriminatory. It is a well known fact that there are enterprises which have a certain measure of government control or enjoy certain exclusive or special privileges, but which are run on purely commercial lines. The Chilean delegation feels that this type of enterprise is not provided for in paragraph 2 of Article 26, and would suggest that the Drafting Committee take this point into consideration when amending the wording of that Article.

Mr ERLING STEEN (Norway): Mr Chairman, the Norwegian delegation adheres in general to the ideas expressed in Article 26 of the suggested Charter, but would make the following preliminary observations on the whole of Section F: The rules suggested in Article 27 with regard to the price policy for products imported under State monopolies of individual products seem hardly to be applicable under present conditions, where it may be necessary to buy from different countries at different prices and where for this reason an equalisation of the sale price on the home market

becomes necessary. Norway has at present and has had during many years two big State monopolies, concerning respectively grain and wine. The grain monopoly conducts its business on businesslike terms, but as the monopoly is also purchaser of home-produced grain, it must remain free to fix sale prices with due consideration to the position of Norway's own production and in such a way as to maintain to the greatest possible extent stable bread prices.

The other existing State monopoly - A/S Vinmonopolet, the wine monopoly - has established already long before the world war regular trading relations with the wine exporting countries of Southern and South Western Europe, and purchase of wine and spirits from these countries has been connected with questions concerning Norway's export to the same countries. This long-established practice will not be easy to modify, and this could only be done if the other stipulations of the draft Charter are generally agreed to and if the said wine exporting countries become members of the International Trade Organisation. With regard to the policy of Norway in respect of restrictions on the sale of wine and spirits and the fixation of sale prices, it should also be borne in mind that this policy is from many years back connected with the general s. policy of the country. Norway must retain a free hand to pursue this policy in accordance with the will of the nation and cannot enter into commitments whereby that policy might be frustrated. The wine monopoly must be free to regulate the sale and fix such sale prices as it may find justified in the light of all relevant internal conditions.

Mr SHACKLE (UK): Mr Chairman, the United Kingdom delegation are in general agreement with the scheme of these Articles. When I say that, I am referring more particularly to Articles 26 and 27, Article 28 being concerned with a rather different state of affairs, that of the complete State trading monopoly. I have a few points that I would like to make on Articles 26 and 27.

First of all, as regards Article 26, that is drafted so as to apply not only to State enterprises which deal in goods but also to enterprises which deal in services. I think that raises a question which we ought perhaps to consider in relation to the whole of this draft, namely, whether it would not be advisable to confine it throughout to dealings in goods. It seems to me that if we once become involved in any aspects of services, that may lead us rather far. We have great interests, of course, in such matters as shipping, and we therefore want to see provisions for fair treatment of shipping and so on brought in somewhere; but we quite recognise that our task would become quite unmanageable if we started to introduce services generally into this convention; and for that reason we are inclined to think that it would be wise here and elsewhere to remove mention of services and to confine ourselves to treatment of goods. That is my first point.

I have a quite minor point on paragraph 2 of Article 26: "for the purpose of this Article, a State enterprise shall be understood to be any enterprise over whose operations a Member government exercises, directly or indirectly, a substantial measure of control". Well, I think that there it would be better perhaps to say "effective control" rather than "a substantial measure". "Substantial" is so ambiguous.

I then come to Article 27, the definition of margins, which in the case of State trading monopolies would correspond to tariffs in the case of private trade, and which, like tariffs, would be negotiable. In the first place, it has, I think, been recognised that in the case of operations of private trade we shall have negotiations both about most-favoured-nation rates of tariff and also about preferential rates within the existing preferential systems. Now, correspondingly it seems to us that when you come to negotiate about State trading margins, you should negotiate about what you might call the most-favoured, nation margins and also about preferential margins.

The second point relates to the way in which the margin is defined. In this respect the wording in this Article of the draft Charter differs somewhat from the wording of the proposals which were issued in December last and about which, as you know, the United Kingdom Government has said that they are in substantial agreement. The difference in this case is that the protective margin was defined in the proposals as the difference between the landed price of the product and the price at which it is sold. In this Article we have it rather differently put. Here it is expressed as the difference between the price at which such product is offered for sale to the monopoly by foreign suppliers and the selling price in the home market. Now it seems to us that the test originally laid down in the proposals, that is to say, the landed price, is a better test than the price at which the product is offered for sale, because what is an offer for sale? Who is to know whether it was a firm offer, whether it was an offer for any substantial and important quantity, or merely a small capricious offer at what might be an accidentally low dumping price? It seems to us that is not a satisfactory type of test, but what one should compare is the landed price with the monopoly's first hand selling price in the home market; in other words, in that particular respect we should like to go back on the drafting of this draft Charter to the drafting on the proposals of last December.

My next point is about the way in which these provisions as to the margin would be observed in practice. As I think the Norwegian delegate has already said, it is clear that there will be different prices for different parcels of goods purchased, according as the purchases are made at different times, differences according to qualities, those differences of qualities being often rather intangible and difficult to define, but nevertheless differences which the consumer pays attention to and will want to see reflected in differences of price. There may also be

differences of price according to the nature of the purchase transaction: if it is a long term contract, you may have one price; if it is a spot transaction, you may have a different price. So that it is evidently not possible as a matter of administration for the import monopoly simply to take the price at which it bought a particular parcel, to add to that the agreed margin and to sell that particular parcel at the resulting price. That would lead to complete chaos and confusion. It therefore seems to us that you have got to have some sort of provision for the averaging of the price over time. Our idea, roughly speaking, of the way in which that might be worked is that for the imports from each source you would average the prices of all the product which you bought, I assume with rough uniformity for this purpose over a period. You would then compare the average landed price over that period with the average of the first hand selling price in the home market. Your obligation would be to show at least in an approximate general way that that difference corresponded to the negotiated margin.

I have mentioned averaging over a period. There is a question as to the length of that period. For pure administrative purposes it might be enough if the period were not very long. It might be perhaps one year; but there is a reason and I think it is a very good reason, why the period should be longer than a year. It is one of the great objects of policy at the present time to get some sort of stability - stabilisation of prices to consumers, and so on. I think it is a desirable object of policy not merely from the point of view of the consumers but also from the point of view of the producers who supply them. Stabilisation of consumer price makes for steady and dependable demand, and it is therefore, I think, a thing to be encouraged.

It is clear that you cannot have stabilisation if your averaging is over as short a period as one year. On the other hand, of course, we recognise that the period has not got to be extremely long, otherwise there can be no effective check on the observance of these margins, and it therefore seems to us that a reasonable period over which to take your averaging would be three years. That is a proposal I would like to make. I would like to suggest to you that that is a reasonable and legitimate way of implementing this proposal about the margin.

I then come to a point which arises on the latter part of Article 27, where it talks about satisfying the full domestic demand for the imported product. I think it is fair to say that while that is right as the general and normal rule, you will have certain temporary situations in which it is not possible to comply with that requirement. There is an obvious case when you have rationing. If you are rationing your own people you cannot be expected to satisfy their full demand, and that applies not merely to the case of rationing, but also to cases where you have a restriction on imports, for, shall we say, balance of payments reasons. When you are having to restrict your imports for balance of payments reasons, obviously you cannot satisfy the full domestic demand; and when I say "restriction of imports for balance of payments reasons", that applies also to limitation of purchases by a state trading monopoly, which for this purpose is the counterpart of import restrictions; and that exception would apply, not merely to restriction of imports for balance of payments reasons, but in our view should apply to all the cases in which exceptions from the general rule against import restrictions are embodied in Article 19, 2, which we were discussing earlier this afternoon.

I think that those are all the points I should wish to make now.

MR. LOKANATHAN (India): There is only one point I want to raise in this connection, Mr. Chairman. I should like to inquire of the United States delegate whether the sort of bulk purchasing on a long-term basis now made, for instance, by the United Kingdom from various countries, would be banned under this Article? Also, whether in the term "commercial considerations" there are included points relating to certain facilities for the importation of goods or certain exceptional arrangements with regard to the financing of such trade which one country may be able to afford to another; or would all those things be excluded from the concept of commercial considerations?

MR. DEUTSCH (Canada): Mr. Chairman, the Canadian delegation agrees in principle with the Articles under Section F. With reference to the comments of the representative of the United Kingdom, we wish to say, Mr. Chairman, that from our experience, such as we have had, in operating state monopolies, we would fully agree with what he has said about the necessity for averaging in the determination of the margins. It is a practical impossibility to operate a monopoly if any other procedure is adopted, because you cannot make your adjustments from day to day and from month to month.

The representative of the United Kingdom referred to the question in regard to the meeting of the full domestic demand. I would like to refer to the reverse of that, in the case of meeting the full export demand. We have already referred to the problems that arise when price controls are being maintained in the domestic market. It may, under those circumstances, not be possible to meet the full foreign demand within the prescribed margin. That is, when you are maintaining a price control at home while prices in foreign markets are very much higher. That is the same problem in reverse to the one mentioned by the United Kingdom.

On Article 28, we have always had some difficulty in understanding just how that Article would be applied. I am not clear whether the state which maintains a complete monopoly of its import trade would be required to negotiate an aggregate amount of purchases with all the member countries of I.T.O. simultaneously or individually, and, if the negotiation is to be individually, how you achieve the aggregate at which you are aiming; and, furthermore, if such undertaking is entered into, there is an implication, of course, that the supplying countries will make those goods available. That may be very difficult to carry out. On the whole we feel that it is just as well to drop Article 28, because we do not see how in practice it can be worked out.

MR. FRESQUET (Cuba): Mr. Chairman, we only wish to ask the delegate of the United States to clarify the same points as were put forward by the delegate of India. Putting it in another way, we would ask if the general exceptions set out in Article 32 e. will cover the situation of countries where, due to necessities created by the war, they have established a state monopoly and make global sales of some of their crops to other countries, and these global sales are still continuing, even though the war is over, because of the condition of scarcity created by the war, and which still continues to exist. My question is, will that situation be covered by letter e of Article 32? In addition, I should like to have a clarification of the points put forward by the delegate of India.

MR. BRENNAN (South Africa): Mr. Chairman, I would like to get the representative of the United States, through you, to give me a little elucidation as to the position that would apply in regard to those three clauses relative to Boards which we have set up in relation to agricultural produce in South Africa. They are Control Boards covering agricultural produce, and which are set

E/PC/T/C.II/PV/5

up for periods of years. They fall directly and finally under the responsibility of the particular Cabinet Minister, and their purpose is in part the general development of our primary agriculture, to enable farmers in certain areas, who have had difficulties on account of excessive competition from outside sources, to get going. Those Boards operate in such a manner that they bring about a stabilisation of prices, while at the same time they are the organizations, again under the Cabinet Minister, which authorize the importation of the necessary quantity of that particular agricultural commodity that is normally required for general consumption. We do not like to think that we are put in the particular category of being state traders, but at the same time we want to feel that our position in that aspect is recognized.

In similar manner it would be helpful to us to know how the delegate of the United States regards our railroad organization, which by our Constitution is part of the State, although that Constitution sets out also that it must be operated on commercial lines. Now that organization, our State railroads, carries various types of freight at different prices, but relative to any incoming freight to be conveyed in the country its rates apply comparably to the produce of any country, no matter where it comes from.

That is the nature of my inquiry, sir.

THE CHAIRMAN: Are there any further comments?

MR AUGENTHALER (Czecho-Slovakia): Mr Chairman, I am not prepared for a discussion about this matter today, so I would like to reserve our opinion for the next meeting. I would like at this moment to stress one single point, and that is with reference to Article 27. The American Delegate said that Article 27 applies mainly to those cases mentioned, and especially it means those state monopolies which have existed in Czecho-Slovakia and probably in many European countries for a very long time. There, the state monopoly actually supplies the taxation and we are negotiating customs reductions, preferences, but we are not negotiating on taxation, so I cannot imagine how in similar cases we could negotiate here the reductions in price, because the sales price is actually the taxation itself.

MR SPEEKENBRINK (Netherlands): Mr Chairman, I am in a little difficulty here because I do not at the moment see the complications of Article 27 and the whole paragraph regarding state trading with regard to the monopoly system I mentioned in my speech before. The idea of the system was more of a balanced price level in the country in the interests of agriculture, and it was therefore flexible according to the fluctuations in prices of the various agricultural products. Now the monopoly system is the dominating feature in our agricultural policy, particularly with respect to prices, so I wonder whether we can apply these very rigid formulae in this section in Holland in a short time. With your permission, I would like to study this question further and, if need be, submit a paper or discuss it in a small circle with people who can enlighten me on the point.

MR McCARTHY (Australia): Mr Chairman, my colleagues have had some difficulty in trying to decide whether this particular Article or particular section meets all the circumstances that we think are likely to arise in state trading transactions. It is apparent that the drafters of the particular draft here have had in mind that there will be state trading in existence when the Charter becomes operative. There will be state organisations engaged in trading from day to day, buying in external markets and

distributing on the local markets. They will be pooling production surpluses and selling or directing their sales overseas either to Governments or private traders, and it would also seem that there will be long-term contracts between state monopolies or state organisations. We are inclined to take the view that an undertaking might be given by the countries subscribing to the Charter that, where they are engaging in state trading, they will do their utmost to subscribe to the principles of the Charter. The problem then is how can they do this in many instances? The draft certainly makes a valiant attempt to set down principles, but we feel that we shall probably be falling back, as Mr Hawkins suggested, on state law. In a few particular items, we would agree with the United Kingdom Delegate that difficulties are likely to surround the inclusion of services. They would have to be defined, in the first place, and to bring them in and make the comparison suggested would, we think, meet difficulty. We are also interested in long-term contracts that might be entered into either for possible surpluses of a supplying country or for substantial quantities, these to be supplied over a period of years. We would probably find that they are in most respects, perhaps in all, not violating any of the principles laid down, but we suggest there should be some provision for interested parties or for interested countries to be in a position to examine the implications of those contracts. The implications might be many and examination might show that they are in no way unfair to competitors or to the interests of the countries not party to those contracts. Again, it is a matter of what is the best that can be done, and we think that something on the lines I have mentioned might help. Again, there might be some provision somewhere that, where transactions between state traders are involved, or if state traders are involved, the organisation might be asked for some opinion. We find ourselves very much in the position of the Canadian Delegate when we look at Article 28. Again, it is apparent that it is rather the best that could be thought of to meet those particular transactions, and one hesitates to criticise or question such an Article when one is at a loss to suggest what might be put in its place. Frankly, we do see difficulty in that being

carried out. I am not prepared to say at the moment that it should be dropped, but it might be that the drafting committee should give consideration to the question whether it would not be better to do that than to include something, the carrying out of which might be found to be impracticable. The matter of preferences in this Article is of interest to us in Section 27, and there are one or two points in it that have just occurred to me which I should like to look into further and, if you thought fit, submit a note to the drafting committee.

THE CHAIRMAN: Are there any further comments?

MR JOHNSEN (New Zealand): I want to ask one question, Mr Chairman, and that is in respect of Article 27. It is more a question of drafting. It says there: "If any Member . . . establishes, maintains or authorizes, formally or in effect, a complete or substantially complete monopoly of the importation or exportation of any product, such Member shall enter into negotiations with other Members, in the manner provided for in respect of tariffs under Article 18." Now, if we refer to Article 18, we find the provision there is that "Each Member . . . shall, upon the request of any other Member or Members, enter into reciprocal and mutually advantageous negotiations with such other Member or Members." I take it the same construction is to be applied in each case. In other words, that it would be on request that the negotiations would be entered into.

MR TUNG (China): In the course of the last war, China set up certain export monopolies. Terms for price fixing were arranged. Several of these agreements are still in force. We would like to have the opinion of the United States as to whether, in case we are maintaining those monopolies, the provisions of Article 27 would apply to the terms of price fixing.

THE CHAIRMAN: I suggest that, as the hour is getting late, we might defer further discussion and the reply by the United States Delegate until we resume. With regard to the time of our next meeting, the Secretariat have advised me that it would be possible for this Committee to hold a meeting tomorrow afternoon, in addition to the proposed meeting on Friday afternoon. This would, of course, facilitate the progress of the work considerably. If that is agreeable to the rest of the Committee, I suggest

we meet again tomorrow at 3 o'clock. While we are checking that up with the Secretariat, may I say it has been suggested that the Committee on Procedures and Tariffs and Preferences might meet at 8 p.m. on Friday? You will notice this is the same time as the scheduled meeting of the joint body on Industrial Development. Would those members who are concerned with the drafting committee on Procedures, Tariffs and Preferences please indicate whether the fact that the meeting is at the same time as that of the Joint Body would embarrass them or whether we could arrange a meeting at that time?

MR SPEERENBRINK (Netherlands): As Chairman of the Sub-Committee, I would gladly support you that we have a meeting on Friday evening, because we still have so many matters to discuss, and I am afraid we shall be very much in arrears if we do not meet more often.

THE CHAIRMAN: May I take it, then, that we are free to arrange a meeting on Friday evening of the Drafting Committee dealing with Procedures and Tariffs?

MR LOKANATHAN (India): The Committee on Industrial Development is meeting at 3 p.m. tomorrow, according to this programme.

THE CHAIRMAN: In order to clarify the question of the programme, I have asked Mr Wyndham-White to come in. He advised me earlier that tomorrow afternoon would be available for a meeting of this Committee. We will wait until he arrives and he can confirm that.

The arrangement for tomorrow is that this Committee will meet at 3 p.m. The proposed meeting of the Joint Body, which was scheduled for 3 o'clock, has been postponed.

We stand adjourned till 3 p.m. tomorrow.

The meeting adjourned at 6.26 p.m.