

UNITED NATIONS

NATIONS UNIES

RESTRICTED
E/PC/T/B/PV/11
17 June 1947

ECONOMIC
AND
SOCIAL COUNCIL

CONSEIL
ECONOMIQUE
ET SOCIAL

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

VERBATIM REPORT

ELEVENTH MEETING OF COMMISSION B

HELD ON TUESDAY, 17 JUNE 1947. AT 2.30 P.M.

The Hon. L.D. WILGRESS (Chairman) (Canada)

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CHAIRMAN: Will the meeting come to order, please.

We shall resume in Commission B the discussion on the Cuban proposal for a suggested new paragraph 2 (a). The debate will be resumed at the point at which we broke off last night. The first speaker on my list is the delegate of Belgium.

M. RESCLEE (Belgium): (Interpretation): Mr. Chairman, I should like to take up the discussion as it developed yesterday when I asked permission to speak.

First of all, the delegate of New Zealand stated that the point made before Commission A shows a striking contrast to the provisions of a number of Articles of Chapter V dealing with the rights of members to resort to other methods to depart from the principles of free trade.

Then the Netherlands delegate added that this paragraph was more favourable for certain types of subsidies.

On his part the Cuban delegate stated that the damage caused to world trade by export subsidies was also caused by domestic subsidies because it made it possible for a country to manufacture products which normally this country should not make. Then he pointed out that certain countries could resort to subsidies without ever conflicting with the provisions of Article 30. He also stated that he could not see very well what the difference was between the method he suggested and that contained in and authorised by Article 30.

Then the Netherlands delegate again said that the source of funds to allow a reduction of taxation or such a subsidy did not matter, that the safeguard mentioned by Mr. Shackle did not exist in all countries. All these statements show obviously that Article 30 is logical, and that all subsidies have the same effects and the same repercussions as other obstacles. In fact, according to the Draft Charter, countries which are relatively little developed could find in Article 15 a means of finding the result looked for.

Other nations more powerful will adapt their technical methods to the provisions of Article 30, but those countries which, on account of their weakness, are compelled to follow the unwritten law of international competition will remain the only ones that will be deprived of any protection.

No doubt, if one of those countries is affected by subsidy measures taken by another Member, it will be possible for that country to apply to the Organization and to inform it that there exists a form of subsidy, but, as was stressed by the Netherlands delegate, it will be responsible for supplying the proof, and it will have to indicate the source of the funds produced, and it will also be responsible for showing that such subsidies have a serious effect on its economy.

Now, the subsidy policy is changing, and therefore prejudice can only be indirect and appear through world trade. The logical conclusion which would therefore appear to be absolutely necessary to this Commission is the necessity of extending the prohibition of subsidies and of reversing the burden of proof.

The Commission should accept this conclusion in the interests of the objectives of this Conference, and of all workers and

and producers in the world. We would not have a chance of being born in a State whose financial resources are sufficiently great to make it possible for them to be protected from competition, and I should like to point out that in London, at the beginning, the Conference had a text which in this connection was definitely insufficient and, essentially speaking, the purpose of a subsidy is to counteract the free trade of international competition.

The Belgo-Luxemburg Delegation refused to assume the responsibility of leaving in the hands of the State arms that are harmful for a concealed economic warfare.

CHAIRMAN: The Delegate of the United States.

Mr. SCHWENGER (United States): Mr. Chairman, I am not quite certain what I had in mind to say to the Chair the day before yesterday, but it is our general feeling that the problem is best made in a different context, and so we would support the remarks made by the Delegate of the Netherlands that we adopt it as part of Article 15.

CHAIRMAN: The Delegate of France.

Mr. LECUYER (France) (Interpretation): The French Delegation has considered the Cuban Amendment with considerable interest. I fully realise the reasons for this Amendment, but in our Delegation we think that the Cuban proposals are firstly, perhaps, dangerous, and secondly, perhaps, not necessary.

They are dangerous because the first question to be asked is does the Cuban proposal contemplate a subsidy. The reply to this is in the negative. As was put boldly by the Cuban Delegate himself, it simply refers to the application of a domestic tax on goods imported - a tax which would not be applicable to national goods. Thus presented the Cuban Amendment is, in fact, an infringement to Article 15, and what is more serious is the fact that the inevitable result of the Cuban Amendment would be to cancel the effect of Article 24 which deals with the reduction of tariffs.

If after an Amendment regarding Customs duties there remains

to a country the possibility of applying a special tax on foreign products, a tax which would not be applicable to national products, the effects of the reduction that might have been negotiated will be null and void.

In fact, the Amendment would result in the creation of new customs duties to be added to the other existing duties, and this shows the danger of the system, because it goes against the principle of the Charter itself.

I stated a few minutes ago that the provisions of the Cuban amendment were also perhaps unnecessary. I am now going to explain my statement.

In the first two parts of its amendment, the Cuban Delegation does not consider it necessary to pay duties and taxes and it exempts from taxes national products. This is not a subsidy, but simply a measure of protection while subsidies under Article 30 are perfectly possible. I do not see why, in the circumstances, it would not be possible to resort to some form of subsidy. The Cuban Delegate pointed out, in this connection, that this would be difficult, perhaps, for the budgets of certain countries, because they would find it difficult to bear the burden of a subsidy. But may I point out that I know a number of highly industrialised countries--countries that have been industrialised for a long time--where it is also extremely difficult to find funds for subsidies in the national budget.

The third point of the Cuban proposal refers to the use of proceeds of such duties or taxes to make payments to domestic producers; but this is already provided for under paragraph 2(a) of Article 30, and I should like to point out that on this point the Cuban amendment does not introduce anything new. Therefore, for the reasons stated, I agree with what has been said by the United States and the Netherlands Delegate, namely, that the Cuban amendment perhaps could find its place in another context, such as that of Article 15.

CHAIRMAN: The Delegate of Norway.

H.E.M. Erik COLBAN (Norway): Mr. Chairman, I do not know whether you have in mind to refer this Cuban proposal to an ad hoc sub-Committee, but if so, I would suggest that it should be sent to the sub-Committee already dealing with

Articles 14, 15 and 24.

CHAIRMAN: We have now explored this subject rather fully. A number of Delegates have spoken on the Cuban proposal, and apart from the Cuban Delegate there has been no support for the proposal. A number of Delegates have pointed out, however, that this is a matter which relates more to Article 15; other Delegates have also noted its effect on Article 14, and 24, and now we have before us the proposal of the Norwegian Delegate that the most appropriate course would be to refer the Cuban proposal to the sub-Committee which has been appointed to deal with Articles 14, 15 and 24. Before, however, putting that proposal to the Commission, I would like to hear the views of the Cuban Delegate as to which procedure he thinks would be the most suitable under the circumstances.

M. R.L. FRESQUET (Cuba): Mr. Chairman, we are ready to accept the proposal of the Chair and the Delegate of Norway to submit our amendment to a sub-Committee--the sub-Committee dealing with Article 15. I would be willing to add anything to my previous remarks if the Commission considers it pertinent to do that at this stage, or if it is desired that the matter should wait until we have the opportunity of dealing with it in the sub-Committee, I would make my remarks at that time. It is entirely up to the Chair.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, I do feel that in this matter we should consider the aspect of saving time and saving labour for this Preparatory Committee as

a whole. We have an enormous amount of work to do and an enormous amount of ground to cover. We have already had a quite thorough debate on this amendment, and I think the trend of opinion in regard to it is perfectly clear. That being so, it seems to me that it would be very regrettable if we were simply to refer the matter to another sub-Committee in which the whole of this debate would once more take place, and no doubt in the end the result would be precisely the same. I do suggest that in order to save time, save work and move on the work of the Committee we should come to a decision now.

Mr. R.L. FRESQUET (Cuba): Mr. Chairman, we have always felt that the Sub-Committees were fitted to work in a more detailed way with all the proposals made by the delegations. We have also felt, on account of that idea, that our position in the Commission allowed us to make shorter explanations of the proposals, and we are very much surprised by the proposal to make a final decision of our amendment here, but if that is the case, we will have to comply with the decision of the Commission, but not before the same length of time is given to the consideration of our proposal as would be given in the Sub-Committee.

Mr. A.P. van der POST (South Africa): Mr. Chairman, if this proposal could throw any light on the Cuban amendment, I should welcome it. However, I think that sufficient time has been given to it and that it has been thoroughly discussed from all angles. Therefore, I cannot help sharing the view of the British delegate, namely that there is no need to refer this to the Sub-Committee on Article 15. We have heard the views of the different parties here, and it is perfectly clear in which direction the opinion of the Commission is tending, and that we should refer this to the Sub-Committee on Article 15 merely because Article 15 is chosen to be mentioned in the proposal, seems to me to be altogether wrong. I would therefore like to support the proposal made by the British delegate.

Dr. E. de VRIES (Netherlands): Mr. Chairman, I should like to support the proposal to stop the debate at this point, but I should like to ask the Sub-Committee, which will have to be set-up on Article 30, to consider all the arguments that have arisen before this Commission about the Cuban amendment, not only in relation to paragraph 2 but also to paragraph 1 of articles 13 and 15. In this

way the Cuban amendment will again be considered by the Sub-Committee set-up by this Commission.

CHAIRMAN: We have now, three procedural motions before the Commission. The first is the proposal made by the delegate of Norway that the Cuban amendment should be referred to the Sub-Committee dealing with Article 18. The second is the proposal of the delegate of Cuba, that his amendment be dealt with in the Commission here now. The third proposal is made by the delegate of the Netherlands, that the matter be examined by the Sub-Committee which will be set-up on Article 30. I regard the proposal of the Netherlands delegate as being the furthest removed from the proposal of the Norwegian delegate, and I would therefore propose that we put before the Commission the procedural motion of the delegate for the Netherlands. Will all those members of the Commission who are in favour of the proposal of the Netherlands delegate to refer the Cuban proposal to the Sub-Committee on Article 30, please raise their hands.

Mr. R.L. FRESQUET (Cuba): Mr. Chairman, I wonder if this is the right way to do it. I am sorry to say this, but I wonder if it will not put our proposal out of the Sub-Committee altogether, and the other two proposals would refer it to two different Sub-Committees. Maybe we could just vote as to whether the proposal should or should not go to a Sub-Committee, because otherwise there is a chance that the votes will be split between two Sub-Committees, and then the proposal for discussing the matter here will get more votes.

CHAIRMAN: I would like to point out to the Cuban Delegate that we would first of all put the vote on the Netherlands proposal and, if that were lost, we would then put the proposal of the United Kingdom Delegate, so that the vote would only come on the Norwegian proposal if the other two were lost.

Mr. R. L. PRESQUET (Cuba): You are very cautious.

CHAIRMAN: Will all those in favour of the Netherlands proposal please raise their hands.

For: 9

Against: 8

The proposal is lost by six votes to eight.

We will now vote on the United Kingdom proposal, that the matter be decided here and now. Will those in favour please raise their hands.

For: 4

Against: 10

The proposal is lost by four votes to ten.

Mr. R.B.SCHWENGER (United States): Mr. Chairman, I suggest that there is one other alternative: there is a Sub-committee on Chapter IV, General Economic Development, which is also the subject of this discussion. (Laughter).

CHAIRMAN: I think the remarks of the United States Delegate are perfectly relevant, but unfortunately we are already passing through a vote and therefore he is a little late in making his proposal.

Will those in favour of the Norwegian proposal, to refer this to the Sub-committee on Article 15, please raise their hands.

For: 9

Against: 2

The motion is carried.

Mr. R.J.SHACKLE (United Kingdom): Mr. Chairman, if I may suggest something, it is this: in order to save the time of the Sub-committee on Article 15, our records should be transmitted to that Sub-committee, so that it should not go through all this debate again.

CHAIRMAN: That will be done as a matter of course.

Before we leave Paragraph 2, the Delegate of New Zealand has asked for the floor in order to make a statement regarding a drafting point.

Mr. G.D.L.WHITE (New Zealand): Mr. Chairman, I thank you for allowing me the opportunity to take the discussion back to Paragraph 2(a) of Article 30. There is one small point which was worrying me there and that is, that in the fourth line of the New York draft of Paragraph 2(a) there is a comma after the word "system": it reads: "...or establish or maintain any other system, which 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."

What I am not clear on is whether those words "which results in the sale of such product for export at a price lower than the comparable price," etc. refer only to any other system, or do they refer to the beginning of the sentence also: "No Member shall grant, directly or indirectly, any subsidy on the exportation of any product," which results in that sort of thing.

I take it that it is possible there could be an export subsidy which does not result in the export price being lower than the domestic price. It is possible that an export

subsidy might be established, the export price might rise above the domestic price, and the subsidy still be maintained. In that case, I take it that the provisions of Paragraph 2(a) would not apply and that the only sort of subsidy which is in conflict with this is where it actually results in the sale for export at a price lower than the domestic price.

I think that is clear if the phrase "which results in the sale" etc. refers to both things, and I interpret it that way, but there is the other possibility of interpreting it, that those words just refer to the establishment of any other system. I think that is a point which might be cleared up by the Drafting Committee, but I would just like to know whether my interpretation is correct.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, I suppose that if we were asked to express a legal opinion on the interpretation of this text our answer would be that we were not able to give legal interpretations, but, if we were asked what is our intention behind this paragraph, that is a question which we are fully qualified to answer.

I have taken part in the development of this matter over the last three years at least and through all the discussions in which I have participated the intention has always been perfectly clear: that is, that all this relates only to the case where the price for export is depressed below the corresponding price to buyers in the domestic market. That, I think, has always been the intention and I think it should be made clear in that sense.

As to the drafting, I think it is clear as it stands, because of that crucial comma, but that is always subject to typographical mistakes and I think it would be a very good thing if the Sub-committee could find some more definite and clear way of bringing out the intention.

CHAIRMAN: I want to thank Mr. Shackle for the explanation he has given of the intention behind this particular sentence, and I think we can leave it to the drafting committee to see that the text more clearly expresses the intention.

We have now completed our review of paragraph 2 but before we pass on to paragraph 3, I would like to take advantage of the opportunity to announce the composition of the sub-committee which it is proposed to set up to examine article 30, after we have completed our preliminary review. I would like to nominate the following delegations to be represented on the sub-committee: the delegates of Australia, Belgium, Lebanon, New Zealand, the United Kingdom and the United States.

The delegate of Belgium.

M. DESCLEE (Belgium) (Interpretation): Mr. Chairman, the Belgian delegation has expressed its view sufficiently clearly in the course of the discussion in this Commission and it results from the Belgian statements that Belgium does not resort to any subsidies. Therefore I think it would be preferable to appoint the Netherlands delegate because he may have particular points to propose in the sub-committee.

CHAIRMAN: In view of the proposal of the delegate of Belgium I would therefore substitute the name of the delegate of the Netherlands for the delegate of Belgium. Are there any comments?

The composition of the sub-committee is approved.

We now pass on to paragraph 3. At the First Session in London the delegate of New Zealand raised the question whether the domestic price to be considered in this paragraph should not be that paid to domestic producers. The Drafting Committee added the words "or of returns to domestic producers" after the words "domestic

price" in the first line, but the New Zealand delegate reserved the right to raise his question again at the Second Session.

The delegate of New Zealand.

Mr. G.D.L. WHITE (New Zealand): Mr. Chairman, I would like to say something about this point, but I would prefer to reserve my remarks until after we have had the Australian amendment, which is already tabled on this annotated agenda, brought before the Commission. Then I should like to say something on that point.

CHAIRMAN: We shall return to this point after we have considered the Australian proposal and before we leave the consideration of paragraph 3.

The Australian delegation has proposed a number of changes in the wording of paragraph 3. The comments of the Australian delegation are given on page 5 of the paper W/190. I will now call upon the delegate of Australia to expand upon the comments given in the paper to which I have just referred.

Mr. E. McCARTHY (Australia): Mr. Chairman, when this paragraph was inserted in the draft in London last year, its object was to make a distinction between those arrangements where there were straight-out subsidies without any other elements in the arrangements which could counteract the effect of such subsidies, and schemes which provided for other features which, in the view of the Organization and of the countries instituting those arrangements, countered the effect of subsidies.

The view was taken that the real effect of subsidies which could be taken exception to was the fact that they stimulated production, perhaps stimulated it artificially and uneconomically, and therefore increased the quantity of goods going on to the world's markets and therefore brought about falls in prices. They could

not have any other effect than that, because it was not a case of goods being sold below a world market price and thus bringing about a form of dumping, but they related to goods which were sold on the world market at world prices and which were at times sold above the world market prices in the home market. That was the major distinction. And it should be said that that paragraph was designed to relate only to primary products.

In an effort to meet these arrangements and at the same time not excuse or condone subsidies without any such safeguards, export subsidies, this paragraph was introduced and the conditions made as close as possible, as it will be noted the paragraph states that in the case of schemes which provided for conditions under which the export prices would actually be higher than the domestic price and where there were other safeguards, such as the limitation of production, and where because of those conditions there was no injury offered by competitors in the world's markets, then those conditions in paragraph 2 would not apply.

We in London were satisfied that the principle had been met, but on examination of the draft we felt that it was not complete. It is true that the conditions where the domestic price is held irrespective of the world price and the world price goes higher than the domestic price has obtained in most of our products, in fact in all of them to a degree, and the present position is that in all cases, with the exception of one class of dried fruits, the external price is higher than the local price.

We felt in looking further ahead that this paragraph excluded products which were initially or would in future be brought under such a scheme and which should not be expected perhaps for some time to reach the stage where the export price was higher than the domestic price. We have only four products at present coming under these schemes and I believe that they, all of them, comply with these

conditions. But let us suppose, for example, that we desire to bring rice under a home consumption price scheme - and it does not mean that we do it necessarily for the purpose of subsidising: we do it for one good reason and that is to prevent the local price fluctuating with the export price, and it makes for stability in the home market and it makes for a return to stability: even if it is not a real stable return, the fact that one source of income, namely the domestic market, is stable, does help very much for the general stability of the industry. If we wished when prices were low to introduce a scheme such as this for rice - and we might - we would find that in the early stages it might be subject to the penal clauses of this article because at no stage had the export price been higher than the domestic price.

Therefore what we wish is first to put in one of the real objectives which is: "if provision is made for the maintenance at fixed levels of prices for domestic consumption irrespective of the movement of export prices and because of such provision the system has resulted or may result,....." The words "resulted or may result" are designed to meet those products where the introduction of a scheme is new and where it has not had time because of the fact that the export market has not gone high to meet that condition of the export price being higher than the domestic price.

The final point is - and here I am in some doubt - it has happened in some of our products that we sold at two prices on the export market, one higher than the other. The reason is that we have made a contract with countries, and that price is a good bit lower than the export price, what might be called free export price.

That is a further demonstration of our good faith in holding the domestic price very much below the free export market price, but I have found since drafting that that it has been open to a good deal of misunderstanding - in fact, I have been asked, not only by those who might be expected to be critical, but my own colleagues, as to what it meant.

Therefore, I am rather inclined, if the Commission will agree when it comes to the drafting stage, to withdraw those words in page 5 which are underlined:- "or because the export price is held below current comparable representative export prices". For two reasons I want to withdraw those words. Firstly, it is probably a temporary condition only, and secondly, it is open to too much misunderstanding, and it might possibly raise questions of doubt and so on which would have to be explained perhaps in the future.

To sum up, our idea is that where we have a scheme which provides for a home price, irrespective of the market price, we have demonstrated in practice that we hold that domestic price not withstanding the movement of the export price above and below the domestic price.

I will give one example of that. Eight years ago, we fixed the price for wheat at five shillings and twopence a bushel. At that time the export price was three shillings. In that eight years, the price of wheat has fluctuated above and below that

five shillings and twopence, but the home price has been held at five shillings and twopence. The position is now that the external price is sixteen shillings, but the home price is still five shillings and twopence, so we also, in the case of wheat, have provision for the limitation of production, the theory being that if prices fell below five shillings and twopence and the world market continued to be glutted, we would, by government act, cut down and reduce the acreage for wheat. Therefore, notwithstanding that we have this home price, which at times may be higher than the export price, we consider that we are doing much more to stabilise wheat prices and to counter the effects of any artificial stimulation of production of wheat than any other exporting country. In fact, I think it may be agreed that, as the production of wheat increases, because our return to the producer, by mingling the sixteen shillings with the five shillings and twopence, is much less than ^{the} comparable world price of other exporters, we will bring our production more in keeping with the demand more quickly than those other countries where the stimulus is greater.

I do not think I need take any more time of the Commission, beyond saying further that we would be content if the reference to prices going higher for a period were eliminated, but we agreed to their going in last year in the effort to make this provision so worded that it would exclude people who did not have the same conditions in their schemes as we had, and then the conditions shall be determined not to involve the subsidies under the terms of paragraph 2 of this article:- "if provision is made for the maintenance at fixed levels of prices for domestic consumption irrespective of the movement of export prices, and if the system is so operated, either because of the effective limitation or production, or otherwise, as not to stimulate exports unduly or otherwise seriously prejudice the interest of other Members".

CHAIRMAN: The Delegate of New Zealand.

Mr. WHITE (New Zealand): Mr. Chairman, on the question which we raised at the First Session and again in the New York Session regarding whether the appropriate comparison should not be one between an export price and a return to the domestic producer, it seems that the position is as follows.

We in New Zealand are interested not only in schemes of stabilisation for the domestic consumers of the consumption price of some products, but also in schemes for the stabilisation of returns to producers. But since the schemes we have in mind refer to the stabilisation of returns to producers irrespective of whether the production is for the home market or for the export market, and since in the general drafting of this Article 30 it seems they accepted that the criterion for determining whether or not an export subsidy exists is a comparison between the existing price and the price to domestic consumers, I think we are now in a position to accept wording somewhat similar to the present paragraph 3, with some reservations which I will mention in a minute.

Coming to the actual text of the Australian Amendment, we find that the third, fourth, and fifth lines are deleted. That is the Australian proposal is to delete the words "which result over a period in the sale of the product for export at a price lower than the comparable price charged for like product to buyers in the domestic market".

As I understand it, that is intended as a drafting point, and that if those words were deleted the stabilisation scheme might be determined not to involve an export subsidy, whether or not it actually did involve the export price being lower; but it seems that since a scheme like this could only be open to challenge when the export price was actually lower than the domestic price, I think

on balance it is better to say so - that is, to leave those words in, and although with them in it makes it somewhat cumbersome, that matter may be got over by some re-drafting of the paragraph to make two sentences out of it, or by some other means.

The next point that I see in the Australian re-draft is the changing of the word "may" to "shall" in the sixth line, and I would support that change because it makes it clear that if the facts are established to be in accordance with all the provisions which follow, that is, if it is proved that in some other period the export price has been high or may be higher, and if all the other conditions are fulfilled, then it is appropriate that the paragraph should read: "It shall be determined not to involve a subsidy on exportation" - and I take it that with that word "shall" in, the Organisation would not be able to determine otherwise for some other reasons, apart from the ones which have been mentioned here; and I think that is a desirable change.

I would also support the Australian suggestion to add the words "or may result", and I would not comment on that any further because Mr. McCarthy has made it quite clear that the intention of that is to ~~cover~~ the base of a new scheme being introduced, in which you might not be able to point to some past period, but I do not think that the introduction of a new scheme should be prevented for that reason.

Our main criticism of the paragraph as it now stands comes in the next part, which is on page 5 of our Annotated Agenda, at the top of the page. First of all, I would support the deletion of the words "or because the export price is held below current comparable representative export prices". Mr. McCarthy has already suggested that they would not press those words. But even without those words, we are not happy about the references to the limitation of production and to the exact wording which says "not to stimulate exports unduly".

We doubt whether it is appropriate to refer to limitation of production in this context, even though the sentence merely reads "either because of the effective limitation of production or otherwise". We doubt whether the concept of limitation of production is one which should be introduced here, and which would apply to all the types of stabilisation schemes which might be brought under this paragraph. I can think of some instances in our own country where we have known limitation of production, but where we have a genuine stabilisation scheme which is designed to assure a primary producer at the beginning of a season that he will get a return sufficient to cover his cost of production and that should enable him to carry forward his programme of primary production with some confidence.

In general, I think that it is unnecessary to put in these qualifications here, because they are open to the criticism that the stimulation of exports might be against the interests of some other Member; but it might equally be in the interests of some consuming country, and I do not think that the word "unduly" qualifies that sufficiently. We would prefer the sentence to read "and if the system is so operated as not to prejudice seriously the interests of other Members", and we would take those words to mean that all these other things should be included in that concept: that is, that it is only when the system seriously prejudices the interests of other Members that it should be open to challenge.

There is one other way of getting around our difficulty on this point, and that would be: at the very end of page 4 of our Annotated Agenda in the last line there is the word "and" — "and if the system is so operated". -- If that "and" were changed to "or" we would be able to accept it, but I understand that there has been a very long argument about that word at an earlier Session, and that all these provisos were linked together by the word "and" in order to assure that the system would not be open to abuse. I think that if the last part of the sentence reads as it does at present, the word "or" is more appropriate, but if we were able to delete these references to the effective limitation of production and the reference to not stimulating exports unduly, then we will find it acceptable to retain the word "and".

The Chair was now taken by M. ROYER (France) in place of
The Hon. L.D. WILGRESS

Mr. A.F. van der POST (South Africa): Mr. Chairman, I am not quite certain that I understand the Australian amendment. In the first place, the amendment proposes to delete the words: "which results over a period in the sale" down to "domestic market". Now I think that it is essential to retain that in this article, and also to retain the little word "also" in the fourth line of the Australian amendment and the tenth line of the present New York draft, because the intention here is to show the contrast between an overseas market or an overseas price and the domestic market, which is lower. At times the increase of the overseas market rises to a level higher than the domestic level, and I think therefore, to begin with, that if we drop the Australian amendment we should reinsert the words which our New Zealand friend has also recommended: "which results over a period in the sale of the product for export at a price lower" That should be reinserted, and we should also propose the reinsertion of the little word "also" so as to bring out the contrast between the lower and the higher prices. Then, I am not certain about the inclusion of the words "provision is made for the maintenance at fixed levels of prices for domestic consumption". It seems to me that this limits the clause to one particular case - a case where the home price is fixed and maintained at a fixed level.

The Australian Delegate has given us the example of Australian wheat at 5/2d.

Now I do not think it is necessary to limit the domestic price of the commodity to a fixed level. If there is such an improvement in overseas conditions that the price should rise above the domestic market, even the home consumer should be allowed to benefit from that. It does not follow that because there is that rise, it is due to the subsidy in the domestic market. It is probably due to conditions beyond the control of the domestic producer, conditions ruling on the world market, and the domestic producer should be permitted to benefit from that.

CHAIRMAN (Interpretation): The Delegate of Belgium.

M. DESCLÉE DE MAREDSOÛS (Belgium) (Interpretation): I have listened with great interest to the explanations given in support of the Australian amendment and I must confess I am not convinced of the necessity for the many changes suggested by the Australian Delegation.

Some of the cases put forward by the Australian Delegation can be covered in the text, but what I should like to point out more particularly is a point which, in my opinion, is of the utmost importance, namely, the substitution of the word "shall" for "may", which appeared in the original text. In conformity with the discussions which took place in London and with the text which resulted from the London discussions, the Organization can, at its discretion, determine the practical effects of the system and for my part I consider the two words "may" and "and", in the last line on Page 4 of Document W.190, which the Australian Delegation suggest should be deleted, as being of the greatest importance. If any change is made, the whole

meaning of Paragraph 3 will be completely changed and the whole matter will come up for discussion again.

In the London text the case of stabilization of prices is given as an example and it is the duty of the Organization to examine how the thing works in detail, the Organization's decision being sovereign on this point, and I adhere to this viewpoint.

CHAIRMAN (Interpretation): The Delegate for India.

Mr. B.N. ADARKAR (India): Mr. Chairman, the Indian Delegation will support the principle underlying the Australian amendment. It is obvious that the draft submitted by Australia needs certain drafting improvements. We would support some of the improvements which have been suggested. For example, we would like the words "which results over a period in the sale of the product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market" to be retained, as suggested by the Delegate for New Zealand. We would also support the retention of the word "also", which the Australian Delegation propose should be deleted.

As suggested by the Delegate of New Zealand, we would also favour the deletion of the reference at the end of Paragraph 3 of the New York draft to stimulating exports unduly. We suggest the deletion of the words "or otherwise seriously prejudice the interest of other Members."

In addition to these amendments, we would suggest one further amendment. The draft seems to indicate that systems for stabilizing domestic prices of primary commodities involve the maintenance of prices only at fixed levels, but it is possible to conceive systems under which prices are not maintained at fixed levels. We think that such systems also should be brought within the scope of this proposal and we would therefore suggest that, instead of saying "for the maintenance at fixed levels of prices for domestic consumption", we should say "for ^{the} maintenance within fixed limits of prices for domestic consumption."

CHAIRMAN: The delegate of the Netherlands.

DR. E. de VRIES (Netherlands): Mr. Chairman, I think that many of the questions which we are discussing now are just drafting questions, and that there are only some major points of substance in the Australian draft which was put before us. I take, for instance, what the Indian delegate has pointed out, that fixed levels might also be within certain price margins. We read that a system for the stabilization of the domestic price is a system for stabilization if it makes provisions for stabilization, so that the inclusion of the Australian delegation is redundant, but we can deal with that in the drafting, I think.

The same thing applies to the deletion of the words "which results over a period", and so on, and the word "also".

I think there are two or three main points. The first one has already been mentioned by the delegate of Belgium, that is, the change of the words "may" and "shall". When we see it in the French text, it is still worse - the French text is changed from "pourra être considéré" to "sera considéré".

The determinations in this Article, following paragraph 6, are determinations among Members substantially interested in the commodity. If we take that out, there is the important matter of substance. I remember quite well that when Australia and New Zealand proposed this in London, they said "Well, our stabilization scheme is a good one and everybody may study it. We are glad to show to the whole world what we are doing" so, they are not afraid to show it eventually to a conference of Members substantially interested in a certain commodity. I think that we could better retain, as a matter of principle, the words "may be determined" and not change them into "shall be determined".

The second point of substance is what the Belgian delegate said - the change of the word "and" into the word "or". If we change it to "or", it would mean that in any case, where there might have been happening, even for a short period, the sale of a product for export at a higher price, then that will give every possibility of doing what you like afterwards, and we do not know for what period afterwards, whether for five years, for ten years or for twenty years. So, I think the word "and" is important here, because if you have "or", then that would take out of the determinations of the Members interested most of the cases, because Australia says, with the exception of dried fruits, they are all in that case now, so there ought not to be any consideration or determination afterwards for all the Australian products, except dried fruits.

The third point is the proposed deletion of the words "stimulate exports unduly", not by the Australian, but by the New Zealand and Indian delegations. I think, Mr. Chairman, that also is a matter of substance. Not to stimulate exports unduly is in paragraph 1 in the production subsidies; not to stimulate exports at all in proportion to world trade is in paragraph 5 for all of the export subsidies, so I think that when here we are taking away these systems of stabilization from the export subsidies into production subsidies falling under paragraph 1, then we ought to retain the words "not to stimulate exports unduly". If not, that will fall altogether out of the whole article, and that was not the meaning of the London Session.

CHAIRMAN: (Interpretation): Professor De Vries showed us a moment ago there were three important points to discuss. Therefore I think we should limit our discussion to the three points, leaving the drafting points to the Sub-Committee.

CHAIRMAN: (Interpretation): The Delegate of the United Kingdom.

Mr. SHACKLE (United Kingdom): Mr. Chairman, I think I appreciate the need which the Delegate of Australia has suggested, but I still feel, in common with other speakers, that the desired text is not satisfactory.

As regards the main points, it seems to me that in the first place it is definitely desirable in the second line of the Revised Text to delete the reference to the return to domestic producers.

As the New Zealand Delegate has observed, that is inconsistent with the interpretation which we have just given to paragraph 2(a) by which we interpreted export subsidy as mainly a case in which the export price is less than the comparable price to home buyers.

If we were to retain the reference to returns to domestic producers in the present text we should cast a doubt upon the interpretation which we have placed upon paragraph 2(a).

My second point relates to the change from "may" to "shall" in the sixth line, and therefore I agree with several previous speakers that we must leave a discretion to the Organisation, for the reason that the rule which is laid down cannot be stated in a precise term. It seems to me it is a case where particular cases have to be considered on their merits, and for that reason I think it is necessary to leave a latitude to the Organisation.

Those, I think, are the points I wished to make.

CHAIRMAN: (Interpretation): The Delegate of Canada.

Mr. DEUTSCH (Canada): I merely wish to support some of the remarks made by the Delegates of the Netherlands and the United Kingdom. I am particularly concerned about the substitution of the word "shall" for "may". I feel that in this field there ought to be some power of review left to the Organisation, and we would be much happier if Mr. McCarthy felt satisfied with the word "may".

Finally, we would not agree with the New Zealand proposal that the references to "unduly stimulate export" and so forth should be removed. After all, if these things are to be permitted, then it should be provided that they do not unduly harm the interests of other exporters. That is, after all, the purpose of the whole Chapter on Subsidies - that we shall remove this instrument of economic warfare. In the final analysis any subsidy may be in the interests of the consumer, but it is not necessarily in the interests of world trade; and I do not think it is a decisive argument to say that interests of the consumer might be taken care of by subsidies. If that is the case, then we do not give any provisions against export subsidies at all in the Chapter.

I do not think that was the intention. We are interested here in the effect of subsidies upon world trade in general; and I think that is the precise criterion in this case.

CHAIRMAN: The Delegate of the United States.

Mr. R.B. SCHWENGER (United States): Mr. Chairman, this paragraph as it was drafted at London we felt--and we continue to feel--supplied, in this Article, a very useful need. It recognizes that the principle that where a domestic stabilization system results incidentally in subsidy sometimes and the opposite type of action at others,—that such incidental subsidization shall not have the same position under the Charter as has subsidization which is directly entered into for the purpose of taking a greater share of the market than a country would otherwise have. And because it is quite an important consideration, we were instrumental in extending the paragraph at this Session, or of putting before the Committee the recommendation that it be extended, to a similar exception in another portion of the Charter where subsidies are dealt with, namely, the portion dealing with countervailing duties and anti-dumping duties, and I believe that it is rather seriously contemplated, if not already agreed, that it shall be used for the purpose of exempting certain types of subsidies from the operation of those portions of the Charter.

For that reason, we cannot agree with any changes that would extend the Article to a larger sphere, and we feel that whether or not it was the intention of the proposals before us to do that, at least some of them—one in particular--do have that result. I refer to the addition of the words "or may result" after the word "resulted" in the first "if" clause. It now provides that if a ~~scheme of~~ subsidization entered into has a price fixing provision with it and may at some time result in the sale of the product for export at a price higher than the comparable price charged for the like product to domestic buyers, that then it may

be exempted under this paragraph. To us that seems going extremely far, because in the first place, schemes of stabilization of whatever sort are subject to a good deal of pressure from all sides within their own country, and it is extremely difficult to do any more than hope that a scheme which is entered on at a time when world prices are low will be adhered to when world prices are high, if it calls for withholding from domestic producers the benefits of those high world prices when they come.

Such schemes have been operated, and the Delegate of Australia, of course, can put before us some very successful ones that his Government has operated; but to extend the principle that a scheme which has no record of successful operation on that kind of basis may qualify, it seems to us to be a dangerous thing. We particularly feel that it is not unreasonable to take that view at the present time, because if such schemes are contemplated at any kind of reasonable stabilization price, they could start out now and very rapidly establish a period during which they could export at a price higher than the comparable price charged for the like product to domestic buyers. I think it would be extremely difficult to find a primary commodity of which that is not true at the present time, so that any schemes that are contemplated of the kind that are intended by the original principle here could go ahead and operate. There would be very little problem, but what bothers us is that the impact of the new words would mean that at some time of less fortunate world prices from the producers' point of view, you might have a widespread resort to the provisions of this paragraph, and might not have equally widespread continuation of the schemes once the price situation had changed.

We agree with the previous speakers on the points that Professor de Vries has made, and I shall not discuss each of them, but there is one point--the point about the word "may" which is proposed for deletion and substituted by the word "shall" could be treated as a drafting point, but it would call for--as I think one other Delegate has said--a number of consequent changes. I just jotted down here roughly the type of thing it would call for in order to retain the meaning. If you have the text in front of you-- "shall be considered" instead of "determined" "not to involve a subsidy on exportation under the terms of paragraph 2 of this Article"; if it is determined that (1)"and then follows the clause ending with "and" and then (2), ~~climinate~~the words "if the", that would, I think, retain the essential meaning which you have with the word "may" and we think that would be quite a good drafting change for the sub-Committee to look at. We agree also with the last two or three speakers on the point suggested here by the Delegation of New Zealand.

CHAIRMAN (Interpretation): I think the delegate for New Zealand wishes to answer certain observations which have been made a moment ago.

Mr. G.D.L. WHITE (New Zealand): Mr. Chairman, I apologise for entering the discussion again, but I would like to say a few words in order to correct the misunderstanding which may have arisen from my earlier remarks, and ^{which} has been brought out by the statement of the United Kingdom delegate. With reference to the words "domestic producers", I did not wish my remarks to mean the deletion of any reference to domestic producers in this text. I think that there are many cases of stabilisation schemes which involve not only "the domestic price" but also "of the return to domestic producers" and we originally had the idea of making the whole thing refer to domestic producers. We have been shown now misguided we were in that, and we are now happy to make the opening part of the sentence read: "a system for the stabilisation of the domestic price or of the return to domestic producers", so as to retain both the essential elements.

M. LECUYER (France) (Interpretation): The French Delegation is of the opinion that the Australian amendment would result in a rather deep alteration of the original Paragraph 3, at least on two essential points. First of all, as regards the substitution of the word "shall" for the word "may", we are also of the opinion that it is essential to maintain a possibility of control on the part of the Organization. I do not think that Governments should be allowed to decide by themselves whether or not stabilization systems include or imply subsidies.

Another point which is perhaps even more important: the Australian amendment completely leaves aside the idea which was expressed in the original text, namely, the comparison between domestic and external prices. Paragraph 3 as originally drafted contained a kind of reservation whereby external prices could vary in the vicinity of domestic prices, either above or below, but that they remained in the vicinity of those prices. If we adopt the Australian amendment, there will be no link left between these two categories of prices and therefore it is possible to maintain almost indefinitely very high prices abroad and very low prices in the home market. This would result from the present Australian amendment.

Finally, I think that the suggestion made by the New Zealand Delegate, to delete the last words, "as not to stimulate exports unduly or otherwise ..." would also be detrimental. The whole question therefore should be looked into very carefully. But, as a whole, the French Delegation thinks that the New York text should be maintained, with the necessary drafting amendments.

CHAIRMAN (Interpretation): The Delegate of the United Kingdom.

Mr. R.J.SHLICKLE (United Kingdom): Mr. Chairman, I do not want to waste time over what is mainly a drafting point, but I would point out that the subsidy on exportation has a definite connotation, which we have given it in this text; that is to say, a case where the export price is lower than the comparable price to buyers in the home market. That being so, it is the comparison of the price to buyers in the home market which is the yardstick, not to domestic producers. I still feel it is necessary to eliminate the reference to domestic producers for that reason, but I am willing to leave that to the Sub-committee.

CHAIRMAN (Interpretation): The Delegate of Australia.

Mr. E.McCARTHY (Australia): Mr. Chairman, I will not go over all the points, but I would like just to answer a few.

In the first place, the reason that we proposed the deletion of those words "which results over a period" was purely a drafting one; we are quite content that this should go to the Drafting Committee.

We thought our reference to Paragraph 2 - where those words are stated, and the other words that we introduce regarding the fixed level of prices for domestic consumption, and so on - made those words superfluous, but we are quite content for it to go to the Drafting Committee.

On the subject of "shall" and "may", our view was there that the Organization has very full discretion in establishing the facts, and, in effect, it is now given that the Organization "may." It is in a position to pass judgment, "if..." and so on;

"if" again, and, finally, so as not to "... seriously prejudice the interest of other Members." Our view was that all those were answered in the affirmative by the Organization. If it would assist, we would be quite prepared to see the words "if provision is made" altered to "determine whether provision is made." We would be quite ready for that to go in. We are quite prepared for the Organization to pass judgment on the scheme. Having done that, we think it ought to have no further discretion.

Mr. van der Post raised an important point of principle. All I can say is that we believe that if we put on home consumption prices which are higher than export prices we are, in effect, taxing our consumers. We think it is wrong, therefore, that when export prices go very high the domestic price should follow them and that domestic consumers should be guaranteed a sound price when prices are low and then have to pay through the nose when prices are high. That view was taken in the case of wheat particularly, where the producers were told that they could not get external prices for that part of the wheat which was sold on the domestic market because they accepted, through Government instrumentality, a higher price for the wheat when the export parity was low. That is the principle which we observe. I think it has at least some of the morality of this question.

The other point to which we attach the most importance was one raised by Mr. Schwenger. I was hoping it would go through without any comment. It made all the hurdles until it met the one he provided. I would ask him whether, if the principle is accepted - and it is accepted; it was accepted in London and perpetuated in the Draft - what are we going to do when we start on a scheme when prices are low - and we have to

admit that most of these arrangements start when producers are in trouble and they ask the Government to help them. They start them and the problem then is to create a scheme which is going to stand the test of time.

We can only say, in pointing to our schemes, that they have stood the test of varying conditions. The Government has withstood all the requests of producers to follow export parity in the charges made to local consumers. But if schemes start - and probably they will, particularly when they have got schemes of proven worth - when prices are low, and it might be some years before this particular criterion is reached, namely, that the price fixed above world parity is found to be lower than world parity, are they going to be ruled out?

That is the only reason we have put that in and I think it is, from our point of view, the most important point in the amendments we have suggested.

I agree that there are other points here in the Draft which should go to the Drafting Committee, and I think they will be approved when they do go there.

CHAIRMAN (Interpretation): Gentlemen, we have had up to now a very long discussion on the amendment which has been presented by the delegation of Australia. I think we cannot go on with this discussion in Plenary Session, and therefore I think we should send this text to the drafting sub-committee, but before doing so I should like to know the opinion of this Commission.

I should like to know two points. First of all, if, generally speaking, we agree on the idea suggested to change the word "may" into "shall", as has been suggested by Mr. Schwenger. On the other hand, I should like to know if we want to open the door or not to the conclusion of stabilization schemes when prices are low.

It is possible that the text as submitted by the Australian delegation does not meet exactly all our views, but I should like to know your views on the principle of this idea.

DR. E. COLBAN (Norway) (Interpretation): Mr. Chairman, I wonder whether it is wise to send definite instructions to the sub-committee, and whether it would not be preferable to refer the sub-committee to the discussions which took place here, and to ask them to take into consideration the view-points expressed in this discussion.

CHAIRMAN (Interpretation): It was my intention not to give definite instructions to the sub-committee, but I was under the impression that the sub-committee might not have enough instructions but if you do not wish to give more precise directions, we shall keep to what has just been said.

The sub-committee will be asked to examine the New York text and to see to what extent it will be possible to introduce the amendment presented by the Australian delegation.

CHAIRMAN (Interpretation): We are now going to examine paragraph 4. The U.S. Delegation proposes to make some changes at the end of sub-paragraph (a). This Delegation asks the suppression of the words: "the difficulty may be determined to be a special difficulty of the kind referred to", and the words ^{and} i.e. in that event the procedure laid down in that Chapter shall be followed".

Does the Delegation of the United States wish to present some observation on this question?

Mr. SCHWENGER (United States): Mr. Chairman, this was an effort to simplify somewhat what happened to be a rather peculiar text, at least in the sense that it showed something of an excess of zeal for determination.

The word "determined" in this Article, as you all doubtless have in mind, means determined through the Organisation by consultation among the Members principally interested. The words say the difficulty may be determined to be a special difficulty of the kind referred to in Chapter VII, and in that event the procedure laid down in that Chapter shall be followed.

In the procedure laid down in Chapter VII, there is the determination through a study group consisting of Members substantially interested whether it is a special difficulty. But to say that it may be determined by inter-Governmental consultation to be a special difficulty - in that event we shall feel the procedure for determining whether it is a special difficulty for consultation among the Members is something in excess of determination. We thought that to refer merely to the procedure would be all that is required.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. SHACKLE (United Kingdom): In spite of the simpler wording which the United States Delegate proposes, we do rather definitely prefer the original text.

We feel that there is in it a real difference of substance, in that the existing text in its reference to "may be determined" and so on, does bring in via Article 66(4) what one might call a preliminary screening or sifting process which should determine whether any particular case is of such importance that it deserves to be treated by the rather elaborate and cumbersome procedure of Chapter VII, which would, of course, involve the setting up of a study group and so on.

So we felt that should be reserved for cases of real importance which have a widespread effect, and that the small case, which touches only one or two countries, should be settled out of Court, and for that purpose we do feel that it is very desirable that this screening or sifting procedure should be kept.

That is all we would wish - to see the existing text retained.

CHAIRMAN: (Interpretation): The Delegate of New Zealand.

Mr. WHITE: (New Zealand): I fully support what has just been said by the United Kingdom Delegate.

CHAIRMAN: (Interpretation): The Delegate of the Netherlands.

Mr. DE VRIES (Netherlands): Mr. Chairman, I fully support the proposal of the United States Delegate on this point.

I think that in such cases, in the first place if you try to go into bilateral cases when a Member considers that it should be discussed multilaterally, and then you have to ask the Members substantially interested - you have just those Members which would be Members of a study group; so I think that if the problem of the preliminary stage mentioned by the Delegate of the United Kingdom is proposed here - if there is a study group and if they have to determine first, will we come together and say that this special difficulty shall be a matter for the study group, you give an unreasonable delay to the whole procedure, and I think it is better in that case for people coming together just to say and determine that there is a special difficulty, rather than by creating a study group under Chapter VII and making a special study and reporting back to the Organisation and a Conference can follow. Then if we are at some cumbersome stage of the work, people all over the world can do that.

CHAIRMAN (Interpretation): Does anybody wish to speak on the American Amendment?

Mr. SCHWENGER (United States): I would just like to say that I consider this not a point of substance, inspite of what was said by the Delegate of the United Kingdom. I believe that the text of Article 49 makes it quite clear that any study group, whether or not formally called one under the terms of Article 48, can satisfy the requirements as to Conferences. I really do not believe there is a substantial change; so that while I agree with the drafting, we do not consider this an important change.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, I am grateful to the United States Delegate, who has offered to withdraw his amendment. I do feel that had it been maintained, we should have been involved once more in the rather lengthy discussion that took place in the London Conference.

CHAIRMAN: Do I understand that the amendment is withdrawn?

Mr. R.B. SCHWENGER (United States): I would rather say that if there is not general support I would be glad to withdraw it, but since others have supported it, I do not feel free to entirely withdraw it.

CHAIRMAN (Interpretation): In these circumstances, I think we should send this amendment to the sub-Committee who will be able to find a means of reaching a satisfactory solution.

We are now going to examine paragraph (b). The Delegates of Canada and New Zealand ask for the deletion of this sub-paragraph. You can find the remarks in Page 27 of the New York Report.

The Delegate of Canada.

Mr. J.J. DEUTSCH (Canada): Mr. Chairman, we have always had difficulty with this sub-paragraph, but our difficulties are both of interpretation and of principle. Dealing with the question of interpretation first, it is not clear to us whether the requirements of paragraph 2, namely, the prohibition of export subsidies, shall be relaxed when an attempt has been made to form a commodity agreement but that attempt has failed. That is one point; having attempted to form a commodity agreement, the attempt has failed. In that case, the

prohibition of export subsidies is relaxed? Or does it mean that when a commodity agreement has been formed but that agreement has failed, the relaxation then goes into effect? It is a question of at what stage this thing applies. That is not clear in the Article. It makes a very great difference.

In either case, if the interpretation is such that it should apply when the attempt to form an agreement has failed, we would object to the Article as well, because we feel that in the attempt to form an agreement, the basic equity of the situation should not be destroyed. If in the attempt to form an agreement it is realized that some countries may use the weapon of export subsidies during the negotiations for an agreement, that is, that if you cannot succeed in obtaining an agreement, then some countries are in the position of using the weapon of export subsidies during the negotiations, that seems to us to be an inequitable situation, because it gives undue influence to the countries best able to subsidize: in other words, the wealthier countries as against the smaller countries; the countries that are less dependent on exports as against the countries that are more dependent on exports. That seems to us an inequitable situation in the formation of an agreement.

If this rule is a sound rule, that there shall be no export subsidies, then it is a sound rule in all circumstances and it should not be relaxed during the process of negotiating a commodity agreement or in effect relaxed in the sense that the weapon can be used knowing that if the agreement fails, or if the countries having that weapon in their hands fail to get what they want in the agreement, the weapon will come into force. That, it seems to us, is not an equitable situation.

Secondly, if it is intended that export subsidies may be resorted^{to}/when an agreement has failed, that is, after one has been formed and has failed, we think that that also is not a sound provision, because if the agreement has failed we do not see how resorting to export subsidies will make the situation any better. It would simply reintroduce the weapons of economic warfare in an already bad situation. It is a sound rule, it seems to us, whether or not commodity agreements exist, and we think it rather dangerous that when a commodity agreement has failed the only thing we can do to break the situation is to resort to weapons of economic warfare at that point, and enter into competitive subsidization. That does not seem to us to be a logical way of improving the situation. It is nothing else but wielding a big club over the heads of others, perhaps, and for that reason, as a matter of principle, we find this paragraph very difficult.

I should go on to say that under the first interpretation, that export subsidies may come into effect if attempts to form an agreement fail, this is unsound for another reason; that if the attempt to form an agreement has failed, that may be due to the considered opinion of all concerned, that an agreement is not necessary. If the attempt to form an agreement fails it may be due to countries agreeing that an agreement is unnecessary, that is at least one of the possible causes of not reaching an agreement. In that case, why should the export subsidies be relaxed — if it is agreed that an agreement is not necessary? Again I say, that ~~all~~ all these reasons we find it a difficult paragraph, and we suggest it should be deleted as being inconsistent to the other portions of the Charter.

M. DESCLEE (Belgium) (Interpretation): Mr. Chairman, I fully associate myself with the views expressed by the delegate for Canada. Either these provisions have a general character, and in this case they are not acceptable, or they tend to consider a particular case and then they can be included in the framework of Article 35.

CHAIRMAN (Interpretation): This is paragraph 2 of Article 35.

Dr. T.T. CHANG (China): Mr. Chairman, we understand the fears just expressed by the Canadian delegate, but we think that the mere division of this sub-paragraph will not help unless we can think of something more constructive to take its place. I do not know what the Canadian delegate would suggest in case the measures provided for in Chapter VII did not succeed.

CHAIRMAN (Interpretation): Before giving the floor to the delegate of the United States, I should like to ask the delegate for New Zealand if he maintains his reservation to the New York text?

Mr. G.D.L. WIRE (New Zealand): Mr. Chairman, we fully support the point of view expressed by the Canadian delegate just now, and we consider that paragraph 4 (b) is an entirely unnecessary paragraph, and that the procedure in Chapter VII will have a greater chance of succeeding in the absence of this clause because, if you are always allowed to have, at the back of your mind, a return to export subsidies and such other procedures, when other things do not succeed, then things are very much open to abuse in our opinion.

Mr. R.B. SCHENCER (United States): Mr. Chairman, we cannot agree to the deletion of this paragraph without a full reconsideration of the various other weapons provided in the Charter, and commended to those who use them for accomplishing similar purposes. I refer particularly to subsidies other than export subsidies.

I am sorry that the matter is being considered on the basis of equity, because it seems to us that for those whose economic and political structure has led in the past to the use of export subsidies, rather than other types, these methods of dealing with a trade problem can be looked at without moral feeling, different from that with which one looks at other methods of dealing with that type of problem.

For us - and I speak now just for the particular case of my country - these export subsidies have come to be used in a limited degree as a concomitant of a type of internal price support that is peculiar, I believe, to us.

I think it is necessary to keep always in mind in the discussion of Paragraph 4 that it deals with cases where there are special difficulties of the kind referred to in Article 46, the introductory Article of Chapter VII, and that it has been agreed by us all, as a basic principle of the Charter, that such special difficulties call for treatment different in nature from that which Chapter V provides in other circumstances, for the same product or for commodities which are not affected by such special difficulties.

I would like to point out that the structure of the Article with which we are dealing as a whole is as follows: we permit subsidization, except where injury is such as to bring into operation complaint and consultation procedures. We bar only such subsidization as results in a price differentiation between the domestic market and the foreign market, and when

there are special difficulties we have a special case. We refer the case to Chapter VII, but we say that if Chapter VII procedures do not succeed, then it is still a case outside of this particular provision barring export subsidies. It is that last part of the structure of the Article that it is proposed to delete.

Now I would like to point out that the Article is already rather strict about the matter. It does not provide, in those circumstances, for the use of the export subsidies unless measures provided for in Chapter VII have not succeeded, or do not promise to succeed, and the question of whether they have succeeded or not, or whether they promise to succeed or not, is made the subject of a consultative determination by all the interested countries, so that, to a certain extent, the club is in the other hand, because we have renounced the use of export subsidies except under a situation that is rather difficult to bring about.

We are conscious that in going even that far we are going to have a good deal of difficulty, domestically and politically. We do not believe we can go any farther.

CHAIRMAN (Interpretation): I should like to go on with the discussion of Article 30 in order to finish this Article tonight. It is the only important question remaining on our Agenda, the last item being purely a drafting question.

CHAIRMAN (Interpretation): The delegate for the Netherlands.

DR. E. de VRIES (Netherlands): Mr. Chairman, I think it is true that this sub-paragraph is meant as an escape clause, and as an escape clause, in the first place, for a primary commodity, that is, in case even the measures of Chapter VII have not succeeded or do not promise to succeed.

As to what the Canadian delegate means, I think we have to consider that carefully. If we get through the United Kingdom amendment on Article 37, which means that under Chapter VII you may have any exemptions from Chapter V, that would mean that if you have an agreement, that agreement cannot succeed to remove or prevent the burdensome surplus and then in that agreement we might establish subsidies or allow subsidies.

That was not the case when that was adopted in London. That was not the case when the United States Draft Charter was presented, so that might be one of the reasons why it was put in the original Draft Charter. So, I think, if we have a good solution for the problem of Article 37 and of Chapter VII as a whole, then we can make it clear that this cannot mean that a commodity counts or that a commodity agreement can provide for certain subsidies, because already that is in the general Article.

Therefore this can only be retained as an escape clause in the case where an agreement does not succeed, or where an agreement is terminated - I should also take into account the case where an agreement is terminated because it does not succeed.

Now, Mr. Chairman, we have in paragraph 2(b) of this Article the possibility for a special amendment, for a special problem, and the Organization provides for an extension of the period of an export subsidy, but no possibility, even for the Organization, to make it possible to re-insert it again if the subsidy has been

abolished.

Now what here is put in article 4(b) is not opening economic warfare again, but it is giving to the Organization the possibility of an escape clause, not of an extension of an export subsidy, but the possibility of a re-insertion, and I think you cannot leave that out for a special case, but I think you can make it clear in the drafting that it is only meant for this extreme case.

CHAIRMAN (Interpretation): I think that two questions arise in connection with sub-paragraph (b). Firstly, there is an objection of principle to the text of Article 30, paragraph 4. Secondly, a number of remarks have been made regarding the interpretation which could be given to the text.

As regards the principle itself, I should like to recall that both in London and New York the majority was in favour of the existing text, and, as was pointed out by the United States delegate if it is desired to delete this sub-paragraph, the whole Charter will be upset thereby. Of course, the Preparatory Commission is not bound by the decisions taken in London, but I do think that it would be preferable, as far as possible, not to depart from the compromise which was reached in London after great pains.

If the majority appears to be in favour of the maintenance of this text, I think it would be wiser to retain it, but on the other hand the Sub-Committee might be asked to examine just to what extent the changes made in Article 37 or Chapter VII may have their repercussions on paragraph 4 of Article 30; and secondly, if possible, to make the wording more precise in order to avoid such interpretations as have been pointed out by the Canadian representative.

CHAIRMAN (Interpretation): The Delegate of Canada.

Mr. DEUTSCH (Canada): Mr. Chairman, in the first place I cannot admit that the deletion of this paragraph would upset the whole Charter. I do not believe that is so.

Secondly, I do not know to what extent we are bound in this case by the decisions in London, and if the majority is in favour we would accept that; but we are not sure that they are on this point of retaining the Article.

In any case, if it is decided to retain it, we feel it would have to be clarified a great deal as to what exactly is meant.

Furthermore, I may at this point also seek to discuss one or two points made by the American Delegate. He stated that there would have to be a determination before this Clause could come into effect, but I feel that the determination required here is not really a determination of whether an export subsidy shall go back into effect. Certainly on one interpretation, and perhaps on any interpretation, the Organisation has no choice in this determination. There is no real determination - in other words, if a commodity agreement has failed to come into effect and the Organisation determines that has taken place, that is no real determination, it is just a fact - not a determination. And so

the real question of whether or not to revert to export subsidies is something not to be undertaken in a circumstance that is not provided for in this Article by the Organisation.

Now, if that were done, I would be prepared naturally. - any Member has the right to go to the Organisation and ask the Organisation to give a relaxation from some commitment, and there were procedures laid down - if the matter were to be dealt with on that basis I am perfectly satisfied, as Professor de Vries pointed out, that under 2(b) there is provision here for the expansion of export subsidies and a procedure laid down for that purpose.

If this matter were dealt with in the same way, any Member that could make a good case that the rule is unduly burdensome to it, and could make a good case that it should be permitted to have a relaxation of that rule under the procedures laid down - obviously in such a case we would have no objection, and we would be quite willing to consider a solution along the lines suggested by Professor de Vries. Not only may a Member apply for an extension, but for re-imposition, in certain circumstances and procedures where the Organisation has the right to determine whether or not the request is a proper one. That is something that applies to other undertakings in the Charter, and in that connection we are quite prepared to consider it.

We do object, however, to the particular method that is employed here in this Article.

CHAIRMAN: (Interpretation): The Delegate of the United States.

Mr. SCHWENGER (United States): Mr. Chairman, I personally consider that a very constructive approach. Without being able in any way to see just what we can agree to, I think that the

Drafting Committee ought to consider the possibility of using that approach as a means of reconciling views here. It seems to me that the material in paragraph 5 which was originally passed and proposed ought to be re-integrated with it in some way or other, and the two together probably have a closer relationship to 2 (b) than is indicated. Those are points that just occur to me as probably things that ought to be considered.

CHAIRMAN (Interpretation): I think that the last proposition made by the Delegate of Canada will allow us to think that the Sub-Committee will reach a satisfactory solution, and that this solution will be accepted not only by the majority of the Members but by all the Members.

I therefore propose to send this paragraph to the Sub-Committee, asking the Sub-Committee to take into account to observations made by Mr. Deutsch.

We are now going to examine Paragraph 6. As far as Paragraph 5 is concerned, there are no propositions, and we will only ask the sub-Committee to take into account the observations of Mr. Schwenger. As far as Paragraph 6 is concerned, I think we could suggest to the sub-Committee that they take into account the observation made regarding Article 52 and ask them to find a similar solution. Are there any objections? (No objections).

We have now achieved the examination of Article 30. I should like to inform you that the sub-Committee, the composition of which was approved a moment ago, will meet next Thursday at 10.30 a.m.

The Delegate of Norway.

M.E. Mr. Erik COLBAN (Norway): (Interpretation):
Mr. Chairman, when we began the examination of Article 30, I pointed out that I did not enjoy the assistance of an expert. Our expert arrives tonight and if after an examination of the situation he finds that he has proposals to make, may I be allowed to submit our proposals direct to the sub-Committee?

CHAIRMAN: I think we can all agree to that. The Meeting is adjourned.

The Meeting adjourned at 6.53 p.m.