

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

COMMISSION B

SUMMARY RECORD

Ninth Meeting held on Thursday, 12 June, 1947
at 2.30 p.m. at the Palais des Nations, Geneva.

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

Chapter VII.

(Mr. ROYER (France), Vice-Chairman,
presided at the outset in the absence
of the Chairman).

The CHAIRMAN (Mr. Royer) said it was hoped to conclude the work of the Commission that afternoon. He reminded the delegates of the procedure laid down by the Steering Committee: the object of the general discussion was to indicate to the Sub-Committee that had been set up the general feeling of the Commission, to guide it in the preparation of texts to be submitted to the Preparatory Committee.

ARTICLE 52 - CIRCUMSTANCES GOVERNING THE USE OF REGULATORY AGREEMENTS.

The CHAIRMAN said the Czechoslovak delegation had proposed a new sub-paragraph (d), which naturally followed their amendment to Article 47, paragraph (e). The proposed new sub-paragraph read:

"(d). A shortage of a primary commodity, whether of a short term or a long term character, which seriously prejudices the interests of consumers and cannot be remedied by normal market forces alone, has developed and it is, therefore, necessary to raise production and secure an equitable distribution and stable prices of that commodity".

Mr. L. MINOVSKY (Czechoslovakia) said that at the first session of the Preparatory Committee the principle was

admitted that inter-governmental arrangements for primary products should also be applied in cases of scarcity of primary products, and a new paragraph had been added to that effect to Article 47. It was evident that international regulation of production, distribution and prices constituted the only suitable means of remedying insufficiency of an essential product, the mal-distribution which would result and exaggerated price fluctuations.

Regulatory agreements should also therefore be applied in cases of scarcity seriously affecting the interests of consuming countries.

It was to remedy difficulties of that kind that the Czech delegation suggested adding the present amendment to Article 52. He emphasized that the amendment was only a natural and logical sequel to paragraph (e) of Article 47. That paragraph had determined in principle that the necessity of increasing production of a given article should be taken into account. The adoption of that principle had been only the first step; the second step must be taken within the framework of Article 52. It was necessary to ensure the possibility of regulatory agreements governing not only the production but also the equitable distribution and the stabilization of the price of a product.

If Chapter VII envisaged only the means of remedying difficulties arising in cases of a surplus of a product, and neglected difficulties arising from the scarcity of some other product, it would suggest that Chapter VII protected in too exclusive a manner the interests of production and was neglecting the interests of consumption, despite the fact that the interests of consumers were in many cases more important than the interests of production.

The Charter should not be interested in a unilateral manner in surpluses and neglect shortages, when one remembered that the world of to-day was suffering not from surpluses but on the contrary from scarcity; and when it was considered that there was not much hope of improvement in the situation in the immediate future.

The shortage of certain primary products might continue for a very long time. An example was provided by primary products for the manufacture of vegetable oils, the lack of which was greatly felt at present.

On the other hand, his delegation wished to see the Charter come into effect as soon as possible, and if it dealt with matters which for the moment were only dreams, such as surpluses of primary products, and ignored important immediate questions with regard to the shortage of certain primary products, it would be very difficult to convince the world that such a procedure was fair and prudent.

Furthermore, the question of production in connection with equitable distribution and stabilization of price was very important for those countries that were preparing their own industrialization.

The members of the Commission had warmly welcomed the proposal made on the previous day by FAO, which was basically similar to his own delegation's amendment, and he hoped that the amendment would be received in the same way.

Mr. D. CAPLAN (United Kingdom) said the delegate of Czechoslovakia was already aware that in principle the United Kingdom delegation had a good deal of sympathy with his conception of the problem. He agreed that they must think of the problems before them as problems demanding solution in the interest of both producers and consumers.

He felt, however, that Chapter VII was designed as much to protect consumption as production.

There were two points in the proposed amendment with regard to which he saw some difficulty. The words "equitable distribution" would, if inserted in the Charter, require definition; it would be very difficult to define what constituted equitable distribution of a commodity in serious short supply. The term "stable prices" had also been used, but the movement of prices during a period of serious shortage, and their behaviour as the shortage was overcome, was not related to the normal concept of stability of prices with which they had been dealing.

He felt that the Drafting Sub-Committee should go further into those two important points.

The CHAIRMAN (Mr. Wilgress) asked whether it was agreed that the matter should be referred to the Drafting Sub-Committee.

Mr. MINOVSKY (Czechoslovakia) said, with regard to the comments by the delegate of the United Kingdom on the words "equitable distribution", that the same difficulty of definition had been encountered in respect of other terms, and he did not consider that that was sufficient reason for the avoidance of an endeavour to define the phrase.

With regard to the United Kingdom delegate's observations on "stable prices", he realised that it would not be possible to fix prices; he was suggesting not that they should be fixed but that they should be stabilised. If an agreement could be reached with regard to surpluses there was no reason why an agreement should not be reached on the matter of shortages. The scope of Chapter VII could quite easily be widened to cover shortages as well as surpluses.

At the suggestion of the Chairman it was decided that the proposal of the Czechoslovak delegation for the inclusion of the new sub-paragraph (d) should be referred to the Drafting Sub-Committee.

The CHAIRMAN pointed out that the United States delegation had proposed the addition of the following new paragraph:

"Determinations under this Article shall be made through the Organization by consultation among the Members substantially interested in the commodity concerned".

Mr. SCHWENGER (United States of America) said the proposed new paragraph was simply to transfer material which applied to the present Article but which had previously been stated in another Chapter. The object was to avoid misunderstanding through the use of a cross-reference.

The new paragraph proposed by the delegation of the United States of America was referred to the Drafting Sub-committee.

ARTICLE 53 ADDITIONAL PRINCIPLES GOVERNING REGULATORY AGREEMENTS

Preamble:

The CHAIRMAN said the delegation of the United States of America had proposed the substitution of the word "shall" for the words "undertake to" in the first line of the preamble. It appeared to be merely a drafting amendment. It was agreed to refer the matter to the Drafting Sub-committee.

SUB-PARAGRAPH (a):

Mr. SCHWENGER (United States of America) said his delegation was of the opinion that sub-paragraph (a) did not express a basic principle in the same sense as the other sub-paragraphs. The matter was dealt with in Article 49 and it seemed unnecessary to retain the sub-paragraph.

M. PETER (France) was unable to share the view of the Delegate of the United States of America and maintained that it was necessary to provide for the possibility of direct negotiations between states. Such a possibility would be an incentive to the Conference and Study Group to work as quickly as possible. Furthermore, in certain cases the governments concerned might be under the necessity of reaching an agreement quickly and avoiding the delay that the Conference or Study Group might involve. The subparagraph reserved to governments the possibility of defending their vital interests, should they find that the work of the conference or study group would be too slow. He was therefore in favour of its retention.

Mr. DOIG (Australia) supported the position of the delegate of France.

The CHAIRMAN proposed that, as there were no further observations, the matter be referred to the Drafting Sub-Committee.

SUB-PARAGRAPH (b):

The Chairman drew attention to the note on subparagraph (b) in the Annotated Agenda (E/PC/T/W/157/Rev.1, page 11). There were amendments from the delegations of Chile, Czechoslovakia and the Netherlands, the United States of America and the United Kingdom. As they seemed to be purely points of drafting, he proposed their reference to the Drafting Sub-Committee.

Mr. CAPLAN (United Kingdom) felt he must point out that the United Kingdom amendment was open to objection.

on precisely the same grounds as those on which he himself had objected to the proposal by the Czechoslovak delegation a few minutes previously. Perhaps the proposed amendment might be further considered by the Drafting Sub-Committee. The wording used in Article 47 might provide a clue to suitable wording for sub-paragraph (b) in Article 53.

It was agreed that the proposed amendments of the delegations of Chile, Czechoslovakia and the Netherlands, the United States of America and the United Kingdom to sub-paragraph (b) were referred to the Drafting Sub-Committee.

SUB-PARAGRAPH (c) :

The CHAIRMAN said with regard to sub-paragraph (c) that the United Kingdom delegation at the Drafting Committee in New York had reserved its position regarding the transfer of that sub-paragraph from Article 51. The Australian and New Zealand delegations had made certain reservations and drafting changes had been proposed by the United Kingdom, Chile, France, and the United States. He felt the points should go to the Drafting Sub-Committee.

Mr. CAPLAN (United Kingdom) said his delegation now felt that it was able to withdraw its request that the words "according to its interests in the circumstances" and "within one or other category without altering the equality between the two" should be put between square brackets. He felt that it would be a valuable guide to the Drafting Sub-Committee to have some discussion on the principle involved.

The CHAIRMAN declared sub-paragraph (c) open to discussion.

Mr. MUNOZ (Chile) said his delegation had adopted in its proposed amendment the London text but saw no inconvenience in following the New York text in the first part of subparagraph (c). If the amendments in subparagraphs 47(c) and 53(b) were taken into account, the last part of the Chilean amendment, "or when current prices, etc." lost its importance, and the delegation would be prepared to withdraw that part.

He felt, however, that if the amendments to subparagraphs 47(c) and 53(b) were definitely incorporated in the Charter and they could withdraw the last part, the Drafting Sub-Committee should give consideration to the first part: "provided also that said consuming or importing countries representative period".

M. PETER (France) said the object of his delegation's amendment was to shift the task of weighting and allocating votes from the Organization on to each Conference. Such a provision was made necessary by the peculiar circumstances relative to certain products and countries. He would take wheat as an example. Before the war France consumed and produced wheat in approximately equal quantities, and had therefore practically no exports or imports. Nevertheless France played a very important part insofar as the production and consumption of the commodity were concerned. It seemed therefore that in that particular case there was a peculiar situation which was not taken care of by the Article as it stood. Consideration must also be taken of the intermediate stage between production and consumption: an example in the case of tin was that of the smelter. He felt that such aspects should be taken into account and that it should be left to each country to determine the question of weight and allocation of votes instead of putting the matter on to the

Conference and limiting themselves by rigid rules incorporated in the Charter.

Mr. CAPLAN (United Kingdom) felt they should bear in mind that the point was not merely academic and that a lot of experience was available. In connection with the proposed wheat agreement, it had been realised then that although objections were raised to particular formulas the New York draft was the most acceptable general statement on the question of voting which could be arrived at. Disagreement in the Wheat Conference on the question of voting had been essentially on two points. The first point was whether the agreement was essentially one covering the international trade aspect - the question of weighting to the extent to which a commodity entered into world trade. The second point was whether such correct weight would be given by the phrase used in the New York draft: "shall have an appropriate voice within one or the other category without altering the equality between the two."

The French formula was a good idea in principle, but had proved unacceptable at the Wheat Conference. The principles laid down in the New York draft were as far as one could go in a general Charter of that kind, and he urged the wisdom of leaving the text as it stood at present. The United Kingdom delegation for its part had withdrawn its objection.

It was a delicate balance and anything they might do now might have a disturbing effect. They would only be able to produce alternative texts, which he believed would be unfortunate and unfruitful.

Mr. MELANDER (Norway) was also of the opinion that the text should stand as it had been drafted in New York. He associated himself with the remarks of the United Kingdom delegate.

Mr. DOIG (Australia) said although his delegation supported in principle the idea of equality of voting powers between importing and exporting countries, in actual practice and in different agreements it might be found desirable to change, in special circumstances, the distribution of voting power. He wondered whether the Drafting Sub-Committee might consider an additional provision to the effect that if the participating countries should decide, agree, or recommend to the Organization a different system of voting, it would be accepted or considered by the Organization.

Dr. B.N. GANGULI (India) supported the retention of the New York text for the reasons advanced by the delegate of the United Kingdom. The formula as it stood represented a very nice balance and he felt it was workable and should be accepted by the Preparatory Committee. If the whole question were reopened and if they sought academic perfection with regard to the distribution of votes they might not be able to reach any workable formula at all. India was not largely dependent for consumption on imports, but it did import increasing quantities of foodstuffs, particularly basic foods.

Mr. SCHWENGER (United States of America) felt that there were two points on which there did not seem to be any great disagreement. Firstly, there was the basic principle of

equality between what might be described as the selling and buying interests. Secondly it was appreciated that cases vary greatly as between different commodity situations and that there must be a good deal of latitude allowed to the Commodity Conference in the allocation of voting powers.

The United States amendment was an effort to state the general principle without removing that latitude. His delegation did not hold to it very strongly in its present form and would be glad to have it referred to the Drafting Sub-Committee with the understanding that those problems had to be met.

The CHAIRMAN asked whether the proposals, particularly the points of substance in the French and Chilean texts could now be referred to the Drafting Sub-Committee. This was agreed.

The CHAIRMAN drew attention to the proposals of the Netherlands and French delegations with regard to sub-paragraph (d).

Mr. J. van AARTSEN (Netherlands) said the new text proposed by his delegation entailed no change of substance but he felt it was clearer and more concise than the present text.

M. PETER (France) said the purpose of the amendment proposed by the French delegation was to protect the interests of new or insufficiently developed countries. Such countries formed a substantial part of the French Union. The present formula offered some advantage to countries already developed as compared with new or insufficiently developed countries. If taken literally it might hamper the working possibilities of new countries and make it impossible for them to ensure full employment, because in order to do so they would have to develop certain lines of production in which they were behind older and more developed countries. The proposed amendment was an attempt to correct the present formula, which appeared to be too rigid.

Mr. CAPLAN (United Kingdom) felt that there appeared to be such a wide measure of agreement on the essential points that it should not be difficult to obtain a compromise. His delegation had prepared a text and wished to reserve the right to submit it to the Drafting Sub-Committee, in due course.

It was agreed that the amendments proposed to sub-paragraph (d) by the delegations of the Netherlands and France be referred to the Drafting Sub-Committee.

SUB-PARAGRAPH (e)

The CHAIRMAN pointed out that the Annotated Agenda contained the following note, on sub-paragraph (e):

"The Drafting Committee felt that the phrase 'substantial progress towards solution of the problem' covered cases where the agreement impeded a deterioration of the situation. (D.C. Report, page 42). The United States Delegation proposes that this note be incorporated as a footnote to the draft prepared by the Preparatory Committee."

The United States Delegation had also proposed some drafting changes.

The delegation of India had proposed the substitution of the words "within a reasonable period" for the words "within the time limits of the agreement".

Mr. GANGULI (India) said his delegation's amendment was self explanatory. He was doubtful whether a period of five years would be adequate for the necessary economic adjustments in the case of basic foods.

Mr. WHITE (New Zealand) recalled that in New York the same question had been raised and a satisfactory solution had been found by the use of the expression "substantial progress towards solution". That wording avoided saying that a solution must be found within a stated time.

Mr. SCHWENGER (United States of America) associated himself with the remarks of the delegate of New Zealand.

Mr. CHANG (China) wondered whether the point of the delegates of India might be met by changing the order of the words so that the sub-paragraph would read: ".....to ensure substantial progress within the time limits of the agreement toward solution of the problem".

The CHAIRMAN suggested that the comments on the point be taken into account by the Drafting Sub-Committee, who might consult the Indian delegation with a view to ascertaining whether the sub-paragraph would be satisfactory in its present form with a slight change.

He draw attention to the proposal of the Brazilian delegation (Document E/PC/T/W/177. Rev.1) for the insertion of a new sub-paragraph, which would read:

"such agreements shall not interfere with the production of essential primary commodities necessary to satisfy the increasing demand in the home market of countries which have favourable natural conditions to produce such commodities".

Mr. L.D. MARTINS (Brazil) said the amendment proposed by his delegation to Article 53 replaced the reservation Brazil had previously made on the whole of Chapter VII: Its object was to avoid a country being precluded from the production of a certain commodity classified by the Charter among primary products and playing an important part in the consumption of that country, in circumstances when the natural conditions of the country would favour production of that commodity. All countries should have freedom to produce from their own soil the materials necessary for their own consumption. Limitations on production which might prove necessary to maintain equilibrium in international markets should stop short at production for national consumption. If that principle were accepted it remained to be seen whether or not

the provisions of Chapter VII would raise obstacles to its application and whether or not they would restrict the full exercise of that right.

The position might be better understood through a brief analysis of various situations before and after the coming into force of the Charter of the International Trade Organization. Before the existence of the ITO a country could remain outside a restrictive agreement; and it could produce, if it so wished, within the limits of its productive capacity and of its ability to enter into competition in the market; furthermore, if it desired to do so, it could join the agreement and take its place in world production. It would be an "outsider" up to the moment of its adhesion. But when it became a member of the ITO, and if the production of a certain commodity classified among primary products entered into its programme of economic development, it might happen that a certain other producing country would consider itself injured by the reduction of demand in the international market. In such a case the second country could enlist the machinery of the ITO and by following the procedure envisaged in Articles 48 and 49 could set in motion measures having perhaps the effect of stabilising the situation and precluding the other country from emerging from its position as a purchaser of products which it could itself produce.

The basis of a restriction of that kind which would be imposed on the latter country was clearly indicated in the text of Article 47, paragraph (a): "to prevent or alleviate the serious economic problems which may arise when production adjustments cannot be effected by the free play of market forces as rapidly as the circumstances require." The practical result would be that the country in question would have to relinquish or at least reduce its production.

He felt that the existence of the ITO should not lead to the stabilisation of world production of primary products but on the contrary to an increase in their world-wide production and consumption. The distribution of such production throughout the world would be of benefit and new sources of supply should not be blocked. What was necessary was to permit the utilisation, for the advantage of all, of the products of the earth. Difficulties arising from disequilibrium between production and consumption should be solved in such a way that the solutions would harmonise with the exploitation of new sources and the satisfying of consumers' needs. It was for that reason that his delegation felt it would be necessary to preclude an interpretation of Chapter VII which might retard the economic progress of the less developed countries; and his delegation felt it necessary that the proposed new sub-paragraph be inserted in Article 53.

The amendment was not out of line with the principles of the Chapter but was on the contrary a necessary complement. Furthermore it was not included in any other Article, and a recognition of the principle it contained was desirable in order to obviate an unwholesome interpretation. That might arouse fears on the part of countries not at present producers, but

which might become producers, of seeing formed, under the protection of the Charter, international cartels of primary products which would be harmful to those countries. He trusted that his delegation's amendment would be found acceptable by the Preparatory Committee, in which case Brazil's reservation would be withdrawn.

Mr. T.T. CHANG (China) supported the remarks of the delegate of Brazil and said he would be glad to see the principle mentioned somewhere in the Charter.

Mr. WHITE (New Zealand), while expressing a certain amount of sympathy with the considerations put forward by the delegate of Brazil, had been under the impression that such points were to a large extent covered by sub-paragraphs 53(a) and 53(d), and he felt that if the amendment were to be accepted in its present form there would be a certain amount of duplication. He suggested that the Drafting Sub-Committee consider it in connection with sub-paragraph 53(c).

Mr. SCHWENGER (United States of America) wished also to express sympathy with the substance of the Brazilian proposal. It certainly envisaged an increase of consumption of the "problem" commodities, which was the eventual objective through which they hoped to solve the special commodity difficulties. That was an objective not easy to reach. He felt that any country which could succeed in achieving that objective on whatever scale, and which had favourable natural conditions for producing a commodity, should surely be in a position to take full advantage of the increase. For that reason he did not quite see the difficulty which made it desirable to put that rather specific case into the general language of the Charter. If the matter were being dealt with in a commodity agreement, he felt that nothing would be more sure to obtain uniform agreement from the other members of the

Commodity Council Board than an undertaking by a country to increase its production and consumption at the same rate so that its net demand and supply on the world's market would remain unchanged. In the actual agreement he was sure they would all agree that that would be an extraordinarily favourable position for a country to take.

He wished to point out further that the agreements were entirely voluntary. All the procedures in Chapter VII were voluntary procedures; no member would be forced to enter any agreement except as its interest might lead it to do so. He had no objection to full consideration of the problem - if it was indeed a problem - but it seemed to him that they could be grateful that someone was looking to an increase of production to deal with the problem; and they could hardly expect less than to be allowed, as producers, to take advantage of the increase.

Mr. DOIG (Australia) sympathized with the difficulties experienced by the Brazilian delegation, but opposed the addition of the proposed amendment as at present drafted, as it might prevent the application of a desirable principle which had already been incorporated in certain commodity agreements and which countries might wish to incorporate in the future.

Mr. MARTINS (Brazil), referring to the remarks of the representative of New Zealand to the effect that the matter referred to in his amendment might be covered by sub-paragraph (d) of Article 53, pointed out that the amendment was on different lines from those of that sub-paragraph. His proposal referred to the question of production for internal consumption, while sub-paragraph (d) referred to production for external consumption. Referring to the remarks made by the representative of the United States of America, he said that his amendment did

not refer to the freedom of a country to become a party or not to an Agreement, but simply dealt with the construction and application of the provisions of Chapter 7. His amendment would be submitted to the Drafting Committee and he hoped that Committee would arrive at a satisfactory solution.

Mr. CAPLAN (United Kingdom) thought it was clear that all representatives were in sympathy with the Brazilian proposal but he was not altogether satisfied with the explanation which had been given by the representative of Brazil. It was necessary to decide whether there was anything in Chapter 7 which would prevent any member of the Organization from becoming a party to an Agreement. He personally felt there was not. He hoped that when the matter was discussed in the Drafting Committee the representative of Brazil would give a more precise explanation of the situation which he felt made it imperative for Brazil to have a safeguard on the lines of the amendment proposed.

The CHAIRMAN said it was evident from the discussion that the Brazilian proposal needed more thorough investigation than could be given it in Committee B. He felt that the representative of Brazil would agree to his amendment being referred to the Drafting Committee.

Mr. MARTINS (Brazil) said he would be happy to give the Drafting Committee all the explanations it needed.

It was agreed that the amendment proposed by the Brazilian delegation to Article 53 of Chapter VII of the Draft Charter was referred to the Drafting Committee.

ARTICLE 54 - ADMINISTRATION OF REGULATORY AGREEMENTS

The CHAIRMAN said there were no amendments regarding

paragraph 1, but the United States delegation had suggested an amendment to paragraph 2; the delegation of the United Kingdom had suggested rewording paragraph 3. There were no proposals regarding paragraphs 4, 5 and 6. The delegations of Australia and India had proposed amendments to paragraph 7.

Mr. CAPLAN (United Kingdom) said the reason for the proposal made by his delegation that the word "may" should replace the word "shall" in paragraph 3 was because the latter word had binding force, and he was not at all sure that the Organization would want to appoint a non-voting representative to each Commodity Council.

Mr. SCHWENGER (United States of America) said that the substitution of the word "Organization" by the words "Commodity Council" in the second line of the proposal by the United Kingdom delegation should be considered very carefully in connection with the specialized and other organizations.

It was agreed that the amendment suggested by the United States delegation to paragraph 2 and the amendment to paragraph 3 of Article 54 proposed by the United Kingdom delegation were referred to the Drafting Committee for consideration.

Mr. DOIG (Australia) said the amendment proposed by his delegation to paragraph 7 of Article 54 had been suggested because it was thought desirable to specify in the Charter the particular type of consultation which would promote closer relations between the organizations concerned.

Mr. GANGULI (India) said the remarks of the representative of Australia also covered the amendment submitted by the delegation of India.

Mr. CAPLAN (United Kingdom) referring to Article 51 (g), said it covered the general principle of inter-governmental commodity arrangements. Under the proposed amendment to paragraph (7) of Article 54 the Organization had also to make reports on regulatory agreements. In Article 54 (7) it was laid down that in the case of special Regulatory agreements each Commodity Council should make a report to the Organization. That was a very different thing from saying that in the case of regulatory agreements they were to make reports not only to the special organizations but also to inter-governmental organizations. He therefore could not agree with the amendment suggested by the representative of Australia. He asked the representatives of Australia and of India to consider their amendments again, and perhaps the matter could then be submitted to the Drafting Committee.

Mr. YATES (FAO) reminded the representative of the United Kingdom and other representatives that the amendment suggested by the representative of Australia was made in order to bring that part of the Charter into line with the report of the FAO Preparatory Commission. In that report it had been suggested that Commodity Councils should make special reports on their operations to the annual meeting of the FAO in connection with the annual programme review of policies in agriculture.

Mr. SCHWENGER (United States of America) said that the fact that he had pointed out Article 51, sub-paragraph (g), to the representative of the United Kingdom, did not mean that he subscribed to his interpretation of that sub-paragraph. Referring to the points raised by Mr. Yates, he felt that there was a confusion in the drafting of the words before the Committee.

Paragraph (7) provided for a report in the sense of an account rendered by one body to its reviewing body. He reminded the Committee that the FAO, in the light of everything that had been said regarding inter-governmental organizations, would surely be represented both on the Commodity Council rendering this report and on the Commodity Committee which was a part of the Organization which would eventually receive and review the report.

At the suggestion of the CHAIRMAN, the matter was referred to the Drafting Committee.

ARTICLE 55 - PROVISION OF INITIAL TERMS, REVIEW AND RENEWAL OF REGULATORY AGREEMENTS.

Mr. DOIG (Australia) referring to the amendment proposed by his delegation to Article 55, said that the first change suggested was primarily one of drafting. The others were more substantial and his delegation would be happy to have them referred to the Drafting Committee.

It was agreed that this should be done.

ARTICLE 56 - SETTLEMENT OF DISPUTES.

Mr. CAPLAN (United Kingdom) said there was a very long explanation for the amendment proposed by his delegation to Article 56. That explanation would be found on page 6 of document E/PC/T/W/137.

It was agreed that the amendment proposed by the United Kingdom delegation to Article 56 was referred to the Drafting Committee.

ARTICLE 56 A.

The CHAIRMAN said that this was a proposal by the Australian delegation and followed upon that delegation's proposal that the Chapter should be rearranged. He felt the matter could

therefore be submitted to the Drafting Committee.

The proposal of the Australian delegation that a new Article 56 A should be inserted in the Charter was referred to the Drafting Committee.

ARTICLE 57 - OBLIGATIONS OF MEMBERS REGARDING EXISTING AND
PROPOSED COMMODITY ARRANGEMENTS.

The CHAIRMAN said there were no proposals regarding Article 57.

ARTICLE 58 - GENERAL UNDERTAKING BY MEMBERS

Mr. SCHWENGER (United States of America) said the suggestion of his delegation that Article 58 should be deleted was based entirely on the fact that paragraph 1 (b) of Article 1 covered the matter.

Mr. CAPLAN (United Kingdom) felt that the fact that a case was covered somewhere else in the Charter was not sufficient reason for not including it in Article 58. He would be reluctant to see the American suggestion adopted without some comment on the value of having this Article in Chapter VII. The matter should be considered by the Drafting Committee and it should be remembered that Article 58 had been approved by the Drafting Committee in New York and had been left in the draft Charter.

Mr. de SWARDT (Union of South Africa) agreed with the representative of the United States that Article 58 should be deleted as it only required a Member Government to give most favourable consideration to a recommendation.

Mr. WHITE (New Zealand) considered that Article 58 should be deleted.

Mr. RICHARDS (Canada) agreed with the remarks of the representative of the United Kingdom and considered that Article 58 should be retained.

M. PETER (France) shared the opinion of the representative of the United States and felt that as Article 58 was superfluous it should be deleted.

The CHAIRMAN said that one of the difficulties connected with Chapter VII was that everything had been referred to the Drafting Committee. He felt that Article 58 should be submitted to the vote

Mr. DOIG (Australia) considered that Article 58 should be retained. It should be specified in relation to Chapter VII that Commodity Councils having a specialized knowledge of problems should have the right to make recommendations to Governments not only to those participating in particular agreements but also to those not participating.

Mr. SCHWENGER (United States of America) called attention to the fact that there was a principle stated under Article 51 which was closely related, and quoted sub-paragraph (1) of that Article.

Mr. van AARTSEN (Netherlands) shared the view of the representative of Australia and wished to see Article 58 retained.

The CHAIRMAN put to the vote the suggestion made by the United States representative that Article 58 should be deleted.

The proposal that Article 58 should be deleted was defeated by 8 votes to 5.

ARTICLE 59 - EXCEPTIONS TO PROVISIONS RELATING TO INTER-
GOVERNMENTAL COMMODITY ARRANGEMENTS

The CHAIRMAN said that the representative of Czechoslovakia had suggested the deletion of the first four lines of sub-paragraph (a). As that matter was closely related to the discussions on Article 52 perhaps it could be referred to the Drafting Committee.

Mr. MINOVSKY (Czechoslovakia) said that, as the amendment suggested by his delegation to Article 59, was connected with

the amendment suggested to Article 52, he had no objection to the matter being submitted to the Drafting Committee.

The CHAIRMAN called the attention of the Committee to the comments of the Drafting Committee given on page 43 of that Committee's report, and proposed that the Drafting Committee of Committee B should take those comments into consideration.

Referring to sub-paragraph (b) of Article 59, the Chairman said that the United States delegation had proposed the addition of a sentence.

Mr. MUNOZ (Chile), referring to the phrase in sub-paragraph (b) of Article 59 "or to agreements relating to the purchase or sale of a commodity falling under Section E of Chapter V", said that sentence was added by the Drafting Committee in New York and his delegation did not know what it meant. Did it mean that provisions of Chapter VII should not apply to an enterprise coming under Article 41? His delegation felt that any Member, even if it maintained State enterprises coming under Article 41, should be entitled to participate in the Conference, as had been set out in Article 49.

Mr. WHITE (New Zealand) understood that the proviso referred to by the representative of Chile appeared in the London text.

His delegation was opposed to the addition of the words suggested by the United States delegation as it felt exception should be made for State trading Agreements in the provisions of Chapter VII and that it would be inappropriate to add another cross-reference to bring those agreements back within the orbit of Chapter VII.

The CHAIRMAN pointed out that the exception referred to was contained in paragraph 3 of Article 60, of the London text. The

New York Drafting Committee had thought it more logical to place it under Article 59.

Mr. SCHWENGER (United States of America) felt that there was ambiguity in the reference to the last point and considered it was a matter for clarification.

It was agreed that the amendment proposed by the United States delegation to sub-paragraph (b) of Article 59 should be referred to the Drafting Committee.

Mr. SCHWENGER (United States of America) referring to sub-paragraph (c), said his delegation had suggested that it should be deleted as it was an exception to the Charter.

The CHAIRMAN suggested that, as the United States proposals depended on an amendment which would be considered by another Committee other than the one dealing with Chapter VII, consideration of the matter should be deferred as it was a drafting point.

It was agreed that consideration of the United States proposal that sub-paragraph (c) should be deleted should be deferred.

ARTICLE 60 - DEFINITIONS

The CHAIRMAN pointed out that under paragraph 1 the Norwegian delegation had reserved its position regarding the inclusion of fishery products in the definition of primary products. That had been referred to in the Drafting Committee's report (page 44).

Mr. RINGEN (Norway) said his delegation withdrew its reservation.

The CHAIRMAN said that the delegations of France and of the United States had proposed modifications to paragraph 1.

Mr. CHANG (China) supported the amendment suggested by the United States delegation.

Mr. MUNOZ (Chile) proposed that the word "may" after the word "term" in line 7 of the French text should be replaced by the

word "shall".

The CHAIRMAN said that the amendment proposed by the representative of Chile would be considered by the Drafting Committee.

Mr. WHITE (New Zealand) expressed doubt regarding the word "necessary" in the last line of the United States draft. That might possibly be interpreted as excluding the possibility of some arrangement unless it was absolutely necessary that the whole matter should be completed in a single arrangement. He preferred the original text of Article 60 subject to discussion in the Drafting Committee. He suggested that the words "in preparation for export" might be deleted as they did not make for any clarification.

Mr. CHANG (China) suggested that after the words "which are" in the ninth line of the amendment proposed by the United States delegation the following words should be added: "important substitutes for the primary commodity or otherwise."

The CHAIRMAN said the Drafting Committee would take into account the observations made by the representatives of China and of New Zealand.

The amendments suggested by the representatives of the United States and France to paragraph 1 of Article 60 were referred to the Drafting Committee.

The CHAIRMAN said representatives would remember that when the Committee examined Article 37 the representative of Cuba and suggested that consideration of that Article should be deferred until the rearrangement of the Chapter had been discussed.

Mr. CAPLAN (United Kingdom) felt that as there was now an Article on General Exceptions it would be wise to put the exceptions mentioned in Chapter VII into the part referring to

general exceptions.

Mr. DORA (Cuba) said that it would be useful to know whether this general exception should be limited to arrangements of a regulatory character.

Mr. CAPLAN (United Kingdom) thought it would be difficult to restrict the force of the exception clause.

Mr. SCHWENGER (United States of America) considered that as the matter was not clear it should be referred to the Drafting Committee. He felt there was agreement that whatever was excepted from the provisions of Chapter V should be excepted from all Chapters.

The CHAIRMAN said the Committee had agreed that the provisions of Chapter V should not apply to regulatory agreements, and asked whether representatives agreed that the matter should be referred to the Drafting Committee.

Mr. CAPLAN (United Kingdom) said that it was his impression that the representative of Cuba had no real objection to the proposal but simply wanted to see how the discussion went on the Chapter as a whole.

Mr. DORA (Cuba) agreed with the remarks of the representative of the United Kingdom. The question should be dealt with very carefully as there might be very different opinions as to the importance of the exceptions. He would be glad if the Drafting Committee would deal with the question as to whether general exception could be made for all agreements or only for arrangements of a regulatory character.

Mr. CAPLAN (United Kingdom) felt Commission B should indicate to Commission A their opinion regarding Article 37.

The CHAIRMAN said that the representative of the United

Kingdom had suggested that Committee B should advise Committee A that while in general agreement with the principle of having exceptions under Article 37, it was examining the draft proposal by the United Kingdom delegation with a view to possibly limiting the exception to inter-governmental agreements of a regulatory character.

Mr. WHITE (New Zealand) considered that the exception in question would have to be a general one and not limited to regulatory agreements, otherwise there might be a very limited scope for making any non-regulatory agreements of any value.

The CHAIRMAN pointed out that the proposal of the United Kingdom delegation simply said "that the Commission was examining the desirability" and that did not mean that they would decide otherwise. In view of that, would the New Zealand representative agree with the proposal?

Mr. WHITE (New Zealand) replied in the affirmative.

It was decided that Committee B should advise Committee A that, while in general agreement with the principle of having exceptions under Article 37, it was examining the draft proposal of the United Kingdom delegation with a view to possibly limiting the exception to inter-governmental agreements of a regulatory character.

Replying to Mr. CAFLAN (United Kingdom), who thanked him on behalf of members of Committee B for his able guidance, the CHAIRMAN said it had been a pleasure to preside over the Committee. Committee B would resume its next examination of Chapter VII when it had received the report from the Drafting Committee.

The meeting rose at 6.30 p.m.