

UNITED NATIONS

NATIONS UNIES

RESTRICTED  
E/PC/T/A/PV/32  
23 July 1947

ECONOMIC  
AND  
SOCIAL COUNCIL

CONSEIL  
ECONOMIQUE  
ET SOCIAL

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SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE  
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

VERBATIM REPORT

THIRTY-SECOND MEETING OF COMMISSION A  
HELD ON WEDNESDAY, 23 JULY 1947, at 10.30 A.M. IN THE  
PALAIS DES NATIONS, GENEVA

Mr. ERIC COLBAN (CHAIRMAN) (NORWAY)

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CHAIRMAN: The Meeting is called to order.

At our last meeting we were discussing Article 18; (2)(c) and we agreed, I think, that the decisive point in that sub-paragraph was Point(iii)-on which the opinions in the Sub-committee were considerably divided.

At the end of our last meeting the United States Delegate made a compromise proposal which has now been distributed as Document W.251, and we agreed that between our last meeting and today the Delegates would examine that suggestion and see whether it would enable Delegates to agree to the whole text of sub-paragraph (c). I do not need to ask the United States Delegate to explain his proposal, because you have had it in your hands for some days, but I would like to know whether any Delegate has any remarks to make or any objection to present on that proposal.

The Delegate of Australia.

Mr. C. E. MORTON (Australia): It appears to the Delegation of Australia, Mr. Chairman, that multiple currency practices have little to recommend them in any way. However, they are something with which the International Monetary Fund found itself burdened at its inception and consequently a certain toleration for a certain period has to be extended. We are entirely opposed to them, but we are faced with the position that they exist and, in the meantime, a country may regard itself at liberty to take advantage of their operation within the limits proposed by the International Monetary Fund.

We see great dangers, both in regard to a country's exports and to a country's imports from multiple currency practices and, as regards our exports to them, we think that the paragraph of the new draft, which says that for the purposes of importation a par rate should be used, or no higherrate, protects us fully.

As regards imports into our own country, we feel that multiple currency practices may, in certain circumstances, constitute an export subsidy. This position has been brought to the notice of the Sub-committee, he have agreed, by the issue of a Note on Article 17, Paragraph 2, that a country may deal with multiple currency practices by means of countervailing duties in such circumstances.

There is, however, another element of which we are mistrustful. In certain circumstances, multiple currency practices amount to a partial depreciation of a country's currency. In such cases we did not think we should partially deal with the deleterious effects of multiple currency practices by means of insisting that the value for duty should be converted at the par rate. We think we should deal with it entirely as a piece of dumping, or as a dumping measure. Therefore we propose that the Note to Paragraph 2 of Article 17 be amended in the manner in which I have circulated a paper this morning, which indicates that, in addition to the subsidy element, the dumping element which occurs when the multiple currency practice amounts to a partial depreciation of currency may be taken care of by action under Paragraph 1 of Article 17.

We have previously expressed our objection to multiple currency practices, but we do not think that an Article on valuation is the place at which we should attempt to protect ourselves. Therefore we propose the addition of a Note on anti-dumping measures and duties which will enable us to take protective action in that regard.

CHAIRMAN: You have heard the observations of the Australian Delegate. He does not object to the amendment presented by the United States Delegate, but if that amendment is agreed to he suggests a re-draft of the Explanatory Note to Article 17, Paragraph 2. I would first ask whether any other Delegate has any objection to the United States amendment as presented in Document W.201.

M. L. ROUX (France) (Interpretation): Mr. Chairman, I should like to ask two questions. In the first place, what is the difference between the American proposal now before us, and the previous text of paragraph 2(c)(iii), which was not accepted by the Commission? It seems to me that those proposals leave the Member States free to determine any rate, and including an arbitrary rate of exchange.

My second question is directed to the representative of the International Monetary Fund, who, on several occasions, was good enough to give us good advice. I should like to have his opinion on the American proposal.

CHAIRMAN: Then perhaps, it would be best to try to get a reply to the second point brought up by the French Delegate. Is the representative of the International Monetary Fund prepared to give his opinion on the United States amendment?

Mr. Ernest STURC (International Monetary Fund): For reasons, Mr. Chairman, which we have explained at length in the Sub-Committee on this Article, we viewed with grave concern, the American proposal on 2(c)(iii), as it was previously proposed. At present the amendment is considerably closer to our position on this question. Nevertheless, if the American Delegation itself did not commit itself yet to it fully, we would reserve our position. As a merit of it, I would say that the question of a single rate additional to the par value rate is still a possibility within this amendment, but, in the long run, it will be eliminated by the procedure as outlined in the American proposal, and, therefore, it is much closer to what we desire, namely, that a single uniform and par value system should be established throughout the world.

CHAIRMAN (Interpretation): Is the representative of France satisfied by the explanation which has been given by the

representative of the International Monetary Fund?

M. L. ROUX (France) (Interpretation): I am satisfied to some extent, Mr. Chairman, only because this is rather a technical problem. What will happen in fact is that, when the Charter is adopted, and this was also recognised by the representative of the Monetary Fund, the general rule which will be applied with regard to countries applying duties calculated on the basis of the ad valorem price will be, in its essence, what was laid down in the original United States proposal, which was not accepted by the Commission. It is only later, when an agreement will be concluded between the Organization and the Monetary Fund, that it will be possible to abandon these arbitrary practices.

CHAIRMAN: Does any other Delegate wish to oppose the United States amendment?

Mr. J.P.D. JOHNSON (New Zealand): Mr. Chairman, I do not wish to raise any opposition to the proposal, but I would just like to make one small observation, and that is in connection with the word "agreement" in the first line. The intention of the paragraph is that the Organization shall formulate the rules and, obviously, <sup>in</sup> the formulating of such rules, they would consult with the International Monetary Fund. I do not think there is any suggestion that there would be any disagreement between the two on the matter, but I think the real intention is that there should be consultation, and the responsibility rests with the Organization to formulate the rules. I should think, therefore, that, in order to preserve relations, perhaps it might be agreed between the Organization and the Monetary Fund, to use the word "consultation" in place of the word "agreement".

MR. J.M. LEBDY (United States): Mr. Chairman, may I just explain. I think that we proposed the words "in agreement with" for two reasons: because <sup>of</sup> the rather strong views of the representatives of the Monetary Fund in this connection, who were concerned with the question of par values, and secondly, because we think that in practice it will probably be the Monetary Fund that has the staff and knowledge to deal with this complicated question of what is the right exchange rate in relation to the value of a country's currency.

Therefore, we thought that perhaps the line we should take should be a bit stronger and actually envisage that the Organization and the Fund would agree upon this, rather than that there should be merely consultation.

I should like to ask the representative of the Fund whether they have any views on the matter?

CHAIRMAN: The Representative of the International Monetary Fund.

MR. E. STURC (International Monetary Fund): Mr. Chairman, our view is that the expression "in agreement with" in this connection would be more suitable than "in consultation with", even though we agree fully that consultation might lead to the same results as the expression "in agreement with". Nevertheless, because this question is of a most delicate technical nature, and because the International Monetary Fund is so vitally interested from a much broader point of view, namely from the point of view of keeping the par value system in perfect order, we think that the stronger expression might be more useful in this regard in that it would indicate to the International Trade Organization that this is a question on which an agreement is most vital and necessary.

I would only like to add, Mr. Chairman, that I gather from the discussion of the sub-committee on the balance-of-payments Articles that, regarding the problem of the special exchange arrangements with Members which are not Members of the International Monetary Fund, the expression "in agreement with" is contemplated. Therefore, the expression here will not be the only one which will be used in such a connection.

CHAIRMAN: The Delegate of Belgium.

Baron P. de CAIFFIER (Belgium) (Interpretation): Mr. Chairman, at our last meeting, we accepted conditionally the United States proposal. We consider that the action against multiple currency practices is more in the realm of the International Monetary Fund than of the Trade Organization. That is why we insist on the retention of the word "agreement".

CHAIRMAN: Does this explanation give satisfaction to the Delegate of New Zealand?

MR. J.P.D. JOHNSON (New Zealand)\* I am thankful for the explanation, Mr. Chairman, but from my own point of view I think that the Organization should be responsible for its own action, and, as I said before, I do not think there is any doubt that they must be guided by the recommendations of the Fund in this matter, because they must rely on the Fund for advice. Nevertheless, I think the words "in consultation with" would have the proper relationship. In view of the fact that it is suggested that the words "in agreement with" are being used elsewhere - I cannot confirm or deny that, because I am not familiar with what has been going on in all sections of the Charter - it would not be inconsistent if these words were retained here, but if that were not

the case, then I think there might be an inconsistency.

CHAIRMAN: I agree with the Delegate of New Zealand that the words "in consultation with" would have the same result. On the other hand, I am not quite certain that the use of the words "in agreement with" takes away from the Organization the right and duty to formulate the rules. It simply means that the Organization must make sure that in formulating such rules it is acting in conformity with the views of the International Monetary Fund, and as it is a question of technical monetary policy, I think that the Organization would act wrongly if it tried to establish rules which were not agreed to by the International Monetary Fund. Therefore, I think we could quite well keep the word "agreement", even if it seems a little strong.

May I take it that we now all agree to the United States amendment?

Mr. G. IMMS (United Kingdom): I would like to raise two points. One of them is purely a drafting point and the other is perhaps one of more substance.

In the third line of the American draft we see "governing the conversion of foreign currencies". Presumably the Organization and the International Monetary Fund know no "foreign" currencies - currencies are not, in a sense, "foreign" to them, and perhaps that point might be met by the addition of the words "by Members" after the word "conversion" - that is, "... the conversion by Members of foreign currencies".

The other point is that this sentence provides for general rules regarding foreign currencies in respect of which multiple rates of exchange are maintained. I wonder if it would not be desirable to amplify the sentence by providing that the Organization and the Fund might make rules regarding the conversion of an individual currency. The application of a general rule to a particular case might present some difficulty. On the form of words you might simply state "shall" or "may, at the request of a Member, substantially interested in the trade affected, formulate rules for the conversion of an individual currency".

CHAIRMAN: Would not the first point of the United Kingdom Delegate be met if you simply strike out the word "foreign?"

Mr. J.M. LEDDY (United States): Mr. Chairman, I think that may lead to some difficulty. This deals solely with the conversion rate of exchange of the foreign currency. We do not want to imply that these rules are to be applied by the importing Member in respect of its own currency.

CHAIRMAN: Could we solve the first difficulty by saying "governing the conversion by Members of foreign currencies"? Is that agreeable to the United States Delegate?

Mr. J.M. LEDDY (United States): Yes.

CHAIRMAN: Then the second point is, to add after the full stop in the first sentence "and may, at the request of a Member substantially interested in the trade affected, formulate rules for the conversion of an individual currency".

Mr. J.M. LEDDY (United States): I think the idea was that these provisions should permit the formulation of rules for the currency. I think that might be handled more easily by re-casting the first sentence to read "shall formulate rules governing conversions of any foreign currency in respect of which multiple rates of exchange are maintained consistently with the Articles of Agreement of the International Monetary Fund". Any Member may apply such rules in respect of any such currency for the purposes of paragraph 2(a)."

Now, it seems to me that that would permit the Organization, in agreement with the Fund, either to set out general rules covering all multiple rate currencies or particular rules governing each of such currencies in the event that particular rules were necessary.

CHAIRMAN: Does that give satisfaction to the United Kingdom?

Mr. G. IMMS (United Kingdom): It does.

CHAIRMAN: That is a very good solution. May I take it that we now agree to the United States amendment, with the slight addition of the word "any", inserted between "of" and "foreign"?

Mr. C.E. MORTON (Australia): Including "the conversion by Members".

CHAIRMAN: Does the Delegate of the United States want the words "by Members"?

Mr. J.M. LEDDY (United States): Yes.

CHAIRMAN: May I take it to be agreed?

(Agreed)

CHAIRMAN: We must now go back to the explanatory note on page 9 of the document T/103 concerning multiple currency rates: "It is the understanding of the Sub-Committee that multiple currency rates, (official practises by a State) may in certain circumstances constitute a subsidy to export which could be met by countervailing duties under paragraph 2 of this Article." You will remember that that was the text.

The Australian delegation wants this to be amplified by adding the words "or may constitute a form of dumping by means of a partial depreciation of a country's currency which could be met by action under paragraph 1 of this Article. By 'multiple currency practices' is meant practices by Governments or sanctioned by Governments."

You have heard the Australian proposal. I do not know whether anyone wishes to have any further explanation, but I would like to know if there is any opposition to this suggestion.

Mr. J.M. LEDDY (United States): I take it that this is not a limitation to the definition of dumping; but simply an explanation.

CHAIRMAN: You all have a copy of the Australian amendment, and I will give you a minute to read it so that we can all be sure of understanding the proposal.

I take it that the silence means that the Commission accepts this redraft of the explanatory note on page 9.

We will now go back to pages 16 and 17 of document T/103. You will remember that we had considerable discussion about the words "between independent buyer and seller". The United Kingdom delegation expressed considerable doubt as to whether these words should remain in the text and, in connection with that, whether the third note on page 17 should be maintained. I would ask the United Kingdom delegate to tell us whether he is now able to express a definite view.

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I should add, before the United Kingdom delegate speaks, that we considered the possibility of inserting at the end of that sentence the words "In determining whether the conditions of sale are fully competitive a Member may have regard to the question whether the transaction is one between buyer and seller who are independent of each other."

Mr. G. IMMS (United Kingdom): We have given further study to the compromise suggestion of Monday, which you, Mr. Chairman, have just read, and I am afraid that our conclusion is that we cannot accept it. We have considered also whether, and on what basis, any other form of compromise would be acceptable to the United Kingdom, but our conclusion is that we must stand by the text of the paragraph as it was sent to us by the Sub-Committee. As I attempted to explain on Monday, we do not agree to the suggestion made in the note.

Mr. J.M. LEDDY (United States): In the Sub-Committee there was rather an understanding that the phrase "under fully competitive conditions" did contain the same concept as <sup>"between</sup> independent buyer and seller." However, in the light of the statement of the United Kingdom delegate, I think it was quite clear that the United Kingdom would not interpret this phrase "fully competitive" as covering the concept of "independent buyer and seller." This is an extremely technical question, and we are concerned about it from two points of view. First, whether it will mean that we in the United States, shall have to exclude a very large number of transactions which properly should be taken into account because they are effected under fully competitive conditions. Secondly, whether other countries will do that.

I think we really should have time to think about it and I suggest we might ask the Sub-Committee to meet again on this one point and see whether a solution cannot be found. I think it is too complicated to express to the full Commission without some background.

BARON PIERRE DE GAIFFIER (Belgium) (Interpretation):

Mr. Chairman, I will not comment on the value of the term "independent", or its suppression. My point of view in this respect is somewhat analagous to our United Kingdom colleague, but I did not want to complicate matters by a lengthy discussion on this point.

I think we can solve the problem rather easily by considering that we have an alternative in front of us. Either we keep the words in the Charter, "independent buyer and seller" - "under fully competitive conditions" - or we suppress the word "independent", and add a comment of the kind which is under review in our Report, replacing the words "Sub-Committee" by "Commission". I think the result would be practically the same.

CHAIRMAN: I am afraid it would not be very helpful to refer it back to the large Sub-Committee that dealt with this before; and I do not see any better solution than to maintain - I am speaking personally, it is for the Commission to decide - the text we have on page 16 of Document 103, including the words "between independent buyer and seller", and to have an explanatory Note saying that certain Delegations considered - and so on.

The Delegate of the United States.

Mr. LEDDY (United States): Mr. Chairman, I think that our efforts should be in all cases to get an agreement among the Members of the Preparatory Committee on the text of the Charter, and if there is hope of agreement being reached, that we should pursue it. I think if we keep the phrase in, and comment on it, that will indicate that there is a division of opinion which should be forwarded to the World Conference - unless there

will be some later opportunity at this Conference of settling the problem; and I think particularly, owing to the general agreement on Tariffs and Credit, that we should do all that is necessary for us to reach an agreement on the subject.

We would not object to sending this along as the Report of Commission "A", with the phrase in brackets as a comment, provided that there will be an opportunity in the full Preparatory Committee to take up this question again.

Meanwhile the Sub-Committee can meet and consider it.

CHAIRMAN: The Delegate of South Africa.

Dr. HOLLOWAY (South Africa): Mr. Chairman, I only wish to apologise for not being present here as Chairman of the Sub-Committee when this matter came up on previous occasions. Certain matters of some importance to my country made it essential for me to be in London.

I would like to suggest that we grasp the nettle now. Putting it off to either the Preparatory Committee or the World Conference takes us further away from the point where we were as close as we are likely to come.

As Chairman of the Sub-Committee I would be against sending it back to the Sub-Committee, because we would just go round in all the same circles as previously in the Sub-Committee, and ultimately, more or less, I think do violence to the discussion, because it would add nothing to the subject.

I would like to bring you back, however, to the point where we were then, which was fairly close to each other - as close as we could ever get, probably. We had got to this point, that we were all agreed on what we meant by the term "under fully

competitive conditions". It could be held to include "between independent buyer and seller". That the Committee was agreed on. But still I think I have not made my point quite clear.

We were agreed, as we said in the Note - the Sub-Committee considered (that is our interpretation) that the words "between independent buyer and seller" might be deleted, on the understanding (which we all agreed with) that the phrase "under fully competitive conditions" covers the same concept.

Now it does not matter whether Webster's Dictionary, or the Oxford Dictionary, or any kind of reasoning in those same circles we went round before, came to any other conclusion in the minds of any of the Members of the Sub-Committee - I think the Members of this Commission will be in agreement that we want to interpret the two terms in the same concept. So to that extent we were so close together that we were agreed. The only point not in agreement was how to put that down.

The United Kingdom wanted to put it in the text. The United States said, if you do so in the form in which we have it in the Text here, it involves certain difficulties, which it is rather essential that we should avoid. Now, of course, we were only considering the particular form of the text; but nobody else at that stage could conceive another form of Text in which that agreement which we had arrived at could be worded, for the Text itself.

So then we fell back, like the Sub-committee and other Committees have done, on just another instrument that we had in our hands, a bit of latitude which was given to us by the fact that we could explain in a commentary what we meant. That does give us a bit more latitude. It was then agreed that we would explain in the commentary that it was our understanding that these words were covered by the concept of the conditions.

Again we were fairly close together, but a little bit further away than we were at the previous point, because if we had then left the words out of the text altogether and, making use of this latitude that we had in the use of footnotes, put it into a footnote, anybody interpreting it afterwards must say that we understood it that way, and therefore were in honour bound to interpret it that way.

We cannot get away from it. At that meeting, however, the majority of the Delegates wished to keep the words in the text and transfer the problem of whether they are in the text, or whether they introduce a difficulty for one of the countries to this Commission. The question for this Commission to decide, therefore, is whether it is going to leave those words in the text or express the same meaning by using the further latitude which we have in a footnote by taking the words out of the text, but warning everybody by the footnote about the substantial agreement we had got, namely, that "under fully competitive conditions" does cover the same concept.

Very well; if this Commission does not settle that matter, then the same question will come before the Preparatory Committee one stage further. If the Preparatory Committee does not settle it, and passes the same buck on to the World Conference, the atmosphere in which we had got as close as we could to one another will disappear entirely.

I would suggest very strongly to the representative of the United Kingdom that we all agree and are in honour bound to consider that it covers the same concept, and nobody else can come and say afterwards that it does not. Therefore the right way in which we can deal with the matter now is to settle it once and for all by taking out those words. I know some Delegates do not like the idea of taking them out.

If we are not going to try and move a little aside, so that our elbow does not stick into the ribs of somebody else, we will be arguing here in August 1948. I suggest that this is a matter on which we can very well make a compromise. The meaning is explained by a note which has as much interpretative value as the text itself.

CHAIRMAN: You have heard the suggestion of the Delegate of South Africa, and I understand that the explanatory note would then be more or less as follows. "It was suggested in the Commission to insert the words "between independent buyer and seller", but the Commission considers that the words "under fully competitive conditions" cover the same concept. And, therefore, the words "between independent buyer and seller" will be deleted from the Article."

Mr. C.E. MORTON (Australia): Mr. Chairman, we are of the opinion that the words "between independent buyer and seller" in the text, are ambiguous, and to that extent should be removed. We are, however, convinced that the words "under fully competitive conditions" must be in some way linked with the expression "between independent buyer and seller", as we all agreed they were. To that extent the explanatory note to the text would be very satisfactory. The difficulty arises owing to the fact that it is not the wish of the United Kingdom to link the two phrases, but we regard the words "between independent buyer and seller" as a strengthening point of the fully competitive conditions. I think we should aim at arriving at a note which will amplify "under fully competitive conditions" by the concept of "between independent buyer and seller", rather than say that one includes the other.

Mr. G.B. URQUHART (Canada): Mr. Chairman, I am fully in agreement with everything that Dr. Holloway has said, and in my view, this is the place to settle the issue. As for the phrase "between independent buyer and seller", I do not think it makes any difference whether it is included in the text or not. In my view the term "under fully competitive conditions" includes that, and it would be within the prerogative of any Member to determine whether the conditions are fully competitive, and to consider the fact whether the transaction was between independent buyer and

seller. I think that follows automatically, and I think it would meet the situation if an explanatory note along the lines that you have suggested, appeared in the comment.

Mr. G. IMMS (United Kingdom): Mr. Chairman, I made that excessively long speech yesterday explaining why we did not regard those two concepts as being exactly parallel, but I do not want to repeat that speech. As far as Dr. Holloway's suggestions are concerned they were not covered by saying that it was suggested in the Commission to insert the words "between independent buyer and seller". Those words are in the text, and you cannot insert them, for they are there already. Already it was suggested in the Sub-Committee by certain Members that the words might be deleted. This is a very different footing, and I think we had better keep on the right side.

Mr. C.E. MORTON (Australia): To keep the records straight, these words were inserted in the Report of the Sub-Committee, under an asterisk.

Mr. G. IMMS (United Kingdom): I believe the official record is T/103, and there is no asterisk.

Mr. C.E. MORTON (Australia): And Mal/47.

Mr. G. IMMS (United Kingdom): I do not think that is an official document.

CHAIRMAN: Yes, but I would also like to say that it was suggested in the Commission to insert the words so and so, in Article so and so, whether that means to delete from the previous text or not. I think this is a linguistic problem. We are not under an obligation to take the Sub-Committee's proposal without considering it on an independent footing, but I do not want to insist. We must try to find another term as the term which we have used is not clear.

CHAIRMAN: The Delegate of South Africa.

DR. J.E. HOLLOWAY (South Africa): Mr. Chairman, the Note following from my remarks would be something like this: "The Commission deleted the words 'between independent buyer and seller' from the Report of the sub-committee on the understanding that the phrase 'under fully competitive conditions' covers the same concept". You can make it even stronger by saying "under the unanimous understanding". That would get over the difficulties mentioned.

CHAIRMAN: Does that suit the Delegate for the United Kingdom?

MR. G. IMMS (United Kingdom): No, Sir, It would not be unanimous - I would like to make a reservation on that.

MR. C.E. MORTON (Australia): Mr. Chairman, instead of saying that it fully covers, we could say something like "should be read in conjunction with the concept of independent buyer and seller".

MR. J.M. LEDDY (United States): Mr. Chairman, I wonder whether, as a Note on the lines of that indicated by Dr. Holloway would seem to be acceptable to the majority, for the time being the United Kingdom could not reserve its position on this, and in the meanwhile we could have some further consideration of it. In other words, let the text go forward for the moment leaving "between independent buyer and seller", putting in the Note, and allowing a reservation to go forward, but in the meanwhile it is understood that we should try to get together and see what could be done to make it unanimous.

CHAIRMAN: You heard the last proposal of the South African Delegate. Is there any objection, with the exception of the United Kingdom Delegate?

The Delegate for India.

MR. R.S. MANI (India): The position of the Indian Delegation, Mr. Chairman, is the same as that of the United Kingdom.

We would have been prepared to accept the compromise suggestion which was thrown out by the United Kingdom Delegate on the last occasion to insert an additional sentence in the text itself, but we cannot agree to the proposition now put forward by the South African Delegate, and the Indian Delegation would also like to reserve its position, if that is acceptable.

CHAIRMAN: I will ask the Secretary kindly to read the proposal as it now stands.

MR. F.L. HIGHT (Secretary): "The Commission deleted the words 'between independent buyer and seller' from the Report of the sub-committee on the understanding that the phrase 'under fully competitive conditions' should be read in conjunction with the concept of independent buyer and seller". I put in the words of the Australian Delegate.

DR. J.E. HOLLOWAY (South Africa): No, you have got my words before you: "On the understanding that the phrase 'under fully competitive conditions' covers the same concept". That is all that I suggested. The Australian Delegate suggested changing the words "covers the same concept". Further, to meet the views of the United Kingdom Delegate, we can say "should be held to cover the same concept", making it perfectly plain that we accept that. Then, it is merely a question of form, because in substance we are now agreed.

MR. F.L. HIGHT (Secretary): "The Commission deleted the words 'between independent buyer and seller' from the Report of the sub-committee on the understanding that the phrase 'under fully competitive conditions' should be held to cover the same concept.

The United Kingdom and Indian Delegates reserve their positions".

CHAIRMAN: Is this agreed?

Agreed.

In the light of certain remarks on the possibility of re-considering the matter in the Preparatory Committee in Executive Session, I would like to mention for the information of Delegates that, very much to my astonishment, in a meeting of the Chairmen's Committee the opinion was expressed by the Chairman, Mr. Suetens, on the advice of the Executive Secretary, that Commission A and B are the Preparatory Committee in Executive Session, and that they had not anticipated any further meetings of the Preparatory Committee in Executive Session when Commissions A and B had terminated their work. I then said "But that cuts off the possibility for Delegates who have made reservations provisionally of withdrawing these reservations". I did not get any answer because we were in a hurry, but I would like the Delegates to keep this provision in mind, and with their respective Delegations press for a new, even if it is an entirely informal, meeting of the Preparatory Committee, where they could study the reports of Commissions A and B and give all of us who have made provisional reservations an opportunity of dropping them.

CHAIRMAN: We now go back to Article 18, and I am very sorry we have made such slow progress. We have agreed to the re-draft of point (iii) of sub-paragraph (c) of Article 18, and, as I said at the beginning of this meeting, that implies that we also accept the rest of the text submitted by the Sub-Committee on sub-paragraph (c).

We have still to consider sub-paragraph (iv) of (c):

"Nothing in sub-paragraph (c) shall be construed to require any Member to alter the method of converting currencies for Customs purposes", etc. I must say that I do not quite understand the meaning of that, and I wonder whether the word "require" may be a clerical error for "permit".

M. L. ROUX (France) (Interpretation): There is a divergency between the two texts, but the English text, as it now appears in the draft, does not convey a very clear meaning. It says, in fact, that any country can/<sup>not</sup> go further than the undertaking provided for in this paragraph. This goes without saying, and there should be no special provision to that effect, but what the French text says is that in no case could any Member argue that from the provisions of this paragraph it could aggravate the position as it now exists, or as it would exist under the provisions of the paragraph, and therefore apply higher duties. Therefore there is not much to be said in favour of the English text as it now appears.

Mr. J. M. LEDDY (United States): Sub-paragraph (c) lays down the rule that the par value shall be used in converting currencies. The application of that rule to the internal system of some countries today would result automatically in an increase of duty. Therefore, paragraph (iv) was added to say that nothing in

sub-paragraph (c) shall be construed to require any Member to increase its duties by using the par value.

We considered whether the sub-paragraph should read "Nothing in sub-paragraph (c) shall be construed to permit or authorise any Member to increase its duties", but we felt that since there was no general binding against tariff increases in the Charter, it would be inappropriate to insert a rule which implied that there was a general tariff binding. This paragraph (iv) should be read in conjunction with a provision which it has been proposed to insert in the General Agreement on Tariffs and Trade. That provision would say that no Member shall alter its method of converting currencies so as to impair the value of any tariff concession granted, so that in the General Trade Agreement we do get the rule that you "shall not" alter your method in that way, and here we merely say that nothing in sub-paragraph (c) shall "require" you to do so, so that the two are consistent.

CHAIRMAN: Well, the explanation we have heard means that it is the French text which has a wrong expression, and that the word "require" in the English text is the right expression. It represents what was intended, and the French text will have to be brought into conformity with the English text. But it remains to be settled whether the Commission agrees to this sub-paragraph, which was, as far as I can see, unanimously approved by the Sub-Committee.

Mr. C.E. MORTON (Australia): If it is a question of retaining or deleting this paragraph, Mr. Chairman, I would say that I am whole-heartedly in favour of its deletion.

M. LOUIS ROUX (France) (Interpretation): I am also in favour of the deletion of this text. As far as I can understand, the reasons for which it could have been maintained were that sub-paragraph (iii) of paragraph (c) contained mandatory rules, whereas no such rules are included. That sub-paragraph simply states "Any Member may establish for any foreign currency .....". As there are no mandatory rules, no obligation exists and therefore no exception must be mentioned.

Mr. J.M. EDDY (United States): There must be a misunderstanding. It is not sub-paragraph (iii) but sub-paragraph (i) which lays down the rule that par values must be used in converting currencies, your own currency and foreign currency. In the case of some countries the present system is to use a rate of exchange which is not par value. This is more favourable to the importers than the par value and if the use of the par value is required, as it is under sub-paragraph (i), the effect will be to increase duties, in some cases substantially, perhaps as much as 25 per cent. We need a sub-paragraph (iv) to say that sub-paragraph (i), or anything else, shall not be deemed to require an alteration in the method of converting currencies which will have that effect.

CHAIRMAN: You have heard the explanation given by the United States representative, and I repeat that this text was unanimously adopted by the Sub-Committee, and I cannot see that it can do any harm, even if certain delegates do find it superfluous. In the circumstances I wonder whether we cannot pass it as unanimously agreed.

M. E.L. RODRIGUES (Brazil): In spite of being in full agreement with the United States representative on principle, especially because I took into consideration the note on page 19 "The appreciation of a currency which is recognised by a change in its established par value shall not be considered a change in the method of converting currencies", I am not quite sure what will be the position of the countries which up to now have not declared the par value to the Monetary Fund, or which are not members of the Monetary Fund up to the present.

CHAIRMAN: It was my intention, when we had agreed on sub-paragraph (iv), to come to this explanatory note.

M. E.L. RODRIGUES (Brazil): I do not mean the explanatory note. My doubts are about the appreciation of a currency. I think the explanatory note is very good and explains everything, but if it lets us assume that a country which is not a member of the Monetary Fund and has an established currency, has to declare the par value, then, I ask, what will be the position of this country in regard to paragraph (iv).

Mr. J.M. LEDDY (United States): I think the point raised by the delegate of Brazil could perhaps be dealt with by deleting the word "appreciation" and substituting "operation".

CHAIRMAN: Does that satisfy the Brazilian delegate?

M. E.L. RODRIGUES (Brazil): Yes.

CHAIRMAN: I think, after this discussion, we can agree to accept sub-paragraph (iv) in the English version, the French text being corrected accordingly, and also the explanatory note on page 19 of document T/103, with the alteration just suggested by the United States delegate.

CHAIRMAN: Is it agreed?

Agreed.

We pass on to paragraph 3 of Article 18. There is no Amendment - no explanatory Note - or any reserve, on the Text submitted by the Sub-Committee.

May I take it that we agree to that text?

Agreed.

The Delegate of New Zealand.

Mr. JOHNSEN (New Zealand): Mr. Chairman, the Notes relating to Article 18(2)(c) - will they include sub-paragraph (iii) of 18(2)(c)?

CHAIRMAN: I think I said at the Draft meeting that we omit all these Notes, with the exception of the last one, which we have just adopted.

The Delegate of the United States.

Mr. LEDDY (United States): One small point on paragraph 3. I think some words were omitted at the end of that sentence. I think it should read: "the value for customs purposes of the product concerned".

CHAIRMAN: Well, I think we all agree to that clarification of the text: "the value for customs purposes of the product concerned".

Then we pass on to Article 37. There the last thing we discussed, when we were on that Article, was the proposed new paragraph. You find it in Doc. W/245.

The Delegate of New Zealand.

Mr. JOHNSEN (New Zealand): If I may refer to that paragraph 3, while I have a lot of respect for the suggestions of the United States Delegate, I think on reading that paragraph that it is one

of general application, and I think the words that were suggested really do not improve it.

I think you have got to leave it in the light of the first two lines: "The bases and methods for determining the value of products subject to duties, or other charges or restrictions based upon or regulated in any manner by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the value for customs purposes."

I think it is a general principle, really; it does not refer to particular products.

CHAIRMAN: You have heard the observations of the New Zealand Delegate on paragraph 5 of Article 18, and we suggested that the addition of the "product concerned", as suggested by the United States Delegation, was not necessary, and the U.S. Delegate agreed; so we keep the Text as submitted by the Sub-Committee.

We now must consider Document W/245. The proposed new paragraph was referred to us by the Sub-Committee on Articles 14, 15 and 24, and we have their exchange of views on that proposal some few days ago; and the last speaker at the time was the Delegate of Norway, who also is a Member of the Sub-Committee on Article 15. I do not know whether he has anything to add to what he said at that time.

Mr. J. MELANDER (Norway): Mr. Chairman, the transfer of Article 25, Paragraph 2 (a) to Article 57 has been agreed in principle and, as we all know, the main purpose is to make the exceptions which were included in Article 25, Paragraph 2(a), which were only exceptions from the use of quantitative restrictions, exceptions from all the measures referred to in Chapter V. That means that they will also be exceptions from, for example, internal taxes and internal regulations so far as they are used as protective measures.

In regard to Article 25, Paragraph 2(a), the last line, we proposed, when Article 25 was debated in the Commission, that the reference to 1 July 1949 should be altered to 1 March 1952.

We proposed that as an amendment to Article 25, Paragraph 2(a); in other words, as an amendment referring to the exceptions from the use of quantitative restrictions, and the reason why we made that proposal was that the Monetary Fund Agreement, in Article XIV, Section IV, refers to a similar transitional period. Section IV of Article XIV of the Monetary Fund Agreement says that "Not later than three years after the date on which the Fund begins operations and in each year thereafter, the Fund shall report on the restrictions still in force under Section 2 of this Article," and - that is the main point - "Five years after the date on which the Fund begins operations, and in each year thereafter, any member still retaining any restrictions inconsistent with Article VIII, Sections II, III or IV, shall consult the Fund as to their further retention."

In other words, the Monetary Fund Agreement lays down that five years after the Fund has begun operations the quantitative restrictions relating to exchange control shall, in principle, be brought to an end. The Fund began operations on 1 March this year. Consequently that will mean that the restrictions

applied in accordance with the Monetary Fund Agreement will come to an end at 1 March 1952.

The quantitative restrictions which we have in mind here, in accordance with Article 25, refer to a transitional period. It is a question of maintaining quantitative restrictions in order to provide for the equitable distribution of goods in short supply, to maintain price control of a Member country undergoing shortages subsequent to the war, and to provide for the orderly liquidation of surplus stocks and for the liquidation of uneconomic factories and industries developed by any Member during the war.

It seems to us it is quite obvious that this transitional period will not have passed on 1 July 1949. It is likely - I think we all agree - that if we agree on this Charter in the course of the coming winter it will probably come into force not earlier than, for example, 1 January 1949, and it is reasonable to expect - I think that is obvious to everybody - that these measures which are in question here will be necessary for a considerably longer period than 1 July 1949. Anyway, the reason why we proposed the amendment was to bring this proviso in Article 25 into line with similar provisions in the relevant Article of the Monetary Fund; consequently we proposed the same date, namely, 1 March 1952.

Now, after we had made that proposal, the Commission has agreed that the provisions relating to internal taxes and internal regulations, as laid down in Article 15, shall also be subject to the same exceptions as those included in Article 25 (2)(a), and it is for that purpose that this provision has been transferred to 37. The same arguments apply there. It is quite obvious that, in order to be able to liquidate these factories, and to provide for this price control and so on, it will be necessary to apply internal taxes and internal regulations in the same transitional period. Consequently, we feel that the same arguments would lead to confusion, unless the 1st July 1949 be substituted, and be altered to 1st March 1952.

Now, I would mention that that would, perhaps, make it easier for many delegations to accept Article 15 and perhaps to take a more lenient view on Article 13 than has been the case before. I mention this as an extra argument. It is not a necessary argument to use, from the point of view of the Norwegian Delegation, I mention it merely as a point which is going to meet those delegations who are in favour of extending Article 13, and who are against the prior approval rule. That is a consideration which I think ought to be taken into account here.

That is our amendment, Mr. Chairman. Otherwise, we have no amendment to the proposed new Article 37 paragraph 2.

CHAIRMAN: The Delegate of the United States.

MR. J.M. LEDDY (United States): Mr. Chairman, I think we would agree with the Delegate of Norway that the date 1st July, 1949 is a bit early and should be moved up. On the other hand, we have some doubts as to the wisdom of moving it up as far as the 1st March, 1952 by analogy with the transitional period of the International Monetary Fund. There are important distinctions between the transitional period in the Fund and the one that is provided here.

Firstly, the transitional period in the Fund is designed to provide Members with a period during which they can make their currencies convertible. That is an adjustment which, I think, involves economy as a whole. In the Charter we are dealing with particular measures necessary to handle particular after-effects of the war, which do not necessarily involve an adjustment of the whole economy.

Secondly, in the Monetary Fund transitional period there is a means by which the Fund may approach Members - I think at the end of three years, and in each year thereafter; and see whether they cannot become convertible at an earlier date; and there is also the power in the Fund which does not exist in the I.T.O. of withholding access to the Fund's resources in the event that a Member who can become convertible does not become convertible when he is able to, even though that may be prior to the expiration of the five-year period.

Finally, there is a provision here which I think we ought not to overlook, whereby the Organization may continue this transitional period for further periods, ~~is or what~~ we are really discussing is not when particular measures should be cut off, but when they should come under the scrutiny of the I.T.O.

Now, I think that it is right that 1st July 1949 is too early to expect the I.T.O. to be in a position to give serious attention or to give thorough consideration to the extension of these measures. I would suggest that we take some date in between 1st July 1949 and 1st March 1952 as being reasonable - say, 1st January 1951, which would move it up an additional year and a half.

Mr R.J. SHACKLE (United Kingdom): On this subject I think very much on the same lines as the Norwegian delegate, that 1st July 1949 would obviously be too early a date to expect that the positions of short supply and price disequilibria would have corrected themselves. At the same time, we do feel, for the reasons which the United States delegate has expounded, that it would be excessive to move the date as far as 1st March 1952. We have therefore come to the conclusion that the right course is to try to select some middle date.

CHAIRMAN: Is the date of 1st January 1951 satisfactory to the Norwegian delegate in the light of the proposed text, that the date can be extended in respect of application for such further periods as the Organisation may specify?

Mr. J. MELANDER (Norway): I am afraid that the answer would be no. The arguments put forward by the delegate of the United States, namely, that the exchange control regulations provided for under the Monetary Fund Agreement are introduced or maintained in order to make it possible to introduce currency convertibility, and that those regulations involve the adjustment of the currency restrictions, these same arguments apply just as much to restrictions concerning general taxes and to other measures which we have in mind. In fact, the only way in which this suggestion of the Agreement as a whole can be effected is through the measures which are now in general use - exchange control, regulations, quantitative restrictions, and other protective measures. I would go so far as to say that these measures are all of a parallel character; they are in fact being applied on a parallel basis to-day by practically all countries. I would even say that if we can use them on a parallel basis, it will be possible to get back to that normal status which we all hope for at an earlier date.

The other point, namely, that the Fund Agreement refers to the possibility of denying access to the funds of the Monetary Fund, well, that is a point, but we have under the Charter the adjustment of obligations in Article 55, which is just the same thing; and the possibility of bringing these restrictions down at an earlier stage, which is provided for in the Fund Agreement, we also have in the Text here - in which it is said they shall be removed as soon as possible, as soon, in fact, as the conditions giving rise to them have ceased, and the ITO will supervise them: so they are parallel.

Consequently, I think the only logic would be to have the same date, 1st March 1952. On the other hand, I am not insistent, and am willing to reach a compromise, and I think, in that case, we ought to have it extended to as long as 1st July, 1951. That I think would be the only logic to me, as it is quite evident it will be necessary to continue these measures for a longer period than we have in mind now. It does not matter very much as to the particular date; but I would prefer to have the logical conclusion, namely, 1st March 1952. But if it is the feeling of the Commission that we shall compromise on a certain date, I will throw out the 1st July 1951.

Mr. J.M.LEDDY (United States): There are three points dealt with in Paragraph 2: one is products in short supply; the second is price control; the third is the orderly liquidation of surpluses of any particular products or uneconomic industries.

I think it is certainly conceivable, in the case of some of the products which are now in short supply, that they will no longer be in short supply in 1950. On the other hand, some may continue to be in short supply. The same thing will be true in regard to the liquidation of temporary surpluses of stocks or of industries. It should be possible to liquidate surplus stocks in two or three years. The same applies to industries. On the other hand, I would venture to say, with regard to balance-of-payments problems, some countries clearly are going to be in balance-of-payments difficulties until 1952, or even after that.

What we are talking about here really is not the point at which a restriction has to be removed; it is the point at which we should ask the ITO whether or not it should be removed. If it is necessary, if the products are clearly likely to be in short supply, then presumably the Organization will extend the period but I think we should not unduly lengthen the period, because we are dealing with particular products and particular situations and we cannot say now that those conditions will continue for several years in all cases.

CHAIRMAN: It is already late, but I will call upon the Brazilian Delegate.

Mr. E.L.RODRIGUES (Brazil): Mr. Chairman, in spite of preferring the date given by the Delegate for Norway, I would

accept the United States date as a compromise, but I should like to state that during the Sub-committee meetings I tried to explain that, in a transitional period, we sometimes need to take measures against the exporting of some goods - I would mention textiles. Because of this, I would like to have it on the record. I mention this because I believe, in the light of what I have heard in the Sub-committee, that the export prohibition for combating inflation could be covered.

CHAIRMAN: In this case, it will be necessary to have a meeting to discuss the question relating to Article 37. We would continue tomorrow afternoon at 2.30, if that is agreeable to the Commission.

Mr. R.J. SHACKLE (United Kingdom): I think there are a few points still to be settled on Article 18, and I wonder if it would not be better to settle the date of the next session for some time later than tomorrow.

CHAIRMAN: But we have already discussed, gone through, and generally agreed to Article 18. There was one question brought up by the United Kingdom representative, which was whether we should retain or omit the words "between independent buyer and seller". That was discussed at great length at the previous session, and also today, and finally we arrived at the compromise solution, namely to strike out these words from the text submitted by the Subcommittee, inserting an explanatory note saying that we consider the meaning of this term implied in the term "commercial considerations". But the United Kingdom Delegate and the Indian Delegate recorded their reserve on that question for the time being, and we hope that later on they might be able to withdraw their reservations.

If there is another problem on Article 18, then of course, we would postpone the meeting.

MR. R.J. SHACKLE (United Kingdom): Well, Mr. Chairman, regarding Article 18, we hope that it might be possible to withdraw the reservation, but that can, of course, be done in a later Commission, so that I do not want to hold up the meeting on this point now.

CHAIRMAN: It is, of course, understood that a Delegation, having made a reservation, if it is able either to suggest a new solution or a compromise in order to withdraw that reservation, is always free, through the Secretary, to suggest an emergency meeting where we can come together and settle it. Whether we would be able to go over the whole question once more in the Preparatory Committee is, as I explained before Mr. Shackle came in this morning, a point on which the Chairman's Committee has taken a decision that seems to block that possibility, but we hope that we will be able to come together once more besides the meeting tomorrow afternoon.

Tomorrow we will continue the discussion on the questions before us, and then we will take up the new Draft submitted by the Australian Delegate on Article 37, and finally, I promised the Australian Delegate an opportunity of elaborating further, or of coming back to, the points made the other day by Dr. Coombs, and when that is done we have finished with the technical Articles and Article 37.

The meeting is adjourned.

The meeting rose at 1.20 p.m.