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**ON**  
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THIRD COMMITTEE: COMMERCIAL POLICY

SUMMARY RECORD OF THE THIRTY-SEVENTH MEETING

Held on Monday, 16 February 1948, at 3.30 p.m.

Chairman: Mr. L. D. WILGESS (Canada)

CONSIDERATION OF THE REPORT OF SUB-COMMITTEE E (ARTICLES 20 and 22)  
(E/CONF.2/C.3/54)

**ARTICLE 20 - GENERAL ELIMINATION OF QUANTITATIVE RESTRICTIONS**

The CHAIRMAN stated that during the second reading of Article 20 the Committee should note the reservations made by the delegations of Ceylon, Colombia, Mexico and Peru on Article 20 pending the final text of Article 13; those by the delegations of Chile, Argentina and Ireland on Article 20 pending the final text of Articles 13 and 21; and the general reservation of China on Article 20. These delegations should notify the Secretariat when their position changed;

Mr. KILLOWAY (Union of South Africa), Chairman of Sub-Committee E, presented the Report. Two sub-paragraphs and two Interpretative Notes had been added to Article 20 together with some minor drafting changes. One sub-paragraph and two notes had been added to Article 22. Almost all of the reservations made to Articles 20 and 22 were dependent on the outcome of Articles 13 and 21.

The CHAIRMAN thanked the Chairman of the Sub-Committee and its Members for their excellent work.

Paragraph 1 - approved without comment

Paragraph 2 (a)

It was agreed that the following extracts from the minutes of the proceedings of Commission A in the Second Session of the Preparatory Committee (Geneva document E/PC/T/A/PV/40 (1)) referred to in the Report of Sub-Committee E, should be included in the Summary Record of the Thirty-Seventh Meeting of Committee III:

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Mr. E. MCCARTHY (Australia): It will be noticed that we have sent round a circular proposing the deletion of the word "critical" in paragraph 2 (a). We have done that on the instructions of our /Government, and it

Government, and it has not been raised sooner because we were not members of the Sub-Committee, and this is the first opportunity we have had of raising this point since the original meeting of the Commission.

The reason why we suggest that this word be removed is that it is feared that export prohibitions on merino sheep which we impose, might because of the strict qualification of the word 'shortages' have to be removed at a time when in our view they should be retained. We feel that whilst we have suffered very heavy shortages, it would be difficult with our sheep population to describe them as 'critical'. In the drought which occurred a little over a year ago we lost 20 million of sheep over a period of a few months. It caused something of a crisis at the time but the effects of a drought do not wear off until very many years have passed and measures may well be needed even when the really critical stages have passed. In other words the critical element in the shortage might pass rather rapidly, but the effects remain for some years. It should be realized that, even without large flocks, it takes time to get back anything like a loss of 20 million sheep. I have therefore to ask the Commission that it agree the word 'critical' being removed and to explain that it is designed to meet our present position on the prohibition of merino sheep, a position which might be expected to recur periodically. We could contemplate removing this prohibition perhaps in a year or so, but our problem is that if we have another drought in perhaps 3, 4, 5 or 6 years time, we would not be able to reimpose this prohibition or if we did reimpose it, we would only be able to keep it on during the very critical period of the result of the drought.

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CHAIRMAN (Interpretation): In view of these facts, I wonder if the Australian representative insists on his amendment? I believe that he has the assurance that, both in French and in English, 'critique' and 'critical' cover the situation he mentioned exactly. Moreover, the minutes of this meeting will always be at his disposal to indicate the feeling of this Committee.

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CHAIRMAN (Interpretation): Could I give some assurance to the Australian representative if the Commission would unanimously declare that it recognizes that the case is covered by the text as it is, and then we will not change the text at all. Would the Australian representative accept this solution?

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CHAIRMAN (Interpretation): I believe that you can be sure that the case you have indicated is entirely covered by the text as it stands, and I suggest that you accept that the text should be maintained as it is."

Mr. JANDOU (Iraq) asked whether paragraph 10 of the Report of Sub-Committee E covered "other products essential to the exporting Member country" as specified in Article 20, paragraph 2 (a), or whether it was limited to foodstuffs.

Mr. HOLLUMAY (Union of South Africa) replied that the delegation of Sweden had withdrawn its amendment when the note was inserted; obviously, as foodstuffs were covered, other essential products were included.

Paragraph 2 (a) - was approved.

Interpretative Note to Paragraph 2 (a) - approved without comment.

Paragraph 2 (b)

Mr. MADJID (Afghanistan) referred to the Report of Sub-Committee D (E/CONF.2/C.3/37, paragraph 25) and asked whether paragraph 2 (b) covered governmental measures for orderly marketing, taken because storage facilities were insufficient. In explaining to Sub-Committee D the Afghanistan amendment submitted to Article 43, he had pointed out that exports from Afghanistan were regulated because sufficient storage facilities were lacking in the country of destination. It was not a matter of restricting exports but of staggering them.

Mr. FORTHOMME (Belgium) thought that the all-embracing nature of the word "marketing" was sufficient to cover the point. The representative of New Zealand, the Union of South Africa and the United Kingdom also agreed that the measures described by the representative of Afghanistan were covered by sub-paragraph 2 (b).

The Committee expressed its agreement with the view contained in paragraph 25 of the Report of Sub-Committee D.

Paragraph 2 (b) - was approved.

Paragraph 2 (c)

Mr. CHAVEZ (Peru) maintained his reservation to paragraph 2 (c) pending the final text of Article 13. The delegation of Peru had sought the deletion of paragraph 2 (c) and had presented several amendments because they did not consider that domestic restriction of a basic agricultural commodity could be carried out at the same time as a government was subsidizing that commodity.

/Mr. CHOUHY TERRA (Uruguay)

Mr. CHOUBEY TERRA (Uruguay) maintained his reservation pending the outcome of Articles 13 and 21.

Mr. SAENZ (Mexico) stated that his delegation had always regarded paragraph 2 (c) as a totally unwarranted discrimination against exporting agricultural countries, and had never been impressed by the argument that the adjustment in supply of agricultural and fisheries products to the demand was more difficult than in the case of industrial products. In order to show an understanding of the problems of other countries and in the hope that an equal sympathy would be shown by others in establishing the final text of Article 13, his delegation would accept paragraph 2 (c), maintaining, however, its reservation pending the outcome on Article 13.

Mr. DUNAWAY (Liberia) stated that the sub-paragraph was unacceptable to his delegation; it was totally unwarranted and in conflict with the general principles of the Charter.

Mr. ADARKAR (India) asked for a clarification of the term "agricultural products". If interpreted in a broad sense, it would include horticultural and sericultural products and he wished to know whether the Committee would agree with such an interpretation. He also suggested that the word "forestry" should be inserted after "agricultural".

Mr. MELANDER (Norway) said forestry products would include timber and paper, pulp, etc., which did not come into the same category as agricultural products.

Mr. HOLLOWAY (Union of South Africa) thought that "horticulture" was included within the term "agriculture", but forestry was probably outside the scope of paragraph 2 (c). He did not have sufficient knowledge to form a view with regard to the cultivation of silk worms.

Mr. BURGESS (United Kingdom) agreed that forestry products were not intended to be included, but thought the silk worm industry should be.

Mr. ADARKAR (India) explained that he had in mind the fact that primary production was frequently carried on by small growers with limited resources. Silk, in particular, was in a similar position to other agricultural commodities. If there was justification for large agricultural groups enjoying the benefits of sub-paragraph 2 (c), certainly the small silk producers should also be included. He was not proposing to include manufactured forestry products, but only primary forestry products such as gums, resin, rosin and turpentine. Production of these commodities was restricted by his government in order to safeguard marketing during certain periods and these restrictions should not be frustrated by unrestricted imports.

/Mr. BURGESS

Mr. BURGESS (United Kingdom) believed that as fruit was considered an agricultural product, there were many other products analogous to fruit which might come under the same heading. Rosins and turpentine were covered as well as silk.

Mr. ADARKAR (India) proposed that the first sentence of paragraph 2 (a) should be amended to read: "import restrictions on any agricultural, fisheries or primary forestry product....."

Mr. MELANDER (Norway) did not agree to the Indian amendment, but proposed that the clarification of the term "agricultural products" should be included in an Interpretative Note.

Mr. FORTHOMME (Belgium) believed it was impossible to include a mention of everything implied in the term "agricultural products" in the Charter. The Article should be accepted as it stood and the Organization could decide on the various questions as they arose.

Mr. ADARKAR (India) proposed that an Interpretative Note should be appended to Article 20, paragraph 2 (c) explaining that "agricultural products" included horticultural, sericultural and primary forest products.

Mr. SPEEKENBRINK (Netherlands) did not want to accept the Interpretative Note without completely understanding its implications.

Mr. ROWE (Southern Rhodesia) believed the Interpretative Note should specify those products not included under the term "agricultural" or "fisheries", but agreed with the representatives of Afghanistan, Brazil, Sweden and the United Kingdom that a Working Party should be set up to discuss the question.

It was agreed that Working Party No. 6 should be set up to consider the suggestion of the representative of India to amend the text of, or to add an Interpretative Note to, paragraph 2 (c) of Article 20 which would clarify the meaning of the term "agricultural products". It was agreed that the Working Party should be composed of the representatives of Brazil, India, Norway, the Union of South Africa and the United States, with the representative of the Union of South Africa as Chairman.

Mr. DOMOND (Haiti) proposed the deletion of the words: "imported in any form" to avoid any misunderstanding and to restrict the scope of the paragraph.

Mr. BURGESS (United Kingdom) called attention to the Interpretative Note to sub-paragraph 2 (c) on page 13 of document E/CONF.2/C.3/54 and said that it covered the point of the representative of Haiti. If, for example, Article 20, paragraph 2 (c) was being applied in order to make possible a restriction on domestic production of barley, it could not be argued that imports of whiskey should also be restricted.

Mr. DOMOND (Haiti) said that he must press the point since, although vegetable products might differ from agricultural products, all products derived from agricultural products fell within the general classification

/of "agricultural

of "agricultural products".

Mr. FORTHOMME (Belgium) pointed out that to delete the words "imported in any form" would not meet the point of the representative of Haiti. If the fact were accepted that any vegetable product was an agricultural product, the situation would not be altered by the deletion and restrictions still could be applied. If the term included everything made out of agricultural products, too wide a field would be covered.

Mr. BURGESS (United Kingdom) believed the representative of Haiti was reading a wider significance into the words than had been intended. The Interpretative Note and the passage in the Sub-Committee Report dealing with the subject, made clear by the words "so closely related" that restrictions on a product derived from an agricultural product could only be applied if the restriction on the original agricultural product would otherwise be rendered ineffective. The term "agricultural or fisheries product" and the Interpretative Note on "in any form" should stand.

Mr. ALY BAHGAT (Egypt) said there should be a differentiation between the phrase "in any form" and "in any stage of transformation".

Mr. ILORENTTE (Philippines) said that in the Geneva text it was stated that "in any form" covered "products when in early stage of processing and still perishable", yet neither "early stage of processing" nor perishability were mentioned in the proposed new text. If, for instance, copra, which was not edible, were restricted, the Geneva draft would not permit restrictions on coconut oil because it could not be considered to be either in the "early stage of processing" or "perishable". It was not, however, logical to impose restrictions on copra without imposing similar restrictions on coconut oil, because copra had no value until it was transformed into coconut oil. The proposed new text changed the substance of the original draft.

The proposal by the representative of Haiti to delete the words "imported in any form" was not supported by the Committee.

The introductory paragraph and the Interpretative Note to sub-paragraph 2 (c) of Article 20 were approved subject to such recommendations as might arise during consideration of the term "agricultural products" in Working Party No. 6.

Mr. MCCARTHY (Ireland) stated that his delegation maintained its reservation as set forth in paragraph 40 on page 9 of the Sub-Committee Report. (document E/CONF.2/C.3/54) and also maintained its position concerning Article 20 as a whole, pending consideration of Articles 13 and 21.

/Mr. ORTIZ-LAMADRID (Cuba)

Mr. ORTIZ-LAMADRID (Cuba) stated that his delegation maintained its reservation in connection with its proposal to add a new sub-paragraph permitting restrictions on imports by a country that was unfavourably affected in the production and export of an important product through restrictions imposed by another Member under a provision of the Charter.

Sub-Paragraphs 2 (c) (i), (ii) and (iii) - were approved.

Sub-Paragraphs 3 (a), 3 (b), the Interpretative Note to 3 (b) and Sub-Paragraph 3 (c) - were approved.

Paragraph 3 (d)

In reply to a question by Mr. ADARKAR (India), the representative of the United Kingdom said that the text of paragraph 3 (d) which referred to restrictions applied under sub-paragraph 2 (c) (i) followed the Geneva text and applied only to sub-paragraph (i).

Mr. MELANDER (Norway) pointed out that quantitative restrictions under sub-paragraph 2 (c) (iii) were only allowed if the domestic production was relatively negligible, and were therefore not within the scope of sub-paragraph 3 (d).

Mr. HOLLOWAY (Union of South Africa) did not think sub-paragraph 2 (c) (ii) fell within the scope of sub-paragraph 3 (d) as it referred only to the removal of a temporary surplus.

Interpretative Note to Sub-Paragraph 3 (d)

Mr. MARTIN (United States) explained in answer to a question by the representative of Brazil that the words "or as between different foreign producers" had been deleted from this footnote because they were pertinent only to the footnote on "special factors" in Article 22.

Sub-Paragraph 3 (d), the Interpretative Note to Sub-Paragraph 3 (d) and Paragraph 4 - were approved.

Mr. GUITIERREZ (Bolivia) reserved his position on Article 20, pending a solution of the problems connected with Articles 13 and 21.

Article 20 was approved at second reading except for the reservations as recorded and any recommendations that might be made by Working Party No. 6.  
ARTICLE 22 - NON-DISCRIMINATORY ADMINISTRATION OF QUANTITATIVE RESTRICTIONS  
Paragraphs 1, 2, 3, the Interpretative Note to Paragraph 3, Paragraphs 4 and 5 and the Interpretative Note to Paragraph 2 (d) and Paragraph 4 - were approved.

Mr. BRIGNOLI (Argentina) maintained his reservation concerning paragraphs 2, 3 and 4 of Article 22.

Mr. GUITIERREZ (Bolivia) reserved his position on Article 22 pending instructions from his Government.

/Mr. STUCKI (Switzerland)

Mr. STUCKI (Switzerland) reserved his position on Articles 20 and 22.  
Article 22 was approved at second reading except for the reservations  
as recorded.

The meeting rose at 5.35 p.m.

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