

FIFTH COMMITTEE: INTER-GOVERNMENTAL COMMODITY AGREEMENTS

SUMMARY RECORD OF THE TWELFTH MEETING

Held at Havana on Saturday, 3 January 1948 at 4.00 p.m.

Chairman: Mr. George HAKIM (Lebanon)

1. General Statement by the Representative of El Salvador

The CHAIRMAN announced that the delegate of El Salvador had asked to make a general statement. Mr. JIMENEZ (El Salvador) regretted that certain of his statements in Committee had perhaps been misinterpreted as being against the United States of America. In fact he and his delegation felt exactly to the contrary. He paid tribute to the United States and its delegation for their democratic attitude, especially in this Conference. He also stated that he was satisfied as to the impartiality of the United Nations Department of Public Information and was convinced that the statement to which he had objected at a previous meeting was due to an error.

In closing he protested against the decision of the General Committee regarding future scheduling of meetings on the grounds that it would make it impossible for the small delegations to keep up with the work of the Conference.

After some discussion, the CHAIRMAN stated that any delegation was free to write a letter to the Executive Secretary protesting any action of the General Committee and it would be brought to the attention of that Committee.

2. Continuation of the Second Reading of Article 54

Discussion was opened on the final proposal to amend sub-paragraph (c) of Article 54 by substituting "fair to producers and consumers alike" for the words "fair to consumers and remunerative to efficient producers."

In the ensuing debate the proposal was supported by Mr. ZAFRA (Philippines), Mr. JIMENEZ (El Salvador), Mr. PARGA (Colombia), Mr. ROBLES (Guatemala), Mr. LACARRA (Mexico), Mr. COREA (Ceylon), Mr. NIAZI (Egypt) and Mr. OTANEZ (Venezuela) principally on the grounds that it was a suitable compromise for the proposals rejected at the previous meeting and that the present wording was misleading and subject to misinterpretation.

/This proposal

This proposal was opposed by Mr. ALAMILLA (Cuba), Mr. MUNOZ (Chile) and Mr. de VRIES (Netherlands). Mr. ALAMILLA (Cuba) pointed out that, at the last meeting, the Committee reached a decision that the word "efficient" should not be deleted. He felt that to proceed with a vote on the new proposal might only be a means of rescinding the previous decision. Mr. CAPLAN (United Kingdom) suggested deletion of the word "alike" from the proposal.

The consensus of opinion of the Committee was to accept the United Kingdom proposal with the word "alike" deleted, and Article 54 (c) as amended was adopted in second reading.

The question was raised as to whether a consensus could be established on the basis of a majority of 15 to 14, particularly in view of abstentions by two delegations which had earlier supported retention of the existing text.

Mr. ALAMILLA (Cuba) and Mr. MUNOZ (Chile) reserved the right of their delegations to re-open this matter in Plenary Session of the Conference.

During the foregoing debate, a request was made that it be recorded that in the course of the Eleventh Meeting of the Committee, representatives who had opposed the amendment submitted by El Salvador had recognized the principle behind it.

Article 54 (d), (e) and (f)

The texts contained in the Sub-Committee Report (document E/CONF.2/C.5/9) were agreed without objection.

Proposed new paragraphs

Mr. JIMENEZ (El Salvador) requested that it be recorded that the two new sub-paragraphs proposed by his delegation for this Article were withdrawn in Sub-Committee on the basis set forth in the Report of the Sub-Committee (see document E/CONF.2/C.5/9, page 4).

The CHAIRMAN declared Article 54 as amended adopted in second reading.

Article 55

Mr. MUNOZ (Chile) enquired about the relation to Article 93 of the reference to non-Members contained in Article 55.

Mr. CAPLAN (United Kingdom) felt that there was no likelihood of conflict with Article 93, as Article 55 only referred to a commodity study.

Mr. IGONET (France) pointed out that the French text of paragraph 3 did not provide an exact translation for "which are expected to arise", and the CHAIRMAN stated that this would be brought to the attention of the Central Drafting Committee.

Mr. ROBLES (Guatemala) suggested that the word "promptly" in paragraph 3 be supplemented with "without delay". The discussion indicated that this would be redundant and that the problem was perhaps one of translation into Spanish and French which should be referred to the Central Drafting Committee.

/Mr. COREA (Ceylon)

Mr. COREA (Ceylon) was not entirely satisfied that adequate provision was made for "continuing" study groups.

Mr. CAPLAN (United Kingdom) and Mr. KENNEDY (United States) thought that the point was adequately covered by the statement in the Report of the Sub-Committee (document E/CONF.2/C.5/9, page 5), that "it was understood that the power of a study group to make recommendations to its Members and to the Organization as to how best to deal with special difficulties includes the power to recommend that the situation requires an agreement or a continuing study group".

The text of Article 55 as recommended by the Sub-Committee was adopted.

Article 56

At the suggestion of Mr. de VRIES (Netherlands) it was agreed to refer the matter of inserting "or" at the end of sub-paragraphs (a) and (b) of paragraph 1 to the Central Drafting Committee. Otherwise the text as recommended by the Sub-Committee was adopted.

It was pointed out that the English and French texts of sub-paragraph (c) of paragraph 1 did not exactly agree. The CHAIRMAN said this would also be referred to the Central Drafting Committee.

Article 57

Adopted without comment.

Article 58

Paragraphs 1 - 4 inclusive

Adopted without comment.

Paragraph 5

After explanation of the reference to "existing" agreements in the preamble, the revised text of this paragraph recommended by the Sub-Committee was adopted.

Paragraph 6

The text of this paragraph as recommended by the Sub-Committee was adopted.

Mr. LACARRA (Mexico) referred to the amendment to this paragraph which he had withdrawn in Sub-Committee in the light of the assurances given in the Sub-Committee that his points were covered elsewhere in the Charter, and he requested that reference be made in the record to the basis of the decision of the Sub-Committee as contained in its Report. (Document E/CONF.2/C.5/9, pages 6 and 7).

The CHAIRMAN then declared Article 58 adopted in second reading.

Article 59

At the suggestion of Mr. IGONET (France) it was agreed to refer the French text of the second line of this Article to the Central Drafting Committee, pointing out that it did not correspond with the English wording.

/It was agreed

It was agreed to delete the comma after the word "made" in the Preamble.

Mr. COREA (Ceylon) requested an explanation of the method by which the "finding" referred to in the Preamble would be made. He was especially concerned about possible voting arrangements in a Conference.

Mr. de VRIES (Netherlands) pointed out that such findings would be made on the specific circumstances set forth in the Article and would ordinarily be a finding of fact. He further stated that if such findings were unduly delayed the escape clause in Article 58, paragraph 6, could be invoked.

Mr. CAPLAN (United Kingdom) referred to the practical experience of the recent Wheat Conference where there had been no formal voting but it had been readily established how members felt.

If the countries mainly concerned were not convinced of the need for an agreement, it would be impossible to achieve one. The "finding" would be obtained by consultation and agreement among members substantially interested. Mr. Caplan thought the revised text recommended by the Sub-Committee was clearer than the Geneva text.

Mr. COREA (Ceylon) asked about the position of producers and consumers in such a conference. He was concerned lest an agreement among producing countries that a burdensome surplus existed be frustrated by the importing countries attending, and wanted to know if the necessary finding would be made if the consuming countries did not agree.

Mr. KENNEDY (United States) said that the finding to be made under Article 59 referred to whether or not the conditions described in the Article existed or were expected to arise. If countries were not able to agree on this point, they would certainly not be able to reach agreement on prices and other issues in a commodity control agreement.

Mr. COREA (Ceylon) felt that the word "finding" implied a positive act. He suggested substitution of the following words "...only when, at a Commodity Conference or through the Organization, there is general agreement among Members...."

Mr. McCARTHY (Australia) thought that the word "finding" was not important. In practice, everything would depend on the willingness and determination of the countries concerned to conclude a commodity agreement.

Mr. COREA (Ceylon) stated that he still had misgivings about the use of the word "finding" but he would not press the point.

Article 59 was then approved at second reading.

Article 60

(a) Amendments proposed consequential on Committee's decision on

Article 54 (c).

Mr. ALAMILLA (Cuba), consequential on the Committee's decision on Article 54 (c), proposed the following amendments to Article 60:

(1) In sub-paragraph (a)

(1) In sub-paragraph (a) to insert, after the words "...in the light of Article 54 (c)", the words "provided said price is remunerative to producers".

(2) In line 4 of sub-paragraph (c) to delete the words "and economic".
He pointed out that since Article 60 referred only to commodity control agreements, while Article 54 referred to commodity agreements in general, it was even more important that Article 60 should contain a reference to the concept embodied in his amendments.

Several delegates questioned whether discussion of these amendments was in order. It was argued:

- (a) that the amendments had not been circulated twelve hours before the meeting;
- (b) that, since Article 60 referred to Article 54 (c) which had been amended by the Committee and on which certain delegations had reserved their position, it would be more appropriate for those delegations to reserve their position also on Article 60 and re-open the question in Plenary Session.

Against this it was argued:

- (i) that, since Article 54 (c) had been amended, the effect of Article 60 had been altered and it was legitimate to re-open the question of the reference to Article 54 (c) contained in it;
- (ii) that, although the United Kingdom amendment to Article 54 (c) had been originally proposed by the Philippines, the latter had withdrawn it in favour of the proposal merely to delete the word "efficient";
- (iii) that the twelve-hour rule had not been observed in regard to the United Kingdom amendment to Article 54 (c) which the Committee had accepted.

On the second of these points, Mr. ALAMILLA (Cuba) reserved the right to seek nullification of the United Kingdom amendment to Article 54 (c) on the grounds that it did not conform with the twelve-hour rule.

Mr. CAPLAN (United Kingdom) stated that his delegation's amendment to Article 54 (c) had been circulated in the Summary Record of the Tenth Meeting (C.5/SR.10) and had therefore conformed with the twelve-hour rule. It had also been seconded at that meeting.

Mr. ZAFRA (Philippines) confirmed that the United Kingdom amendment to Article 54 (c) had been originally proposed by the Philippines delegation; he pointed out, however, that although his delegation had later proposed an alternative amendment, their intention had been to maintain the original amendment if this alternative were defeated.

/In reply

In reply to a suggestion that he should ask for the twelve-hour rule to be waived, Mr. ALAMILLA (Cuba) said that he only wished for his delegation's amendments to receive the same treatment which had been accorded to the United Kingdom amendment.

After discussion, the CHAIRMAN took the sense of the meeting on whether consideration of Article 60 should be deferred until the next meeting, when the Cuban amendment might be discussed. He declared that the general sense of the meeting was against such deferment.

The delegates of Chile and Cuba reserved their positions.

(b) Use of word "agreed"

Mr. de VRIES (Netherlands) drew attention to the use of the word "agreed" in Article 60 (a). He thought that this might be read to imply that all commodity control agreements must contain price provisions. In practice, some control agreements might contain only quota provisions. In order to avoid possible misunderstanding, he suggested the substitution of the word "agreed" by the word "reasonable".

Mr. McCARTHY (Australia) agreed with the point raised by the Netherlands representative, but suggested that it could be met by simply deleting the word "agreed".

Mr. ALAMILLA (Cuba) opposed the introduction of the word "reasonable". After further discussion it was agreed to delete the word "agreed".

Article 60 was then adopted, subject to reservations by the delegations of Chile and Cuba, consequential to their reservations on Article 54 (c).

Articles 61, 62 and 63 were agreed without comment.

Article 64

(a) After discussion it was agreed to hear a statement by the representative of the International Co-operative Alliance. Mr. ODHE (ICA) elaborated the statement circulated by the ICA (E/CONF.2/15). He emphasized the importance of the ITO making full use of the services of non-governmental organizations, and thought that specific reference in Chapter VI to the ICA would be particularly valuable. The broad masses of consumers and small producers should have an opportunity for direct expression of their viewpoint in commodity agreements. For these reasons the ICA had proposed certain alterations to Articles 55, 56 and 61, and alternatively would like to see non-governmental organizations included within the scope of Article 64.

Mr. CAPLAN (United Kingdom) expressed sympathy with the intentions of the ICA, but thought that it was pressing its case too hard in view of the decision by the Sixth Committee on the ICA's amendment to Article 84.

/Mr. BONOW (Sweden)

Mr. BONOW (Sweden) asked for it to be put on record that his delegation hoped that some formula be found to satisfy the legitimate request of the ICA to co-operate in the work of the ITO.

(b) In regard to the reservation by the Indian delegation on Article 64, Mr. de VRIES (Netherlands) suggested the following drafting changes in sub-paragraph (c) which he hoped might go some way to meet the doubts of the Indian delegation:

- (i) to omit the words "on the basis thereof";
- (ii) to add the words "to ask" before the words "that a commodity conference be convened".

Mr. ALARILLA (Cuba) asked for time to consider these proposals. He thought that they should be discussed at the next meeting.

Mr. BANERJI (India) stated that his delegation's amendment to Article 64 had been prompted by misgivings about relations between FAO and ITO. They had realized, however, in the discussions in Sub-Committee that the majority of countries did not share their misgivings. He hoped the Committee would be able to accept the Netherlands amendment.

Several delegations supported deletion of the words "on the basis thereof" but expressed doubts about use of the word "ask" as this might be construed as "demand" especially as it would have to appear as "demand" in the French text.³

After discussion, Mr. BANERJI (India) agreed not to press for the word "ask", and agreed, in a spirit of conciliation, to withdraw his delegation's reservation to Article 64.

Mr. IGONET (France) pointed out that, in the French text of sub-paragraph (c), the word "nouvelle" was wrongly used to mean "further". It was agreed to refer the point to the Central Drafting Committee.

Article 64 was then approved at second reading subject to deletion of the words "on the basis thereof" in sub-paragraph (c).

The meeting rose at 8.00 p.m.
