

E/PC/T/C.II & IV/PP/PV/2

UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL

PREPARATORY COMMITTEE

of the

INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report

of the

SECOND MEETING

of the

JOINT DRAFTING SUB-COMMITTEE
OF COMMITTEE II AND COMMITTEE IV
ON SUBSIDIES ON PRIMARY PRODUCTS

held at

Church House, Westminster, S.W.1.

on

Friday, 15th November, 1946

at

3 p.m.

Chairman: Mr. E. McCARTHY (Australia).

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

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THE CHAIRMAN: After our meeting on Wednesday, after a fairly full examination, we endeavoured to define the points of view and the Rapporteur was asked to produce something for us this afternoon. I think the best thing I can do is to ask the Rapporteur to tell us what he has done.

THE RAPPORTEUR: Mr. Chairman, with the help of some members of the committee and, especially, yourself, I got out this paper which we have in front of us entitled "Redraft of the Rapporteur's Report of the Joint Drafting Sub-Committee on Subsidies of Committees II & IV". The first two sheets give the reasoning behind such changes as were made or not made, in an endeavour to cover the main points brought up in the committee. Then I have a redraft text, which is on the last two sheets. For convenience of reference in that redraft text the new material is underlined and anything that has been struck out is marked through with hyphens.

THE CHAIRMAN: Looking at the redraft text, on page 4 of the paper, the first part remains the same as when we looked at it before, with the exception that after "subsidization" the words "and of gradually decreasing it" have been included. The note says that that was suggested by Brazil in a paper that was put before the sub-committee. Would the Brazilian Delegate like to say whether that meets his point, or would he care to comment on it in any way.

MR. GUILMARAES (Brazil): I am favourably disposed towards production subsidies but not export subsidies, because in some forms of production you must have development with those advantages.

THE CHAIRMAN: Your idea is that the subsidy should be used during the period of development?

MR. GUILMARAES (Brazil): It is intended to gradually lower the subsidies.

THE CHAIRMAN: As the development takes place.

MR. GUILMARAES (Brazil): Yes.

THE CHAIRMAN: The insertion of those words would meet your point of view, would it?

MR. GUILMARAES (Brazil): Yes.

THE CHAIRMAN: The Brazilian Delegates is satisfied that the inclusion of those words would meet his point. Would other members care to comment on the whole paragraph, including the addition suggested by Brazil, or do we consider that we might accept paragraph 1 as it stands?

SIR GERARD CLAUSON (United Kingdom): I think we must say a word about gradually decreasing it at this moment. The point is that it is not clear whether that means that the gross amount of the subsidy is to be decreased gradually or the unit value of the subsidy. I think the United Kingdom at any rate would be bound to reserve their position on the unit value point. The United Kingdom policy, as is well known, is to assist the producers of certain articles, but not to enrich them. The intention is merely to give them that which is required to ensure that they produce those particular articles - whether it be wheath or sugar or anything else. If we accepted these words, with the implication that the unit value of the subsidy might be reduced, then we should either be being quite dishonest because we did not intend to do it, or we should be admitting that the unit value of the subsidy was at present too high - and I do not think we should be able to do that either.

On the other hand, we are very conscious of the fact that this paragraph only comes into effect when it has been determined that serious injury to the trade of any member is being caused or threatened by the particular acts of the United Kingdom Government. If that is being determined - although I am speaking without any instructions on this subject -- I think my Government would feel that they could not just flatly refuse to do anything about it. In fact they are already committed to do something about it by the wording without the underlined words; they are committed to discussing the possibility of limiting the subsidization. I think that is quite wide enough to cover both - the provision that the quantity to be subsidized should not be increased and also that it could be contemplated that it might be decreased. Though I am no

agriculturalist myself, that seems to me to admit of whether you can grow something else instead of subsidizing the article. Therefore, I would not say the words should limit the extent of the subsidization or the area covered by the subsidization, but I think the words "limiting the subsidization" are better than anything longer, because they are less restrictive. But I do not think the United Kingdom Government could accept the other words, which do imply that the subsidies at present are unduly high and contain an element of water which can be squeezed out - because the Government flatly deny that, not only to foreign countries who are competing in production of that article but also to the inhabitants of the United Kingdom who are consuming it.

THE CHAIRMAN: I think the Brazilian Delegate wanted to make two points really. He wanted to amplify "limiting" by referring to a decrease, and he also made the point that any decrease should be a gradual one. The point is, you should not just cut it off but make it gradually.

MR. GUILMARAES (Brazil): Yes, gradually, taking into account chiefly the new products.

THE CHAIRMAN: It is a general term.

MR. GUILMARAES (Brazil): Yes, as a general policy.

THE RAPPORTEUR: When we put "limiting" we read into it the possibility of its being limited in any sense of the word that might be appropriate in the particular case, which would not preclude limiting the unit value but would not necessarily suggest it. I think perhaps we could all accept "limiting" as a general word; that might mean limiting at a higher or a lower rate in a different form - the actual form the subsidy happened to take at the time discussion was joined. I wonder if it might meet Brazil's point if in the note covering this we state that - that the word "limiting" is understood to be in the broad sense of discussing the possibility of what can be done about the subsidization in order to deal with the injury that is positive here. That is really what you want to do, to find a means of modifying the injury that is found here.

MR. GUIMARAES (Brazil): Brazil can stimulate the production of caroea fibre, and the Brazilian Government will grant a subsidy for its production. The first subsidy will be of such and such an amount; next year it will be a little less and so on, until it has disappeared. If the new production cannot continue without the subsidy, then it must be abandoned, because it would be uneconomical.

THE CHAIRMAN: The suggestion of the United Kingdom Delegate is that the term "limiting" really meets the point.

MR. GUIMARAES (Brazil): Limiting the subsidization. That is limiting quantities or the value?

THE CHAIRMAN: Well, both probably, or either.

MR. GUIMARAES (Brazil): The Government must put aside a certain amount to subsidize. Are you limiting the amount in value or quantity?

THE CHAIRMAN: I think that term would permit of both. I was wondering whether "limiting" would meet your point.

MR. GUIMARAES (Brazil): Yes, in the sense I have indicated. I have given the instance, of fibres.

THE CHAIRMAN: In the covering note we will refer to your point about the gradual decrease. "If it is decided upon it may be gradual, having regard to the economy of the product concerned," or something like that.

MR. GUIMARAES (Brazil): Otherwise we will have a world economy based on high prices.

THE CHAIRMAN: That is what we want to avoid.

PROFESSOR de VRIES (Netherlands): As a matter of drafting, we also understood "limiting" should be both ways. But we should not be against gradually decreasing it, bearing in mind that now there is a new No. 3 being proposed by the United Kingdom to cover the case of primary commodities. The report says we have to cover especially the case of non-primary commodities. The Netherlands Delegation tried to make clear the distinction between primary commodities and non-primary commodities. As it stands sometimes it refers to all articles and sometimes especially

to primary commodities. May be it would be better to make it clear what is the procedure for primary products and what is the procedure for non-primary products. If this sentence remains for non-primary products, then I believe the Brazilian idea is quite all right.

I believe the instance Sir Gerard Clauson mentioned relates mainly to agriculture, and there the Netherlands Government must support the British idea that the subsidization of such articles just goes to the limit of necessity and does not go over that by one penny, as it is only intended to keep in existence agriculture which is necessary for the social and national security interests of the country. There also you may speak of limiting, but if you limit in the broad sense you cannot include any idea of gradually decreasing it until it is nil. If it is drafted so as to cover the primary products - something like the new No. 3 - and to cover non-primary products, then we can accept the Brazilian addition

THE CHAIRMAN: Is there any other view on this? The position now is that the United Kingdom rather prefer that the sentence be left as it is; the Brazilian representative is content with "subsidisation" but agrees that some reference should be made to the matter of a gradual decrease if such is finally decided upon; and I think the Netherland's representative, subject to acceptance of clause 3, would rather like to see "and of gradually decreasing it" in.

PROFESSOR DR. E. de VRIES: If it is left out we are quite happy.

THE CHAIRMAN: I think the concensus of opinion now is that we might restore the full stop to "after subsidisation", but the view of the Brazilian representative be included in our report. Is there any other comment on paragraph 1?

THE RAPPORTEUR: Not so much as a comment on paragraph 1, but on general organisation there is one thing that I might have said in the first place. I was a little confused in the course of the discussion the other day and, therefore, I was not very clear in my remarks, I am afraid, about the relationship that was intended here between the application of "primary" and "non-primary" products. I would like to say a word or two about how it appears to me as perhaps this would facilitate the discussion of the later parts. Paragraph 1 refers to all subsidies and provides that they shall be the subject of a full notification and information to the organisation in paragraph 1 the first sentence. That obligation continues except where it is specifically said that it does not throughout the Article as a general obligation, that members establishing or maintaining subsidies shall tell the organisation about them. The second sentence of paragraph 1 provides that regardless of any special provision later on a subsidy that is determined to seriously injure the trade of any member is thereby made the subject of discussion between the injured member and the subsidising member with an idea of looking towards its limitation. This determination is provided for in the last sentence of the Article of consultation between the

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interested members so that the determinant is not an administrative but a consultative. So the very fact of elimination of injury gives rise to sufficient discussion between the interested countries to see whether it can be determined that there is indeed injury. That allows for an exchange of view on that point in an effort to get at the facts of the matter prior to the discussion and limitations. The second paragraph deals especially with such forms of subsidisation as give rise to a difference between the price at which a product is offered for export and the competitive price in the domestic market, but without removing the obligation to report in paragraph 1. Then in the paragraphs dealing with primary products a further and more special kind of consultation is provided for. I believe there is no internal conflict between the paragraph as now drafted. The member injured in the case of a primary product could presumably be satisfied merely to use the procedure of Article 1 or Article 2 and obtain sufficient redress, so that he would not want to go further. Or he could go on into the general consultative study group procedure envisaged in the ensuing paragraphs, according to the difficulty that might be involved in the matter. I do not believe that possibility of a limited discussion and a quick resolution of the problem, or a more extended discussion and the completion of a commodity unit is a difficulty.

SIR GERARD CLAUSON: I would like to ask the Rapporteur what he considers the effect of paragraph 1 in the case where it is determined that serious injury is caused in the event of that discussion not leading to a satisfactory result. Could there then be a case under the Impairment Article, or not?

THE RAPPORTEUR: Which Article?

SIR GERARD CLAUSON: I refer now to the Impairment Article as No. 30. That says in the second sentence: "Moreover, if any Member should consider that any measure adopted by any other Member, whether or not it

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conflicts with the terms of this Chapter, has the effect of nullifying or impairing any object of this Chapter". It then goes on to lay down the procedure which in the last resort may lead to a suspension against a member against whom a case is held to be made. As I understand it, that is the effect of the Article. I am wondering whether, supposing the discussion under paragraph 1 to Article 25 should not lead to a satisfactory result, it would then be open to the member to go on and attempt to make a case under Article 30.

THE RAPPORTEUR: I would take it that that would be so.

PROF. de VRIES: I may say the difference of procedure has changed article 30 and enlarged it so that there is no chapter but charter, so that it covers the whole charter and it will be believed to cover as an escape clause all types of consultations and discussions. So it is on very broad lines on all types of questions which cannot be solved by ordinary means of consultation.

THE RAPPORTEUR: That is the reason why I wanted to discuss that, in order to avoid any misunderstanding about the relationship between primary and non-primary, to go from the general to the more specific problems.

PROF. de VRIES: May I ask one more question on Article 1. It is said by the United States delegate, and we agree to it, that the first and principal thing in this whole Article is that any kind of subsidy you have to notify to the organisation. I do not understand really why there is "except as provided in paragraphs 2 and 4 of this Article". Is it not necessary to say that any member has to report any type of subsidy without exception.

THE RAPPORTEUR: I am afraid I am not an expert on constitutional interpretation to feel certain. In re-drafting this report I had the same question in my mind. I should be glad personally to agree with the suggestion that those introductory words be dropped if it will not impair the provision in Article 4 that in certain circumstances paragraph 1 shall not apply.

PROF. de VRIES: May be we should leave this question to the Drafting Committee in New York, to keep it in mind that may be they have to be omitted.

THE CHAIRMAN: We will make a note of that.

SIR GERARD CLAUSON: I think as a matter of fact the reference to paragraph 1 in Article 4 (b) is superfluous because there would have been a complaint or report already. Perhaps we can look at the point when we get to Article 4 (b).

THE CHAIRMAN: I think that to include any form of price support covers all subsidy. I think we will now look at paragraph 2. The two points I remember arose out of this was (1) where the question was raised, I think, rather fully by the Canadian representative, of the second sentence which deals with exempt exported products from duties or taxes imposed in respect of like products, such as an excise duty. It is now proposed by the Rapporteur that the words that are underlined shall be added. If I remember rightly, that covers the point that Mr Deuch made.

MR DEUCH: But it does not cover my fundamental point, that the use of the excise tax does in fact allow you to operate a two part system, which presumably you have ruled out in that Article previously. It seems to me that it just an ingenious device for having a two price system and yet comply with the general rule against it. That is what it comes down to in fact.

THE CHAIRMAN: I suppose the problem of the two price system is in two parts. The aspect that is usually questioned is artificially reducing your export price below what might be called your normal or correct domestic price. But then you have got the other where the domestic price is artificially lifted above what is unquestionably the correct world price, because it is the world price in fact. It occurred to me before, but I had forgotten it on arguing this point, that it is perhaps a fairly boiled down distinction between the two price system on these articles set out to stop what we call the two price system. We did

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not call it that. We call them the home consumption price which made the creation of a home consumption price irrespective of the export price. I think this added clause does cover the latter, or does cover the cases where you artificially lift the price to your consumer above export. You do that with an excise, because the excise has the effect of lifting your total costs, and the consumer pays for it. It is this excise and bounty principle which is in effect. It all has the effect of decreasing your local consumer and spreading the proceeds over the producer. But you do not touch the export market.

MR DEUCH: Only indirectly, so far as you allow high cost producers to keep up or increase the export market.

THE CHAIRMAN: The other point we had is where you have this excise and bounty you have got to regulate your production. The excise stimulates production, increases your export surplus and then reduces your overall price. Then you put a bit more on to bring it up and you find you have got to keep lifting your local taxation, and you can only do that by saying that as long as you have got to get help in the sale of your local product you are not entitled to free expansion on your production, because it is an artificial stimulus, and the counter to it is to limit your surplus.

MR DEUCH: You might just keep in production high cost and inefficient producers for a long time by this device, who would be able to get on to the export market by this method, as against the more efficient producers who are not doing this kind of thing.

THE CHAIRMAN: You can do that in two ways, either by taking away your support or cutting back your production artificially still further.

SIR GERARD CLAUSON: I think Mr Deuch's point is really this, that the producer ought to get the same price for what is sold in the external market as for what is sold internally. He is getting a higher price as soon as he has been subsidised. Would not the case be met if you put after accrued "but if the producer by reason of these duties and taxes receives a higher price for goods received in the home market than for goods exported he shall be deemed to be receiving as a subsidy the difference between the two"?

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MR. WARWICK SMITH (Australia): What about export?

SIR G. CLAUSON (U.K.): Then there is no difference.

MR. WARWICK SMITH (Australia): Though he might be subsidised on his actual exports?

SIR G. CLAUSON (U.K.): You mean the individual producer?

MR. WARWICK SMITH (Australia): Yes.

SIR G. CLAUSON (U.K.): I meant producers as a whole.

SENOR GUERRA (Cuba): I am not a member of this Committee, but might I ask a question because I am a member of Committee 4 and there is a point here to which I would like to call your attention. In the discussion in Committee 4, the drafting committee put great emphasis on the question of allowing for the displacement of production to more effective sources of supply. That, I think, is the real question to which the Canadian delegate is referring. The two Committees - No. 4 on Primary Products and No. 2 on Subsidies - were not able to make it clear, and now we have a joint committee it should be made clear that under commodity agreements this displacement should be allowed to take place not only as between different exporters but also as between exporters and internal production in the cases where internal production is supported by subsidies.

THE CHAIRMAN: I think paragraph 1 rather contemplates that.

SENOR GUERRA (Cuba): The only other point I want to make is that I find an inconsistency between paragraph 4(b) and the general objective. The solution suggested is the permitting of subsidies. That for me is an absolute contradiction. The way to solve the difficulty would be to decrease the subsidies and in that way get rid of the surplus.

THE CHAIRMAN: I think the reference to subsidies in that paragraph means that certain actions are to be taken in respect of subsidies which include any form of income or price support to the domestic producers of any product which operates to increase

the exports of such product or to reduce the imports into a certain country if a country, by its subsidies, is reducing its imports and it is considered by the Organization that there is a danger to other countries. If a country, such as an exporting country, is more efficient and is deprived and suffers injury because of deprivation of the market, it goes to the Organization in accordance with paragraph 1. Then the next step, we rather suggest, is that the presence of subsidies and the necessity for correcting those is, on the fact of it, an argument for setting the machinery of Chapter 6 in motion. If you set that in motion, the process that you follow automatically brings under review the subsidies of the countries which are in that. Does that not hang together?

SENOR GUERRA (Cuba): That would meet my point. The only doubt I have is that expression "reducing", because it would not be a question of reducing export trade of other members but preventing an expansion. If that could be made clear, my point would be covered according to the general objective of the commodity agreements allowing for the displacement of production commodity resources.

THE RAPporteur: On a point of drafting, in paragraph 1 the word was originally "tends", then it was changed to "operate". I rather agree that "tends" gives a better idea.

MR. SHACKLE (U.K.): The point is: "increase" as compared with what? And "reduce" as compared with what? Is it increase as compared with an existing situation, or increase with what the situation would be were it not for the subsidy?

THE RAPporteur: If it "tends" to increase, it does not necessarily increase, but the tendency is there.

SENOR GUERRA (Cuba): Could we add "Or in the case of primary products under paragraph 3 to prevent the expansion....."?

THE RAPporteur: That is already in paragraph 3 and does not need to go in here. This is to care for cases not covered by para. 3.

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THE CHAIRMAN: Once you get into the commodity agreement stage you can try everything. That machinery operates and you get it taking over the entire problem. Until that stage is reached, however, we must have special provisions here to deal with subsidies.

SENOR GUERRA (Cuba): There is a case for doing everything within the agreements. Could there be a general principle that a subsidy is considered as such if it has the effect of preventing the expansion or displacement of production for export to more efficient sources?

THE CHAIRMAN: I think there is something in that.

THE RAPporteur: It comes out of the injury. It is left to any member who objects to make his case that he is injured because of the reasons given, but we do not actually say it in this first part.

SENOR GUERRA (Cuba): Perhaps, in paragraph 3, the words "seriously injured" could be changed to "seriously affected"? That would have a broader meaning and cover the point, because "injured" carries the implication that it gets worse from a given situation, but "affected" might give the effect of "preventing".

THE RAPporteur: That is a limited interpretation of "injured". You are injured if you are prevented from doing anything. You are affected if you are prevented from changing.

THE CHAIRMAN: Or it might be made broader. For instance, if a member considers that his interests are "seriously prejudiced". That would cover everything. He is prevented from undertaking legitimate expansion.

SENOR GUERRA (Cuba): That would be better. The word "injured" gives the idea that it would be made worse from a given position.

THE CHAIRMAN: It means that you have to reduce him from some position he has already had.

THE RAPporteur: It could be so interpreted, but this all falls into the discussion area. In order to get this determination of injury, you have discussion between two parties, and if one

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says: "I was going to have a market of so much, and then you were subsidised so that I did not get it", the other country can hardly, in face of an increase in his own production, say that was not so. I think you can depend on the injured person to stick up for his rights in the discussions.

THE CHAIRMAN: Might we consider substituting those words "seriously injured" by "if a member considers that his interests are seriously prejudiced"? Or could we put something into the report? Could the Committee accept what I have suggested?

THE RAPporteur: It should go wherever we have the word "injury" so that there is a standard terminology for this situation.

MR. DE VRIES (Netherlands): I would like to make the same point. The word "injury" is used in paragraph 1, and if different words are used in different places, somebody eventually makes a specific difference out of it. It is better to have one word used throughout which has a broad meaning not too closely defined. If it is too defined, a lawyer will make something different of it from an agriculturist or an economist, and there will be trouble.

THE RAPporteur: Perhaps my colleague who was responsible for this ambiguous language can make a suggestion?

SIR G. CLAUSON (U.K.): If I may return the ball rapidly over the net, we debated the language of paragraph 1. Where it says "In any case in which it is determined that serious injury to the trade of any member...." I would have preferred the word "prejudice" myself instead of "injury" in both cases.

THE RAPporteur: "Serious prejudice to the interests of any member"?

THE CHAIRMAN: The words "serious injury" rather suggest that somebody has hit him on the head!

THE RAPporteur: You handled the ball very successfully, and scored a goal, Sir Gerard.

SIR G. CLAUSON (U.K.): What about "serious prejudice to the interests

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of any member"?

THE CHAIRMAN: Then we should alter that right through. Having had a good look at paragraph 3, I suggest we switch back now to paragraph 2. On the point of excise and duty, I want to be clear as to what is actually meant by an excise tax or any sort of a sales tax. Or, to put it this way: a tax which is reflected in the costs of production and is remitted on export because of the normal reasons for remission, so that the product will be able to compete in the world market. It must be so because it sells in the world market. We have a sliding scale. At one stage we had a sliding tax which represented the difference between the price it was designed to maintain in the home market and the export price, and as the export price went up, the tax went down. That amounts to an exemption from export, and it really seems to me that the whole idea here is to exempt the excise and nounty principles from the Article.

SIR G. CLAUSON (U.K.): I suggest that the difficulty arises from considering what transaction you are referring to. In paragraph 2, lines 4 and 5 it says it "results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market". If - to state the impossible - we grew tobacco in this country, both for consumption and for export, the price that you and I would pay for an ounce of tobacco when we bought it, would be vastly more, both than the price which the seller gets when he sells it to the factory, and than the price which he gets for export.

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I think that there is a little ambiguity in the words "comparable price charged for the like product to buyers ..." If you are talking about the ultimate buyer, and if there is an excise tax on tobacco or sugar, the ultimate buyer pays more than the producer receives.

MR. DE VRIES (Netherlands): That is covered by the words "due allowance being made for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability."

MR. SHACKLE (UK): It assumes a comparable type of transaction.

THE RAPPORTEUR: We did discuss that, and that is what all those words are intended to cover.

THE CHAIRMAN: They cover the case where the Government hangs on to the money when they take it.

MR. DEUTSCH (Canada): The problem arises when the money collected from the domestic consumer by means of tax and is paid to the producer of the article.

SIR G. CLAUSON (UK): The problem arises that there might be a certain amount of friction which might enable the producer to get a bit more.

MR. DEUTSCH (Canada): There is quite an accumulation of clauses in this Charter about agriculture. In Article 19 (e), as you read, any country may impose quantitative restrictions on agricultural imports if they are restricting production at home. That is, briefly, the provision. It seems to me that that clause is open to abuse. Now, in this subsidy chapter, you allow the device of putting an excise tax on a commodity to subsidise producers which, again, may operate to keep high cost producers in the export market. Finally, in this very chapter also, where a subsidy is being paid and an international agreement cannot be reached, then all bets are off and you can continue subsidising as you wish. It seems to me that the

accumulation of all these clauses greatly weakens the application of the principles of the Charter to agriculture. You have practically nothing left. It is the accumulation of all these things that bothered me, particularly for a country a large part of whose exports are agricultural commodities, such as my own country. I am worried about the accumulation of all these so-called escape clauses on agriculture.

MR. SHACKLE (UK): To some extent they are safety valves, if the principle of quantitative regulation is ruled out, except in the case of Article 19, (2e), where you have an internal scheme, and where you are given exemption in so far as is necessary to the operation of the internal scheme. It is arguable that having got rid of the simple protective use of quantitative regulation, you do need certain safety valves, and these things may be said to be to some extent safety valves.

MR. DEUTSCH (Canada): There is a lack of parallelism in the sense that manufactured commodities do not have these safety valves allowed.

THE RAPPORTEUR: The question is how far we can go in correcting that general problem, if it is one, by operating under a subsidies Article? I think this is consistent with the rest of the Charter, particularly Chapter VI. Actually paragraphs 1 and 2 here will rarely be applied, to the commodities which I think the Delegate of Canada has in mind in this discussion, because paragraph 3 throws it all into Chapter VI.

MR. DEUTSCH (Canada): In Chapter VI you have to reach agreement, and it is very easy for a country not to agree to anything, especially if it is a country already involved with very high cost producers. It is very simple not to agree, and then, by that disagreement, it causes all bets to be off so far as this chapter is concerned.

MR. DE VRIES (Netherlands): As I see the case, if somebody is seriously injured by a subsidy, he asks for a study group or for consultation. Then you get negotiations, and there may or may not be an arrangement. If there is an arrangement, you may say the problem is settled. If it is not settled, then the old position recurs, and a member who is giving a subsidy may go on; but that is restricted by Article 4 (c), which says that if he goes on it cannot have the effect of giving more than in a previous representative period. I believe that we have now to have a connection with Article 11 on anti-dumping and countervailing duties, and as we cannot consider that this afternoon, I would like the Drafting Committee in New York to consider the connection between this article and that on antidumping and countervailing duties, so that if anybody misuses this Article on subsidies and has more advantage out of the subsidy than is allowed, then antidumping and countervailing duties can be applied by all the other members against him. I believe that then the whole thing is covered.

On the other hand, the Delegate of Canada says it is easy for a high cost producer to see that there is no arrangement. At the same time, it would be easy for the consumer not to make an arrangement and not to agree to an arrangement. If, by simply not agreeing to an arrangement, he could abolish the subsidy altogether and maybe at short notice, he could upset the whole economy of a country which is prepared to come, by consultation, to some result and is frustrated by a consumer who is vetoing the agreement.

At the moment we say, "Well, you can go on, but you cannot expand, and if you do so, we will put antidumping and countervailing duties against you." Do you not think that system can work well? There will be an inducement to both sides to get an arrangement.

THE CHAIRMAN: I have doubts about the countervailing duties, because they are purely weapons against exporters, and the problem of subsidies is just as much one for importers as for exporters to consider. Again, I rather fear that the different interpretations that countries put on dumping would probably delay things. It might be that when the dumping experts are quite satisfied on it, we could go ahead, but I do not see an immediate prospect of every country getting uniform dumping laws.

MR. DE VRIES (Netherlands): It will be very sure that it is dumping if a country has an export subsidy and after consultation is not ready to give it up at a reasonable request from other members, and goes on with it, and does not want to come to an agreement. I suppose then it is very clear that he is dumping.

THE CHAIRMAN: What do you do to an importing country that cannot dump because it is not physically possible to do it, but has subsidies twice as big as the subsidies in the exporting country, and is engaged in much more uneconomic production than the exporting country? As a matter of fact, on wheat all the damage that has been done by way of subsidies on wheat between the two wars was done by the importing countries.

MR. DEUTSCH (Canada): Not all.

THE CHAIRMAN: Nearly all.

MR. DE VRIES (Netherlands): That case can only be covered by the addition of an Article in the sense of arbitration and possibly sanctions, and you cannot find it in this way. You must find it in general provisions to cover the position of a country which is a Member of the ITO but frustrates all its principles.

THE CHAIRMAN: I see something in Mr. Deutsch's worries. I have the same qualms myself, but I have found difficulty when I have got down to seeing what I would do myself if I were struggling with this

as the USA and UK have been. The only thing I thought of at one stage was that primary production subsidies should be taken away and put in Chapter VI. Then you would have governmental intervention or governmental control or influence, whether it be by tariffs or subsidies or agreements, all dealt with in one chapter on primary production. But it was rather a revolutionary change to suggest, and I did not go on with it, but it is brought back to my mind by Mr. Deutsch's remarks. Of course, in this thing it seems to me that the change in paragraph 2, which is proposed, is really throwing the excise and bounty weapon or device into paragraph 1.

MR. DEUTSCH (Canada): That is an improvement.

THE CHAIRMAN: I think myself, speaking for Australia, I would be prepared -- I do not know whether I am adequately supported -- for the strengthening of (1). I would make all people subsidised under (1) toe the mark in a more definite way than is proposed here, because I think that the whole trouble with subsidising primary products is either an uneconomic increase in surpluses or an uneconomic decrease in imports, and whatever way you do it, if you take money from somebody and give the grower more than he would get on the market, that is the only damage that can be done by products that have a world market. But we have got this idea, which was set up very early, of a distinction between export subsidies and production subsidies, and the problem is that you cannot separate all subsidies clearly into those two categories. I think the only true production subsidy that was intended here was money out of general revenue, which is taken from the general taxpayer, and in some way put into the returns that the producer gets, and the only export subsidy which is a true one is money out of public funds which is handed to a man when he presents his invoices for export, and which has the effect, the very bad effect in some cases, of lifting the whole of the production in the country up to an artificial export parity. That is a thing we have never felt we could tackle, because we are

afraid if we paid a bounty on an export of a product -- for example, meat -- where we export 25 per cent., if we put an export bounty on, and lift the whole of our production by the amount of the export bounty, the stimulus to uneconomic production would be so great that it would come about our ears. I thought about that recently, and also about the fact that it could be seriously unfair to consumers, that you should unduly tax a particular product which is supposed very often to be the staple diet of the people. It was considered from the sociological point of view to be wrong to tax the eaters of bread and of meat in order to give the producer more than he was perhaps entitled to have. It was considered that the support of the export market should not come from the local consumers. They had to pay for their bread, but they should not have to pay the producers for the bread that somebody got in the market overseas.

When we get down to this document we find trouble in separating them. Now we have gone a step further and shifted the excise and bounty principle into No. 1. We went further, and in this other paragraph - which the Rapporteur will introduce in a minute - we tried to take out the schemes which in their incidence are the same as the excise and bounty principles. In effect he has put this into No. 1. He has not done it in actual practice, but he has adopted practically the same criteria as applied to 1. That is the case where some fund comes from the Treasury and goes to an exporter. What is the next step? It is decided that these excise and bounty schemes, which are considered, in effect, production subsidies, have gone into 1. Therefore, (1) do we want to do that? - and I understand from our meeting the other day that we do - and (2) Does this do it? I think it does myself.

DEUTSCH (Canada): I do not want to hold up the committee any further at this point. I have expressed my qualms about the thing. I am also worried about the cumulative effect of all these agricultural^{escape} clauses throughout the Charter. At some other appropriate time and place we may have to consider the cumulative effect of this agricultural escape clauses in the whole Charter. I do not want to hold up the committee now, and I accept it temporarily.

THE CHAIRMAN: We cannot do anything revolutionary at this stage.

SIR GERARD CLAUSON (United Kingdom): The principal effect of these words is to take this kind of bounty out of the three-years' rule.

THE CHAIRMAN: Yes.

SIR GERARD CLAUSON (United Kingdom): I do not know whether that is intended.

PROFESSOR de VRIES (Netherlands): May I put it in a more general way.

It is intended to take the excise and bounty out of the three years' plan. Then again, at the end of paragraph 2 there is a system for the stabilization of the domestic prices. That is a very long sentence or paragraph, and I am afraid it will give a lot of trouble. There are types of price differences which in reality are not harmful subsidizations, which come within the whole spirit and purpose of the Chapter and of the whole Charter.

Would it not be preferable to put the duty of placing it before the Organization on the member who has such arrangements? In the long sentence in the last paragraph on page 5 of the redraft text it is said it "may be determined by the Organization." If it has to be determined by the Organization the first point is that the member who has such a system gives notice and an explanatory statement. In paragraph 2 it is said that "If any Member considers itself unable to make the provisions of this paragraph effective", or deems the scheme he has is consistent with the Charter, he "shall give to the Organization a notice in writing . . . accompanied by an explanatory statement." If we put that in that will cover these two cases. For instance, you may have a two-price system propagated by F.A.C. Say Australia has a lot of excess wheat, and a scheme is brought forward to take that wheat into Java cheaply. Then at once Australia has a right to come to the Organization and say that selling cheap wheat to Java is consistent with the Charter, because they are helping an underdeveloped country, and it is raising the standard of living there. You have to give a subsidy to the exporters for that portion of the wheat. You must fix a scheme to see that a man who is exporting that, say, 100,000 tons of wheat gets his money. On the other hand, Java and Indonesia must have a right to complain to the Organization and say "That cheap wheat is spoiling our market." All these things are covered in the first sentence in the one line. There may be other cases consistent with the purpose of the Charter. Can we try to cover in the Charter all possible cases? I do not believe we can.

THE RAPPOREUR: I think such cases as would arise under that point were intended to be covered in the sentence on page five beginning on the sixth line. I would point out that the cases he cited is not perhaps the best example of what he had in mind, for two reasons. In the first place, presumably a relief subsidization scheme will only be entered upon where there is a surplus, which would throw the commodity under point 3. I think we would expedite our work a little if we did not try to consider

primary commodities as covered under 1 and 2. If, however, there was a commodity that did not come under 3, but which for good and sufficient reason should be, without any violation of other interests or the purposes of the Charter, subsidized year in and year out -- I do not have any in mind, but there might very well be some -- I should think that under this scheme the member would merely so notify the Organization, and unless other members objected it would automatically be a closed issue. This says:

"If any Member considers itself unable to make the provisions of this paragraph effective . . . such Member shall . . . give to the Organization notice in writing to that effect."

It could come into effect right away, as soon as the Organization gets going, so that unless the Organization wishes to challenge the matter the member may consider the subsidy is a permanent part of its operations. That would close the matter. Under this sentence as it stands the only case in which it would be reopened would be in connection with the determination, which is determination of the consultative and not the administrative type. Someone would have to complain, or it would go on. If no one complained the determination would be in favour of the member asking for it, because the determination is a consultative determination. If every other country accepted the fact, that would close the case. You might want to consider how the sentence should be worded if you do not consider it does cover that.

MR. SHACKLE (United Kingdom): If I understood the Netherlands suggestion, it was to avoid having a lot of complicated trade provisions to deal with particular suggestions by having a general provision by which members who took particular forms of action should notify the Organization, and there should be a right for other members to complain to the Organization. If we had some general provision of that kind it would enable us to get rid of a great many very complicated provisions. There is one difficulty which occurs to me about that. If the Organization is asked to decide a great many questions purely in its own discretion it will have a great deal of difficulty in doing so. It will surely need to be given some guidance on the sort of principles on which it should consider such cases. If we give it no guidance at all it will have a heavy burden laid upon it. It is one

of the frightening things about the whole of the Charter that there are so many cases in which a discretion is given to the Organization. One rather wonders whether it will be able to support the very large burden of discretion, unless it has a fairly clear directive as to how it should use that discretion.

THE RAPPORTEUR: This is not a discretionary organization. This says "shall be determined", but it also says ----

MR. SHACKLE (United Kingdom): I was not referring to any particular provision here, but to Professor de Vries's suggestion - the general point.

MR. DEUTSCH (Canada): I agree with that.

MR. GUERRA (Cuba): I agree very much with the United Kingdom statement. In Cuba from 1937 to 1940 we had an agreement in effect with a very low price on the internal market. The domestic consumption quota was too large every year, and eventually part of it had to be permitted to be exported. Yet, the so-called world price was so low, even under the agreement, that we had different prices. Our internal consumption price for sugar was much higher than the world price, yet we were not given any subsidy for sugar. We did not have any scheme of any kind directed to achieving these differences in price, but the difference in price was there.

THE RAPPORTEUR: The world price was not your net export price - your average export price.

MR. GUERRA (Cuba): You may even say there was an export price to certain countries, to certain markets. That was the case in the United States, when their price was much higher than the world price, not because we have any scheme for keeping the price higher - because every year the actual quotas were much larger than consumption. The same happened with the local consumption in Cuba. The quota was not directed in order to keep the domestic price higher. ^{the} Every year we had an excess of/local consumption quota, yet there was a difference in price. Our worry is that in a case like that we are not responsible at all, but the country suffered as a consequence. If certain clear directives are not given to the Organization it could make a case against us but not having any scheme for a difference in price, yet the difference would be there.

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THE RAPPORTEUR: It is another case that would fall under paragraph 3 and not paragraph 2.

MR GUERRA: I call your attention to that.

THE CHAIRMAN: I think we can try and clear up these points of principle. We are leaving a good bit to the organisation in 1 and even in 2. I am afraid I have got to come back on to this point as to whether it is intended to remove excise, where the excise tax is returned to producers as a production subsidy, whether we want to put that into paragraph 1. If it is in paragraph 1 and stays in paragraph 2 you will have trouble in defining when a production subsidy is not a production subsidy. Do we agree now with the further proposal that where excise is collected and returned as a production subsidy it should be brought under the terms of paragraph 1?

MR DEUCH: Yes, I would agree.

MR WARWICK SMITH: I think we should be agreeable to that proposal as it is worded.

THE CHAIRMAN: With these extra words in?

MR WARWICK SMITH: Yes.

PROF. de VRIES: I should prefer to have a general sentence giving the right to the organisation to explain that the scheme is no real subsidisation.

THE CHAIRMAN: I think you might put that in too. You see, he will do that in effect when he is hauled before the organisation.

PROF. de VRIES: For instance, if there is a two price system there is no subsidisation. You must have the right to explain.

MR GUERRA: You will have the right to explain your case. It will be for the organisation to decide on that, and it will be a good thing if the organisation has certain directions.

PROF. de VRIES: I quite agree to that, but I believe you cannot give all the explanation if it is in the report. We must give as much guidance about the ideas behind the charter as possible, and it is most

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necessary, I believe, for the World Conference next year when 50 countries are to discuss this problem again to give an extensive report giving the idea of this preparatory agreement of what is meant by the Articles and the whole thing. You will get in those discussions again three times as long as now. If you give a good explanation in the report attached to the charter we can get through it quickly.

MR GUERRA: I doubt very much whether we can cover all the cases.

PROF. de VRIES: It is not possible.

MR GUERRA: It would be better in some of these cases to make a better report.

THE CHAIRMAN: Supposing then we put in: "If any Member considers itself unable to make the provisions of this paragraph effective in respect of any specified product or products upon the expiration of such period, such Member shall, at least three months before the expiration of such period, give to the Organization a notice in writing of his difficulties." We already say: "accompanied by an explanatory statement". I should think if we left it as it is and put in "accompanied by an explanatory statement containing a complete analysis of the position in which he finds himself", or something of that kind, would that meet your point?

PROF. de VRIES: Yes.

THE CHAIRMAN: I think we could put in there, to amplify it, "an explanatory statement to provide for a complete analysis of the practises in question".

MR GUERRA: I have some idea that we could get the organisation to determine not only the extension of the period but to determine if the scheme itself came under this chapter or section, because on the basis of the explanation the organisation may freely decide there was not really any scheme of subsidy or anything, notwithstanding the difference in price referred to in paragraph 2.

THE CHAIRMAN: I think it is easy to assume that when these forces were

set in motion the country that was in question would prepare all the data that was required. I think that would be the obvious step.

THE RAPORTEUR: Under the last sentence the organisation could give an extension of the period.

MR GUERRA: I feel you did not understand me. What I meant to say was that the decision of the organisation should not be limited to only extending the period but to say that notwithstanding the presence of differences in price the scheme was not a scheme to be considered applicable under this section. That is my idea, and I think that is the point.

THE RAPORTEUR: There is no harm in that. I should add perhaps at this point that the underlining is omitted in the last paragraph of page 5. That is all now.

PROF. de VRIES: I believe this is not a case for a charter but a case for an explanatory note attached to the charter.

THE RAPORTEUR: That should not be a separate transaction.

THE CHAIRMAN: I am inclined to think that this is a class that is not covered.

MR DEUCH: I think this should be included.

THE CHAIRMAN: Is that agreed? I think it would be clearer to us if on the fourth last line after "difference in the other" there was a semi colon.

THE RAPORTEUR: Also a comma is omitted in the fourth line after the word "market".

MR GUERRA: I think if there is a system for the stabilisation of a domestic price, if you give the reason I explained regarding sugar what was in consequence of regulation of production.

THE CHAIRMAN: What do you suggest; production where?

MR GUERRA: After "price". I suggest "of the domestic price or production".

THE CHAIRMAN: Or "the stabilisation of production". I do not think that really bears on the question of an export subsidy. That is what we are

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trying to do here. We are trying to cover a category which, if nothing is said about it, will be considered an export subsidy.

MR GUERRA: That is what I am trying to cover too.

PROF. de VRIES: I cannot find an instance in the past, as here in the second half of page 5, for a non-primary product. If such schemes were set up for manufactured goods I do not know where we come if it is for a primary product. I discovered by Article 3 that it all comes into the negotiations under chapter 6. As it is now it is giving first general rules and then specific rules for the primary products. You cannot give into the general idea an instance which is stated for and specially allowed in primary products, especially in agriculture; that is an agricultural problem, "stabilization of the domestic price and production". I do not think it can come in textiles, or such things.

THE CHAIRMAN: I do not think it can, because there is no world price. Is there any objection to making this applicable to primary products only?

THE RAPporteur: No.

PROF. de VRIES: You come against the rules of dumping in the manufactured goods.

THE CHAIRMAN: One covers primary products.

PROF. de VRIES: But that is a general provision intended to cover both.

THE CHAIRMAN: You mean 2 is.

PROF. de VRIES: But 1 also, if you have production subsidy on a new type of industry and then you agree with the idea of the Brazilian representative that you have it temporarily only and you will merely decrease it because it is not economic to set up new industries which have to have subsidies. That is not a general thing, but this type of stabilisation I can only concede in the case of agricultural products.

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MR. SHACKLE (U.K.): Might it be a good idea to make this a new paragraph to deal with primary products, with a consequential alteration in the fifth line - instead of saying "this paragraph", saying "paragraph 2"?

THE CHAIRMAN: I think that would meet it, but I do not think it can be accepted that paragraph 3 covers this in the same way as 38 because we have to cater for the stage when there are no commodity agreements and when subsidies are applied.

THE RAPporteur: If the procedure of Chapter 6 is adopted under 4(a) and fails, under 4 (b) nothing that is in paragraphs 1 or 2 applies.

THE CHAIRMAN: I was coming to that. I think the idea that if you cannot get a commodity agreement you scrap the whole thing, is unsound.

THE RAPporteur: Members are bound not to use a subsidy to hog the market.

THE CHAIRMAN: If you fail to get a commodity agreement, you come back to where you were before you started to try to get it.

MR. DE VRIES (Netherlands): That is met by paragraphs 4 (b) and 4(c).

THE RAPporteur: If I may suggest a line of reasoning - you can do one of two things. You can so loosen paragraphs 1 and 2 as to permit any kind of subsidy of primary products, which is where you start from. Then, you can get a commodity agreement, or you can make your subsidy on the primary product. Or you can say that paragraphs 1 and 2 as drafted cover non-primary products primarily and primary products which are not subject to the terms of Article 6. If they are products which are subject to the terms of Article 6, you try to operate the procedure laid down in Article 6 and, if you fail, then you have a kind of anarchy. This recognises it, and you only bind yourself not to hog the market.

THE CHAIRMAN: Then you come back to paragraphs 1 and 2.

THE RAPporteur: Could you throw out 1 and 2?

SIR G. CLAUSON (U.K.): The difficulty I see is that a rich country with an uneconomic industry in a primary product can first wreck the scheme and then ensure the survival of its industry, whereas if there was a scheme, that industry would slowly have to disappear.

THE RAPPORTEUR: We went into that at some length last year. That was the reason for d(a), to prevent that.

SIR G. CLAUSON (U.K.): It does not.

MR. DEUTCH (Canada): No it does not.

SIR G. CLAUSON: No, it prevents the rich country from extending trade but not from maintaining an uneconomic trade.

THE RAPPORTEUR: That is true of paragraph 1 for domestic subsidies to maintain uneconomic production. You cannot expect one to be more vigorous than the other.

MR. SHACKLE (U.K.): It occurs to me that it is one of the principles of the commodity chapter that there should be a switch from the less effective to the more effective producers. If that is a principle of the Organization, surely at long last it becomes a case under the Impairment Article that some scheme is definitely maintained which prevents a switch from the more effective to the less effective producer. It is a far cry, but there may be a possibility.

THE RAPPORTEUR: That is true, and it applies equally to the scheme where the country happens to be an exporter, or has been an importer and has cut down imports by subsidy prices. We are dealing here with one of the most difficult fields in the whole Charter - not the most difficult, but one of them. The experience we had in the '20's and '30's, especially the latter, made it evident that all countries have a good deal to lose, and not many have much to gain, by using their power as widely as possible under conditions of difficulty to subsidise on a unilateral basis. In the first place it

recognises the international interest in subsidies and looks toward co-operation and consultation and, where possible, compromise, which will achieve some orderly and reasonable interchange without the unfortunate effect that subsidisation of one kind or another produced during the inter-war period. But, partly because of the security interests, partly because of the national sovereignty rights that have been associated with this practice, it cannot lay down here the rules that an economist would lay down, and say that a country shall use its subsidisation progressively until it is producing at the world market price. We are talking, of course, about primary products. The first two paragraphs are the general provisions that are intended to state the ideal and this point that has been made, that the purpose of the Charter is, wherever it is possible, to bring about a recognition of the international interest in these things and their reduction or elimination. Now we come back to the case of the primary products and recommend that in that case there are special difficulties. That throws us over to Chapter 6. Those special difficulties are such that you cannot take the line of eliminating subsidies and going into a pure world market trading relationship because of a variety of situations which we have been through pretty thoroughly in Committee 4. I think it would be unfortunate to start anything entirely afresh in terms of eventual goals. We started it three years ago with a draft very much like that which the Chairman said he would himself start with. We said we would eliminate export subsidies and would call for a similar kind of treatment for domestic subsidies, which resulted in cutting the market for people who exported to it. Then we developed it in the light of this whole problem and the specific practical difficulties that one encounters. I wonder if it is going to be possible for us to reopen all that?

THE CHAIRMAN: I do not think it is, not at this stage, anyhow. We

might find ourselves struggling with it next spring again.

MR. DEUTCH (Canada): I agree very much with the statement made by the United Kingdom delegate. I think the result of this is directly inconsistent with the whole spirit of the Charter. It seems to me that if you fail to get a commodity agreement, then surely you go back to the situation prescribed elsewhere in the Charter? You may still subsidise, but you must not subsidise by paying export subsidies. You may subsidise by paying general subsidies. Presumably, if an attempt at a commodity agreement fails, you may resort to export subsidies. I see no logic whatever in that.

THE CHAIRMAN: It might mean, if it was sufficiently important to a country, that it would prevent an agreement being made -

MR. DEUTCH (Canada): Exactly. That is what I am afraid of.

THE CHAIRMAN: - and get exemption from some of its erstwhile errors.

MR. DEUTCH (Canada): That is exactly what worries me. The country may not have an interest but it may demand things in a commodity agreement which are hard to consent to. There is no sanction on that country. It says, "All right, if you do not give me the agreement, I resort to the subsidy programme". Look at the weapon which it puts in the hands of that country in making an agreement. It gives the country with a large purse an extraordinary weapon in arriving at the terms of a commodity agreement.

THE CHAIRMAN: The only dissentient to that point of view is one of the authors.

THE RAPporteur: I would be glad not to dissent, Mr. Chairman. I will tell you the circle we are in. It seems to me that we shall draft this so that 1 and 2 are such that, whether or not you have a commodity agreement, they can be accepted by every member of the Committee. I daresay that the majority of the members of the Committee will not accept them in so rigid a form as they are if they imply that a commodity agreement can be reached in a

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particular primary product, so you will broaden them to the point where they have no restrictive effect whatever to commodities not subject to non primary products. Then you will want a special one for non primary products. They will be separated and will be closely associated with problems dealt with in paragraph 4. So they will be thrown back into Chapter 6, and then we shall not have a cross-reference and we shall go back and say that because the subsidisation articles that we have drafted to fit non primary products may, because of the difficulty of distinguishing, hit primary products schemes, we shall have to put in exceptions. And pretty soon we shall have been round this circle. Rather than leave the impression that it is only because a rich country can subsidise heavily that this has taken this form, I would be glad to see an effort made to redraft it in another form, which represents a balance of conflicting interests.

THE CHAIRMAN: We are a sub-committee appointed by Committees II and IV. It is competent for us to give an opinion on it. I am wondering whether, in the light of the views expressed, we might not go ahead with the Charter as it stands, but state in our report to Committee II that there was a general view amongst members of this sub-committee that in the event of a failure to make a commodity agreement, the conditions laid down were not sufficient in that they did not provide for returning to the pre-negotiation conditions. (These are not the proper words.) The Committee felt, however, that to include this in the draft involved a re-examination of the whole problem of subsidies, particularly as between primary and secondary products, and felt that it should note the matter for the Committee's consideration. We cannot go on chewing this over indefinitely and it is too late now, so much as to be unravelled. Could we decide then, that we ought to put the appropriate reference

to the views of this Committee on paragraph 4 - as it stands now 4 (b) and (c)?

SIR G. CLAUSON (U.K.): Might I suggest that we leave out paragraph 4(a)? And start with 4(b) - "If it is determined that the measures provided for in paragraph 3 have not succeeded..?"

MR. DE VRIES (Netherlands): Yes.

THE CHAIRMAN: Before we get to that, let us look at this new proposed sentence in paragraph 2. The last suggestion was that a separate paragraph might be made and that it might be referred to primary products.

SIR G. CLAUSON (U.K.): I think it had better be.

THE CHAIRMAN: I rather agree.

MR. DE VRIES (Netherlands): If kept, it should be a separate paragraph but there are some phrases in it which I cannot agree. For instance - "There is evidence that there is some subsidisation." - It is not so easy to get evidence. Take the case of a principal supplier of some agricultural product. By this scheme, when you get a slump in the world markets, he may make things worse for even efficient producers because, by the use of a fund which he has been able to build up in the years of high prices, he can support his agriculture or other primary products in the time of slump, making the slump worse than it otherwise would have been because his farmers can sell in the market.

But even if there is evidence that there is no net subsidisation over a period of years, still there must be the claim of any other member to say, "I am seriously injured even by this system, and I ask now for a study group for the problem."

THE RAPporteur: There is that provision. I would remind the Delegate of the Netherlands that the word "determined" in this context means determined by consultation among interested members. It is so defined in the last sentence of the article. Does not that take care of the case. If any country has any interest in this matter, it has the right to be in on the determination, and being in on the determination, it can object to its being made in this way.

MR. GUERRA (Cuba): I would suggest that in the fourth line from the bottom of the page we omit the word "or".

MR. DE VRIES (Netherlands): That would meet my difficulty.

THE CHAIRMAN: There is the other thing that Mr. De Vries mentioned, that there might be extreme difficulty in producing evidence that there will be no net subsidisation. I would say that would apply to our wheat. We had for eight years an oversea price that was less than the home price, with the exception of a few weeks on one occasion. For the last three years it has been the other way round, and probably will be so for another three years. Had you looked at this in 1941, you would have said, "You have had this wheat going for three or four years, and still there is no question of net subsidisation, because it is subsidisation," but our answer would be that we hope and expect -- the nature of the scheme is such -- that when the world market does rise, there will be this offset of which we speak; but it might not rise for another two or three years, and it is pretty hard to prove it. All you can do is demonstrate that it is part of your scheme that that could and might happen, and probably would.

MR. DE VRIES (Netherlands): If such a scheme is accepted under Chapter VI, I think everything is all right. 36.

THE CHAIRMAN: We might not get Chapter VI.

MR. DE VRIES (Netherlands): This determination comes under paragraph 6 of Article 55. I believe this paragraph 6 of Article 55 has to apply on determinations for non-primary products, as we have now determination and consultation regarding the whole thing coming under Chapter VI, and not under Article 55. The whole procedure of Chapter VI provides for consultation and determination under Chapter VI.

THE RAPporteur: Article 55, paragraph 6, merely says what "determination" means when used either in Article 55 or Chapter VI. It avoids repetition of the words.

MR. DE VRIES (Netherlands): Article 55 says that the Organisation has to take procedures in order to get such a determination. As it is for the primary products under Chapter VI, those procedures already exist now.

THE CHAIRMAN: Cannot we meet the point that we might not get to Chapter VI?

MR. SHOCKLE (UK): When you get there, it is limited to expected surpluses.

THE CHAIRMAN: I think that once you get agreement, it would be all right. The whole thing is that there are several products which have subsidies on them now, and this thing will come into force, we expect, next year. What are we going to do until we have got commodity agreements? One thing that is certain is that we shall not get commodity agreements for every one of these, or even go into the examination of them, next year. In some cases we do not want commodity agreements for four or five years, because the products are too tied up.

MR. GUERRA (Cuba): Do you not think we could have a wording which would make that determination subject to the fact that the system is operated so as to unduly stimulate exports or injure the

interests of other Members, and lay stress on the difficulty of determining the point raised about the net subsidisation.

THE CHAIRMAN: Having "or" there means that you have got an alternative criterion to the net subsidisation, but when you put in "and" you mean that you have got an additional criterion. You have the two -- net subsidisation and this other category.

MR. GUERA (Cuba): I do not want to put "and". I want only to take out the "or". The net subsidisation will not be considered such if the system is so operated as not to unduly stimulate exports or injure the interests of other countries.

THE CHAIRMAN: You would have to alter the "net subsidisation" to make it rather more general. When you have the alternative, it could stand up fairly well, but I think we must take stock of our progress. . . . Are members of the Committee ready to go on for another hour?

SIR G. CLAUSON (UK) An hour, yes.

MR. DE VRIES (Netherlands): Could we take out the words "evidence that there is no net subsidisation over a period of years" and make the passage read . . . "like product to domestic buyers in the sense that the aggregate difference, etc. . . ."

THE CHAIRMAN: If we said, instead of "there is evidence. . . .", "and the nature of the arrangement is such that it may be expected. . . ." how would that do?

THE RAPPORTEUR: Could we leave out "and there is evidence. . . . period of years"?

THE CHAIRMAN: And put in my phrase "and the nature of the arrangement is such that it may be expected. . . ."

THE RAPPORTEUR: I agree with Mr. De Vries on this clause. It is put here particularly to see that a particular kind of arrangement for primary products does not hurt anybody. There will be lots of them that will not hurt anybody, and they will all be dealt with under paragraph 3.

THE CHAIRMAN: You would leave out the "net subsidisation" phrase?

MR. DE VRIES (Netherlands): We would say that this is a harmless system for world trade and as consumers.

THE RAPPORTEUR: We are getting back to what we had to begin with.

What we say here is that if you have an export subsidy which nobody objects to, you report it, and say you are keeping it up for certain reasons, which might be that you are operating it in such a way as not to hurt anybody, and if the Organisation circulates the matter in the process of making its determination under the preceding sentence among other interested countries, and they say it is all right, then you may do it, the reason being that it has not hurt anybody..

No. 3 then becomes a repetition.

THE CHAIRMAN: I do not want to complicate it. First we had "of", then nothing was suggested, then "and" and now "but."

SIR GERARD CLAUSON (United Kingdom): I would like to suggest one small change in 3. The thing may be settled out of court very often, so I think it would be better to say "the difficulty may be deemed" instead of "shall." At the moment it is rather mandatory. If you say "may" it leaves it open, and say "in that event." It imports the whole of Chapter VI, which says the first thing to do if you get into trouble is to see if you cannot stimulate consumption.

PROFESSOR de VRIES (Netherlands): I completely agree with that, but cannot we say Chapter VI (1), leaving out "Article 3"?

THE RAPPOORTEUR: Shall we, for accuracy, refer once say "special difficulty", and that makes it sound better.

SIR GERARD CLAUSON (United Kingdom): "... may be deemed to be a special difficulty of the kind referred to in Chapter VI, and in that event the procedure laid down in that Chapter shall be followed." The second "shall" is right.

MR. DEUTSCH (Canada): I suggest we strike out 4 (d).

THE CHAIRMAN: I think we had better revert to the old square brackets with an appropriate note in the report.

SIR GERARD CLAUSON (United Kingdom): That applies to (b) and (c)?

THE CHAIRMAN: Yes.

MR. DEUTSCH (Canada): I would rather strike it out. I do not want anything in there.

THE RAPPOORTEUR: Perhaps we might have some discussion, in that case.

THE CHAIRMAN: I think we were agreed we did not have authority to strike it out. In view of the reservation made by the Rapporteur - and I think I suggested we might indicate that - the general view of this sub-committee was that the provisions of (b) and (c) had the effect of increasing the latitude that members using subsidies^{had}/after a failure to make commodity agreements to a much greater extent than they had before the commodity agreement was entered into. That is a bit involved, but I think it is

clear. It was thought by some members, however, that to strike this out meant a review of other Chapters, and for this reason it was decided to put them in square brackets and report to the committee. I take it out attitude is that some of us at any rate feel that when we go into the matter there are certain conditions in existence regarding subsidies which have to submit to certain procedure. Then you put them before the commodity agreement procedure and you fail to make an agreement. Then it is believed by some of us that the subsidy should go back to the conditions that were laid down in the first place, rather than as a result of the failure of the commodity agreement to secure greater latitude than they otherwise would have had.

PROFESSOR de VRIES (Netherlands): Is it possible to arrive at a solution of the problem by coming (b) and (c), saying:

"If it is determined that the measures provided for in sub-paragraph (a) of this paragraph have not succeeded" - that means the commodity arrangement is no success - and if it has not succeeded

"no Member shall grant any subsidy on the exportation of any primary product which has the effect of acquiring for that Member a share of world trade in that product in excess of the share which it had during a previous representative period"?

SIR GERARD CLAUSON (United Kingdom): No, that is not good enough.

THE CHAIRMAN: You see, there are two clear-cut views. One is that paragraphs 1, 2 and 3 apply to subsidies; then provision is made to use the machinery of Article 6. If Article 6 fails one view is that 1, 2 and 3 continue in force as far as the subsidies are concerned; and the other view, as expressed in the present paragraph, is that more lenient conditions obtain than those provided in 1, 2 and 3. There are the two views if you fail; that your commodity agreement does continue with 1, 2 and 3, or if you fail that your commodity agreement does go to (b) and (c), which is a more lenient attitude towards subsidies.

THE RAPPORTEUR: I believe that gives a somewhat distorted picture of the way the thing actually happens. It seems to me, to put the other extreme, you might say that members who have practised subsidization of primary products in the past must feel, if they can agree with that view, that they are permitted under paragraphs 1 and 2 to do substantially what they have done in the past - which we do not believe to be the case. If, however, the latter part of paragraph 2 in particular is to be construed in that way we would consider that fairly unfortunate. Under the sentence

"If any Member considers itself unable to make the provisions in this paragraph effective",

and shall explain to the Organization why it has to keep on the export subsidy, we had not thought that we would have the case where we were subsidizing it because it was in burdensome surplus.

SIR GERARD CLAUSON (United Kingdom): Nobody complains if you are giving them something cheaper than it would otherwise be.

THE RAPPORTEUR: In the case of a burdensome surplus these words only retain a limited amount of their ordinary significance. That is where the demand at any price -- as has been the case in burdensome surpluses in the past -- is less than the supply that will be offered at any price down to something which is far enough above zero to cover the carrying and handling charges, which owing to a relative cheapness loses practically all its significance. I cannot quite see how that point applies. All I am saying is that when you get into that kind of situation -- and this, of course, is directed only towards that situation, -- burdensome world surplus -- it had not been our idea that the provisions of paragraph 2 permitted that type of action. If we feel it does, we come back to redrafting the Article in terms of making 1 and 2 carry the whole load, and that may be the best way of doing it. I did not mean to suggest it was not.

THE RAPPORTEUR: That is what it comes down to, a question of re-examining one or two to see whether it is the situation.

PROF. de VRIES: If it is done as I suggest then paragraphs 1, 2 and 3 are still in force. But then if you say that no member shall grant any subsidy on the exportation which has the effect of a share in excess of a previous share, that means there is an obligation to the amendment even without consideration to limiting the subsidization. If by going on with this agreement he will get an excess share, so to give special obligation to the member not to use it to get a greater share in a slump. If you cannot come to an agreement, at least you cannot take an advantage out of your subsidy.

THE RAPPORTEUR: What I would agree with is that this gives the rich country a much greater advantage than it had before. You are asking that the rich country shall operate entirely under the terms of 2, which merely says it will be ready to discuss and not that it will limit the extent of its subsidization. Paragraph 5, the parts that are suggested for deletion are a measure on the operation of the rich country in a case where you cannot get an agreement on a commodity subsidization. It is unfortunate for the purposes of discussion, but not for the purposes of writing it, that the word "determine" here sounds as though the organization is going to sit in judgment. It is not going to sit in judgment. It is the interested countries.

PROF. de VRIES: But you must have the agreement with the other countries.

THE RAPPORTEUR: No, I think not.

PROF. de VRIES: If the agreement is not reached, or delayed by two or three years by long consultation, you go ahead. But then you would put a brake on that subsidy and say, especially in a period of emergency, if you go on before there is an arrangement, or the arrangement is delayed or obstructed by somebody, you are not allowed to use a subsidy to increase your share of world trade.

SIR GERARD CLAUSON: I disagree with this. What paragraph 2 says is that

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no member shall grant any subsidy on the exportation of any product. It goes on to say that members shall give effect to the provisions of the paragraph at the earliest possible date and at any event not later than three years from the day on which it is put into force. So that is a death sentence for all export subsidies three years after the Charter entering into force. Then it is said it is not fair, there is a discussion and the member who does not believe in the death sentence finds himself in the minority. Then the determination must be that the subsidy shall die. Then the subsidizing member has two alternatives, either to kill it or to leave the organization under the special clause, or whatever it is.

MR DEUCH: Or other countries may take sanctions.

SIR GERARD CLAUSON: Yes.

THE RAPPORTEUR: I can only say I cannot believe any exporting country can accept that paragraph without the material that is in brackets. I think we go round, as I said we would, to the point where it will not adequately cover a non-primary product and we will have to write a separate one for the primary product. We have taken that position clearly in all discussions of this material and we have always come out with this kind of agreement. I very much regret that we have to go round it again, because I think that is where we come out. We will have to see that 2 is written clearly so it will not have that interpretation. I am sure that will not be a position held exclusively by the United States.

SIR GERARD CLAUSON: I think you are the only people who can afford to subsidize export products. We certainly cannot; we have not got any money for export.

THE CHAIRMAN: You have not got many exports of the primary product.

SIR GERARD CLAUSON: Not more than £250,000,000 a year.

THE CHAIRMAN: You include the Colonies.

SIR GERARD CLAUSON: I am talking about the Colonies as well.

MR DEUCH: The same problem affects us. We are not in a position to

enter into a competitive subsidization programme, because agricultural exports are such a large part of our exports.

THE CHAIRMAN: We cannot do it either with these schemes we have got.

PROF. de VRIES: I feel if there is any agreement or solution found the Netherlands at home and the Netherlands overseas can take up the obligation not to try to have a bigger share in world trade by subsidy; not not so if there is no agreement. That is the death sentence for any export subsidy. That may have such an enormous effect, and an effect not as the Brazilian representative asked for of merely decreasing it but giving it the death sentence after three years. You cannot see what the consequences of that death sentence will be. But you can undertake not to get a bigger share. You can effectively try to get an arrangement to Chapter 6.

SIR GERARD CLAUSON: I do suggest we leave these words in brackets, because you are not suggesting they should be cut out but that they should be bracketted.

THE CHAIRMAN: I think then the meeting can have a go at it. It is a pretty important point in principle.

On the matter of the report, we do not have to say very much, I suggest, because we just want to say what we have done in the way of alterations. I think we can cut that down. That is paragraph 4, at the end of the first page: "The sentence at the end of paragraph 2 was added to permit a domestic stabilization scheme under which the domestic price is maintained at a level which" -----

SIR GERARD CLAUSON: That is paragraph 3 now, of course. The words 'at the end of paragraph 2 are now to be in paragraph 3, because we have turned that into a separate paragraph.

THE CHAIRMAN: Yes, that is right. "added to permit a domestic stabilization scheme under which the domestic price is maintained at a level". I suggest we alter that to "sometimes higher than the export price". "might be expected to result in the difference between the export and domestic price when the domestic price is the higher is offset by the difference when the domestic price is the lower. The

sentence permits approval by the organization if such a stabilization scheme does not prejudice the trade or other interests of any members.

"The additional paragraph added to the Article as paragraph 4 (a) is designed to make clear that the procedure provided for primary products subject to subsidization is intended to be identical with that worked out in detail in Chapter VI. It is thought that the interim drafting committee might study the treatment of this matter in Article 25, in Chapter VI, and in Article 55, paragraph 6, with the idea of simplifying the treatment of what is intended to be (a) a standard type of procedure for dealing with primary commodities encountering special difficulties, and (b) an adequate consultative procedure in the case of non-primary commodities subject to subsidization.

"In general, the intention of the Article as a whole may be roughly stated as follows:

"Paragraph 1 provides that any type of subsidization operating to distort trade shall be fully reported to the organization and that, whenever such subsidization seriously prejudices the trade of another member" -----

SIR GERARD C'HAUSON (U.K.) I did want to go back to the beginning of the sentence, because it is not quite right. The additional paragraph added to the Article No. 4 (a) is designed to make clear that the procedure provided in Chapter 6 may be adopted for dealing with difficulties arising from subsidization.

THE CHAIRMAN For dealing with difficulties with which subsidization is associated.

SIR GERARD C'HAUSON (U.K.) Yes.

THE CHAIRMAN: Can we go down to the paragraph starting "In general..?"

It then goes:

"In general, the intention of the Article as a whole may be roughly stated as follows:

"Paragraph 1 provides that any type of subsidization operating to distort trade shall be fully reported to the organization and that, whenever such subsidization seriously prejudices the interests of another Member, there shall be consultation under the organization looking to a resolution -"

Is "resolution" right? Shall we make it "solution"? Then -
"solution of the problem thus created.

"Paragraph 2 is intended to provide that such subsidization, where it results in export at lower prices than domestic sale, shall be eliminated as soon as possible or shall lead to consultation among interested Members.

"Paragraph 3 -

That becomes paragraph 4 now and Paragraph 3 deals with special cases that might be considered to come within the category of export subsidies. I will ask the Rapporteur to fix that up in consultation with Mr. Deutch.

MR. DE VRIES (Netherlands): I still feel a little uneasy about paragraph 3. Paragraphs 4 (b) and (c) are put into square brackets, and so the whole procedure is somewhat in the dark. Paragraph 3 is now more or less exempt, but others which may be quite as harmless are not exempted. I do not feel there is much harm in the whole thing.

THE CHAIRMAN: With due respect, I do not think it was ever a particularly harmonious document; at least, I found myself breaking out into something other than harmony once or twice when I was reading it. What is your difficulty, Mr. de Vries?

L.2.

E/PC/T/C.II & IV/PP/PV/2

You think that paragraph 3 is somehow bound up with paragraph 4 (b) and (c)?

MR. DE VRIES (Netherlands): Yes, if you have 4 (b) and (c). If you have a system which is not covered by 3, and you do not get an agreement under 4 (a), you are nowhere.

THE CHAIRMAN: I should say that if you do not get an agreement under 4 (a), 3 still stands.

MR. DE VRIES (Netherlands): It stands for the other case, but for the other special cases, it does not stand.

THE CHAIRMAN: That is the difficulty when you try to put into two categories all the various forms of price support.

MR. DE VRIES (Netherlands): That is the difficulty, I agree.

THE CHAIRMAN: I do not know how you can get over that, but it is a matter which the Organization will work out. It has room to do it and I, to my idea would be that when you fail to get down to a commodity agreement, you come back to 1, and that covers all subsidies. I say that subject to the fact that I may not have analysed it as closely as our Rapporteur. Now the idea seems to me to be that you want to get rid of 1. once you have entered, with others, into a discussion on a commodity agreement and you fail to come to an agreement. And 1. covers all subsidies.

THE RAPPORTEUR: Only in the case of a burdensome surplus.

THE CHAIRMAN: That makes a difference.

MR. DEUTCH (Canada): That is where 1. would be helpful.

MR. DE VRIES (Netherlands): As I see it, if you do not agree, you only have an obligation not to expand your share of the world trade. If that is excepted, you can except paragraph 3 as well. There is no danger for this system, or for any other harmless system, which has no intention of expanding its share of the world trade. You notify the Organization about the nature of the measures you are taking.

THE RAPPORTEUR: I would accept that.

L. 3.

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MR. DE VRIES (Netherlands): Then everything is all right.

MR. DEUTCH (Canada): No.

SIR G. CLAUSON (U.K.): No, it is not. That is the whole point.

Do not let us go back and discuss 4 (b) and (c) because we have decided to put them into brackets. Professor de Vries wants to put paragraph 3 into brackets, but I understand that his objection is not that 3 is wrong, but that it is incomplete.

MR. DE VRIES (Netherlands): Yes, it is one special case.

SIR G. CLAUSON (U.K.): The solution, then, is to put two little square brackets under the article, with nothing between them, and a note in the report saying that one delegation considers that the text is incomplete at this point since there are other cases which ought equally to be decided not by subsidiary.

THE RAPPORTEUR: I agree with that, and would support it.

MR. DE VRIES: All right. Then we can see it in the United States or at Geneva.

SIR G. CLAUSON (U.K.): Then you will be able to produce your Christmas box of the other clauses which ought to go within square brackets!

MR. DE VRIES (Netherlands): I have one more thing to ask. Can a note be put in the report to the effect that the drafting committee will, at a later stage, have to consider the relation between Article 25 and Article 11?

THE CHAIRMAN: I do not agree with you, but I shall be glad to put it in. Is there anything further? No? Then we will end the meeting.

The Committee rose at 6.10 p.m.