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E/PC/T/C.6/51
10 February 1947

ORIGINAL: - ENGLISH

DRAFTING COMMITTEE OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

SUMMARY RECORD OF THE SEVENTEENTH MEETING

Held at Lake Success on 8 February 1947 at 10:30 a.m.

Chairman: H. E. M. Erik COLBAN

1. The CHAIRMAN introduced the Report of the ad hoc Sub-Committee on Paragraph 2 of Article 27 (document E/PC/T/C.6/W.55).

In the discussion of this redraft of Paragraph 2 of Article 27, Mr. SHACKLE (United Kingdom) suggested the following additions to Paragraph 3 of this Article:

- (a) Add after the words "shall apply" the words "mutatis mutandis";
- (b) Add after the words "restriction" the words "by quantity or value".

The redraft was approved with the above changes and the CHAIRMAN declared the whole of Article 27 thus adopted in second reading.

2. Second Reading of Articles 44 and 45 (document E/PC/T/C.6/47)

The Committee did not find it necessary to bring any changes to the agreed text.

3. Second Reading of Articles 46 through 51 - (document E/PC/T/C.6/43)

The Delegate for the Netherlands stated that he would have preferred to see the escape clause now contained in paragraph 1 of Article 53 shifted to Article 49. He received the support of the Australian and of the United States delegates, and it was decided to reconsider the question when Article 53 was discussed.

The Indian Delegate stated that he would prefer the Cuban amendment to Article 47 (c) stated as a reservation in the Report, rather than in

/square

square brackets in the text.

The CHAIRMAN answered that inclusion of the Cuban suggestion within square brackets in the text was in conformity with the views of the Committee and meant that the text would be referred to the meeting in Geneva.

The Delegate for the United States considered Article 47 (b) as a substantial change from the London text contained in Article 47, paragraph 3, and expressed his preference for the latter text.

The Delegates for Australia, Canada, the Netherlands and United Kingdom supported the United States position and it was decided to revert to the London text. With the exception of these points, the Committee agreed to the text of Document E/PC/T/C.6/43.

4. Discussion of the Chilean Draft of Article 51 - Paragraph 4 contained in Document E/PC/T/C.6/W.42

The Chilean Delegate explained that the draft submitted by his delegation aimed to prevent a deadlock in the decisions concerning commodity arrangements. To facilitate the proceedings, he suggested that consumers should accept two conditions: a reasonable price increase when

- (a) there has been an appreciable decrease from the price of the previous period; and
- (b) when the present price does not cover costs.

The United States Delegate was unable to agree with the Chilean amendment because it nullified the intention of the Charter as to equality of voice between consumers and producers.

The Canadian Delegate was of the opinion that the Chilean amendment would create a reasonable limitation to the voice of the importers. He asked the United States Delegate whether he would veto any agreement containing a price increase.

In the United Kingdom Delegate's opinion the discussion raised by the Chilean proposal illustrated the wisdom of maintaining the London text.

The Cuban Delegate asked that the Report should mention the fact that

/a reasonable

a reasonable price should not be below the cost of production. He added that the Cuban delegation hoped that a proviso on reasonable price would be included in paragraph 4 of Article 47 in Geneva, and in that case the Chilean point would be covered.

The Belgian Delegate stated that he was not agreeable to the substantive change contained in the Chilean proposal because it would facilitate the maintenance of a status quo in world production, and this was not the aim of commodity agreements as expressed in Article 47; when a price decreased it should not necessarily be increased again.

The Chilean Delegate stated that the proposal was not meant to be a substantive change and that the point raised by his delegation would be covered if the Cuban amendment on reasonable price was included in Article 47.

It was agreed to maintain the London text and to include in the Report a note on the Chilean text, which would include the statement that "Some Delegates understood that other stipulations of the Charter covered any legitimate interest the Chilean amendment was meant to cover."

5. Discussion of the Suggestion Made by the F.A.O. Observer Concerning Article 52 - (document E/PC/T/C.6/W.59)

The Executive Secretary called the attention of the Committee to the following printing errors:

(a) In the sixth line the inverted brackets should follow the word "or" instead of preceding it.

(b) The last paragraph should not be within brackets.

The F.A.O. Observer added that the word "production" should be inserted in the ninth line after the word "expanded".

The Cuban Delegate had no other objection to the text than that it went far beyond the terms of reference of the Drafting Committee. He also thought that the point raised by the F.A.O. Observer was covered by the finally agreed text of Article 47 - (b).

/The Delegate

The Delegate for the Netherlands expressed his agreement with the F.A.O. Observer.

The CHAIRMAN stated that the Committee was not empowered to insert a new paragraph 1, but a statement drawing attention to the point raised by the F.A.O. Observer could be included in the Report.

The Delegate for the Netherlands stated that he was under strict instructions from his Government to consider the consistency between provisions of F.A.O. and I.T.O.

The Executive Secretary suggested that a small group which would include the F.A.O. Observer, and the Delegate for the Netherlands could consider a suitable text for inclusion in the Report which then would be issued by the Secretariat and discussed in the Committee.

The Delegate for Canada said that even though the point raised by the F.A.O. Observer was outside the terms of reference, he agreed that it would have to be carefully considered; public attention will focus on that point and it would be advisable to express the F.A.O. Observer's point of view in the best possible way.

The Cuban Delegate agreed with the Executive Secretary and added that a notation should be made in the Report and delegations wanting to adhere to it could do so.

The Delegates for China and India agreed and it was decided to follow the Executive Secretary's suggestion.

6. Discussion Concerning Article 54

Paragraphs 1, 2, 3, 4, 7, and 8 of the London text were adopted without discussion.

In connection with paragraph 5, the F.A.O. Observer stated that in agreements relating to agricultural products it should be possible for F.A.O. to supply certain members of the Secretariat of Commodity Councils.

The CHAIRMAN stated that there was nothing in the text which precluded such a possibility and the Delegates for Cuba and the United States added that it is the Commodity Council which appoints the Secretariat

in consultation with I.T.O. Paragraph 5 of the London text was then adopted.

In regard to paragraph 6 the Cuban Delegate stated that the intent of the amendment suggested by his delegation and which amendment is contained in document E/PC/T/C.6/52 was to avoid the necessity for specific approval by the Organization of every detailed rule. In order to express the Cuban idea of preference for an overall approval of the rules and procedures of the Commodity Council, it was agreed, upon the suggestion of the Delegates for Belgium and the Netherlands, to include a text to that effect.

7. Consideration of Article 55

The Cuban Delegate explained that his delegation's suggestion (document E/PC/T/C.6/W.52) was aimed at making an explicit reference to the problems of termination of agreements and withdrawal from agreements. The Cuban amendment was unanimously accepted and the consequent drafting points were referred to the Legal Drafting Sub-Committee.

The F.A.O. Observer stated that as the Article now read it seemed possible to have in an agreement a price clause valid for all the five years.

The Delegate for United States stated that the Council should keep price clauses under constant review and the Committee agreed that this point was covered in the agreement.

To the F.A.O. Observer's question that it should be possible for competent organizations to secure information from the archives of Commodity Councils which, after the termination of the agreements, are in possession of the Organization, the CHAIRMAN answered that he did not see anything in Article 55 which precluded such possibility.

8. Consideration of Article 56

On the Executive Secretary's suggestion it was decided to replace the reference to Article 71 by a reference to Article 86; and on the United Kingdom Delegate's suggestion the words "subject to" were changed to "in pursuance of".

/9. Consideration

9. Consideration of Article 57

Paragraphs 1 and 2 were accepted and a small drafting point in paragraph 2 was referred to the Legal Drafting Sub-Committee.

10. Consideration of Article 58

This Article was approved without any change from the London text.

11. Consideration of Article 59

Paragraph 1: The United Kingdom Delegate suggested a drafting change in connection with conservation agreements relating to wildlife and fisheries; he proposed that all exceptions should be grouped together in paragraph 1 of Article 59 instead of having the clause relating to wildlife and fisheries in Article 60 as suggested by the United States draft. This change was accepted by the Committee. To the question of the Delegate for United Kingdom as to whether "Nations affected" included Consumers, the CHAIRMAN answered that it did.

On the suggestion of the Delegate for Czechoslovakia, it was decided to include in the Report a text to the effect that the arrangements referred to in Article 59, paragraph 1, relating solely to the equitable distribution of commodities in short supply, should be short term agreements of a transitional character. Paragraphs 1 and 2 were then accepted subject to a small drafting change in paragraph 2.

12. Consideration of Article 60:

Paragraph 1: After a short discussion on a suitable definition of the words "primary commodity" the Committee agreed to accept the Canadian Delegate's suggestion that a "primary commodity" is "any product of farm, forestry or fishery or any mineral which enters world trade in substantial volume in a form customarily called primary". The Committee was anxious to make it clear that commodity agreements can also be concluded for synthetic products and it was agreed to replace the last sentence of

/paragraph 1

paragraph 1 by a text suggested by the Delegate for Belgium. Paragraph 1 was then accepted and it was agreed to maintain paragraphs 2, 3, and 4 of the London text.

The Delegate for Brazil stated that he reserved the position of his Government as to the whole of Chapter VII insofar as it interfered with the production of primary commodities for home consumption.

The meeting adjourned until Monday, 10 February 1947, 10:30 a.m.
