

E/PC/T/C.II/PV/13

UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL

PREPARATORY COMMITTEE
of the
INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report
of the
THIRTEENTH MEETING
of
COMMITTEE II

held in
The Hoare Memorial Hall,
Church House, Westminster, S.W. 1.

on
Saturday, 23rd November, 1946
at 10.30 a.m.

CHAIRMAN: DR. E. C. COOMBS (Australia)

(From the Shorthand Notes of
W.B. GURNEY, SONS & FUNNELL,
58, Victoria Street,
Westminster, S.W. 1.)

THE CHAIRMAN: I think the programme in the Journal shows subsidies, State trading, quota preferences, quantitative restrictions and exchange control in that order. I have been asked, however, whether it would be possible for us to take quantitative restrictions and exchange control first. Would there be any objection from delegations to taking that order? I think the delegate for Chile, Mr Hawkins and Mr Shackleton are still engaged, but will be here in a few minutes. In view of their absence, I think perhaps it might be as well for us to deal with Article 21 first before 19, since I think we are in that way less likely to deal with matters upon which they may wish to touch. I suggest that we proceed as we did yesterday and take the Articles first and the report thereon afterwards. Article 20 as submitted by the Drafting Committee is set out on page 29 of the document which you have in front of you, T/19. Is it the wish of the delegates that we read the Articles individually, or would they be satisfied to take them as read?

Mr MELANDER (Norway): Mr Chairman, I think we should take them as read; that would save time, I think.

THE CHAIRMAN: Is that generally acceptable? Very well. We take them paragraph by paragraph.

(The Chairman then called for comment on Article 20, paragraphs 1, 2, 3 (a), (b), (c), (d), (e). There being no comment, these paragraphs were taken as agreed.)

THE CHAIRMAN: Paragraph 4?

Mr HAWKINS (USA): Mr Chairman, I have a small suggestion of a drafting character with regard to this Paragraph. The first two lines now read: "In giving effect to the restrictions imposed under this Article, a Member may select imports for restriction", and so forth. It seems to me that the intended meaning would be clearer if that were to read: "a Member may distinguish between products on the grounds of essentiality in such a way as to promote" and so on. The way the original language was it does not give any indication of the purpose of the selection or even as to the character of it. It may even mean selecting on the ground of source. I think the small change I suggest does not alter the intended meaning.

THE CHAIRMAN: Would you give us the words again slowly so that we can write them down? This would involve deleting the words "select imports for restriction."

MR HAWKINS (USA): Yes.

THE CHAIRMAN: Replacing them by?

MR HAWKINS (USA): "distinguish between products on the ground of essentiality."

THE CHAIRMAN: Would anybody like to comment on the suggested alteration?

MR VIDELA (Chile): I would prefer to leave the words as they are, Mr Chairman.

MR TUNG (China): I support that.

THE CHAIRMAN: You wish to retain the words "select imports for restriction"?

MR VIDELA (Chile): Yes.

MR TUNG (China): I support the suggestion of the Chilean delegate.

THE CHAIRMAN: I wonder whether it might meet the United States' point, without involving an alteration to those words, if we merely inserted, "on the ground of essentiality."

MR HAWKINS (USA): Yes, I think so.

THE CHAIRMAN: Would that be acceptable to the delegates for Chile and for China, if we left "select imports for restrictions" in?

MR VIDELA (Chile): I think we are limiting the freedom of a country to select imports for restriction, and I would therefore prefer to leave the words without any limitation.

THE CHAIRMAN: Would any other member of the Committee wish to put forward views on this question? Can we take it we have two alternatives before us: one to leave the words as they are and the other to insert after the word "restriction," the words "on the ground of essentiality"? Can we take it that is the suggested amendment of the United States, and we understand that the delegates of Chile and of China would oppose the inclusion of those words. May I have the views of other delegates, please?

MR MELANDER (Norway): Mr Chairman, I think the suggested amendment is an improvement. I think that it draws attention to the point that one should not apply import restrictions on this ground unless there is a reason for it, namely, that one shall have the opportunity to select goods which are of essential use to the country concerned; so that, as I say, I think the amendment is an improvement to the text. I would therefore

approve it and support it.

MR KUNOSI (Czechoslovakia): Mr Chairman, I support the amendment as proposed by the United States delegation.

MR LECUYER (France) (Interpretation): France equally supports the amendment.

MR TUNG (China): I wish to inquire, if you insert that phrase "on the ground of essentiality," who is going to decide whether it is essential or not?

THE CHAIRMAN: I think it is clear from the text that the decision would be made by the Government of the country concerned, that is to say, the country which was applying these restrictions would have a clear right to decide by its own standards what was essential.

MR TUNG (China): I would accept your interpretation if it is clearly understood in that way, and I wish to have that put on record.

MR VIDELI (Chile): Mr Chairman, I would agree to leave it like this, and I will accept the amendment proposed by the American delegate.

THE CHAIRMAN: Thank you. Is there any other comment? I take it it is generally agreed that we accept the United States amendment of the addition of the words "on the ground of essentiality"? That will be on the understanding that the record makes it clear that it was agreed that the judgment as to what constituted "essentiality" in relation to this paragraph would be a matter for the Government of the country concerned to decide. Is there any further comment on paragraph 4? I take it paragraph 4 is agreed. (Agreed). Paragraph 5. Any comments? There is a note at the end of this Article, on the following page, which explains the reason why the words in square brackets in the third last line of this paragraph have been left in square brackets. The note reads: "The words in square brackets in paragraph 5 are intended to cover the Economic and Social Council of the United Nations as well as the intergovernmental specialized agencies." I suggest that we might delete the square brackets and leave the note with an asterisk, indicating that Note No.1 refers to this paragraph, or to this particular phrase. Any comment on paragraph 5? I take it paragraph 5 is agreed. (Agreed). That is together with the note. (Agreed). Paragraph 6: There is a note

referring to the words in square brackets here, indicating that these words should be retained only if the matter is not adequately covered in the Articles dealing with State Trading organizations. I suggest, in this case, we might leave the words in square brackets, so that the Drafting Committee, when it comes to look at the whole document, can decide whether they are necessary. Any comment on paragraph 6? I take it that paragraph 6 is agreed? (Agreed).

Paragraph 7: any comment? I take it paragraph 7 is agreed? (Agreed).

Article 21, paragraph 1. Any comment? May I take it that paragraph 1 is agreed?

MR TUNG (China): Mr Chairman, are we through with Article 20?

THE CHAIRMAN: Unless you wish to raise something.

MR TUNG (China): I just want to say that the Chinese delegation have proposed a suggested amendment to Article 20, which was circulated as Document W/29, and I just want to state our position. We want to reserve the right to bring up this amendment again either in the Drafting Committee in New York or at the next session of the Preparatory Committee.

THE CHAIRMAN: Yes. I should explain that the Sub-Committee did give consideration to the amendments proposed by the Chinese delegate, and certain of those amendments, the Sub-Committee felt, were covered in one way or another in these Articles, and the remaining one to which the Chinese delegate referred was listed for consideration at the last meeting of the Sub-Committee. But it was unfortunately not possible for the Chinese delegate to be present at that discussion, and so it was decided that the only thing to do was to leave the matter over, recognizing the right of the Chinese delegate to raise the matter further if he wished.

MR TUNG (China): I want to make it clear that the decision come to at the last meeting of the Sub-Committee which I attended was different from this Article 20. I did explain to the Sub-Committee that we wanted to reserve our position to bring up the issue later. I wish it put on record that that includes also amendments to Article 21 and also our Additional Article proposed in regard to restrictions to facilitate industrial development.

THE CHAIRMAN: The view of the Chinese Delegation is referred to in the report on page 15. That will ensure that there is a record of the views stated and will clearly protect the right of the Chinese delegate to have this considered further. A suggestion has just been made to me which I think would be of assistance in this matter: that is, that before passing to Article 21, if we dealt with the report on Article 20, this would enable any matters not adequately covered in the Article itself, but which may have been dealt with in the report, to be covered. The report on Article 20 begins on page 7 of this document. I suggest we might take that now.

MR TUNG (China): Which part is it, Mr Chairman?

THE CHAIRMAN: The paragraph that sets out the Chinese point?

MR TUNG (China): Yes.

THE CHAIRMAN: It is the last paragraph of this Section of the Report, page 15.

MR TUNG (China): "The use of quantitative restrictions as a means for creating favourable conditions for the industrial development of an economically undeveloped country." Is that what you mean?

THE CHAIRMAN: Paragraph 22 is the paragraph I am on.

MR TUNG (China): Yes. "It was generally agreed that these proposals to some extent had been met in this Chapter and in the Chapter on Industrial Development."

As I understand, the findings of the Joint Body on the draft Charter do not preclude any proposals we may make here. For instance, if my proposal for a new paragraph in this Article could be adopted by this Committee, that would not conflict with the resolutions on the draft Charter of the Joint Body?

THE CHAIRMAN: You would wish to add to this that your delegation wishes to reserve its position on this question?

MR TUNG (China): Yes, we want to bring that up later.

THE CHAIRMAN: Would the Secretariat see that that is made quite clear in the report - that the Chinese delegation have made a reservation in respect of an additional paragraph to the Article? Could we now turn to Article 20?

Article 20. Paragraph 1. (Page 7.) Is there any comment on this paragraph?

(Agreed.)

Paragraph 2. Are there any comments? (Agreed.)

Paragraph 3. Are there any comments? (Agreed.)

Paragraph 4. Are there any comments? (Agreed.)

Paragraph 5. Are there any comments? (Agreed.)

Paragraph 6. Are there any comments? (Agreed.)

Paragraph 7. Are there any comments? (Agreed.)

Paragraph 8. Are there any comments? (Agreed.)

Paragraph 9. Are there any comments? (Agreed.)

Paragraph 10. Are there any comments? (Agreed.)

Paragraph 11. Are there any comments? (Agreed.)

Paragraph 12. Are there any comments?

THE RAPPORTEUR: In paragraph 12 I think it would probably be desirable to insert in the third line, after the word "restriction", the words "on the grounds of essentiality", so as to conform with the change that we agreed to in paragraph 4 of the text.

THE CHAIRMAN: Is that agreed?

MR HELMORE (U.K.): Could I make an alternative suggestion which would help the Chinese delegation by making clear in this report - if there is no difficulty in doing so - the interpretation which we agreed in respect of this Article? I would suggest, instead of the Rapporteur's suggestion, that we might add, at the end of the paragraph, words like this, "in accordance with its own judgment as to the essentiality of the products concerned". That would come immediately after the word "policies" at the end of the paragraph. That, I think, is precisely the point that the Chinese delegation wanted to make clear.

MR TUNG (China): That is agreed.

THE CHAIRMAN: Is that all right, Mr Rapporteur?

THE RAPPORTEUR: Yes.

THE CHAIRMAN: Then is that agreed?

MR VIDELA (Chile): I would like to draw attention here to a declaration made by Mr Wilcox at one of the meetings of the Joint Committee of Committees I and II. I think he was referring to this point when he said that "a country would also be free to use quantitative restrictions as a protective measure under this procedure". I think it is of interest to have that opinion of Mr Wilcox on record. I was not present at the meeting but I found that declaration when reading the report of the meeting; it is on page 12. I would like also to explain why I wanted to keep the wording as it was in the draft: it was because I think it is very important to give freedom to the country concerned.

THE CHAIRMAN: I think that is adequately brought out, is it not, both in the amendment to the Article and in the inclusion of the phrase which Mr Helmore has suggested: "in accordance with its own judgment as to the essentiality of the product concerned." The word "own" there is, of course, referring to the government of the country applying the restrictions.

MR VIDELA (Chile): The same wording will be repeated here, then?

THE CHAIRMAN: It is slightly different. It is not positively stated in the Article that the judgment on this matter would lie with the government concerned, although it is clear that that is the intention. Mr Helmore has suggested that we make that doubly clear by adding, in the appropriate section of the report, a specific reference to the fact that the judgment in this matter should be the judgment of the government concerned. Would that be agreeable?

MR VIDELA (Chile): Yes.

THE CHAIRMAN: I take it, then, that this paragraph 12, as amended, will read:

"It was generally agreed that a Member imposing restrictions on balance of payments grounds should be permitted to select imports for restriction in such a way as to promote its domestic employment, reconstruction, development or social policies in accordance with its own judgment as to the essentiality of the products concerned." Is that agreed? (Agreed.)

Paragraph 13. Are there any comments? (Agreed.)

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Paragraph 14. I take it Paragraph 14 is agreed.

Paragraph 15. Paragraph 15 agreed.

Paragraph 16.

MR. TUNG (China): Mr. Chairman, I do not quite understand the last part of the first sentence in Paragraph 16 - "anticipates that its accruing international monetary resources will be inadequate to finance the needed imports of capital goods unless it imposes regulations in respect of certain classes of consumer goods." Does it imply that a Member is going to enjoy the rights under Article 20 if it imposes regulations on consumer goods, or is it the other way?

THE CHAIRMAN: That is a quotation from the message received from the Joint Committee. I understand that that has been amended and the text that is included in the draft you have in front of you is incorrect. It should read "that in Article 20 provision should be made to cover the position of a Member who, as a result of its plans for industrial development or reconstruction, anticipates that its accruing international monetary resources will be inadequate to finance the needed import of goods, e.g. capital goods, for the carrying out of such plans unless it imposes regulations restricting the imports of certain classes of goods, e.g., consumer goods." The main difference is that in the revised version the reference to capital goods and consumer goods is given only for the purposes of illustration.

MR. TUNG (China): But under what conditions does a Member get the benefit of the provision under Article 20?

THE CHAIRMAN: The latter part of this paragraph explains how the Sub-Committee considered that the request of the Joint Committee on Industrial Development had been met. It states under Para. 2(a) of this Article that a country could apply quantitative import restrictions to anticipate the imminent threat of a serious decline in its monetary reserves. Moreover, it is

there suggested that in interpreting this principle due regard should be had to any commitments or other circumstances which may be affecting a country's need for reserves. It follows that a country which was threatened with a serious decline in its reserves and which had heavy external payments to meet in the near future could protect its external position by import restrictions.

MR. TUNG (China): But must that Member country impose regulations on consumer goods before it can enjoy the privilege?

THE CHAIRMAN: It gives them a right to impose restrictions, for example, on consumer goods, in order to free their foreign exchange resources for the purchase of other goods which they consider more important, for example, capital goods.

MR. TUNG (China): But it seems to me/ unless a Member imposes restrictions on consumer goods it cannot enjoy the privilege which will be given under Article 20. Is that clear?

THE CHAIRMAN: I am afraid I am not understanding.

MR. TUNG (China): If a member country does not impose any regulation on consumer goods, that means it is not to be assisted under any provision of Article 20? I do not know whether my question is clear?

THE CHAIRMAN: It is not.

MR. TUNG (China): In Article 20 provision is made to cover the position of a Member. That means, to give it certain freedom or privilege as a result of its plans for industrial development if its monetary reserves are going to be inadequate, and so on, but not unless it imposes regulation of consumer goods. So if it does not make any restriction on consumer goods that shows its monetary reserve is adequate and then it will not enjoy the privileges under Article 20?

THE CHAIRMAN: This merely suggests they should be given the right to impose restrictions if they feel it necessary to do so.

They do not have to put them on any particular class of goods; they can choose the classes of goods on which they want to put the restrictions, quite freely, in accordance with their development or reconstruction policies. Is that clear?

MR. TUNG (China): Yes, but I do not quite understand about the word "unless". It seems to be a kind of requirement or condition.

THE CHAIRMAN: Which is the word you do not understand?

MR. TUNG (China): "unless it imposes regulations".

THE CHAIRMAN: That merely means that if it did not impose any import restrictions it would not have sufficient foreign exchange resources to buy both its capital goods and consumers goods which its nationals would want to buy abroad.

MR. TUNG (China): Well, we may have enough resources or we may not, but that has no connection with the imposition of regulations on consumers goods. They may not impose any regulation on consumers goods, but their monetary reserve may still beⁱⁿadequate.

THE CHAIRMAN: The purpose here is to deal with a country which has not got sufficient international resources because it is following a policy of development or reconstruction internally. The request is, that we should give to those countries the right to impose restrictions on imports so that their development or reconstruction policy would not be prevented by the waste of their international resources on goods which they did not think sufficiently important.

MR. TUNG (China): I quite understand the purpose, but the language is not clear to me, because "unless" would make it seem that it is something required of a Member country.

THE CHAIRMAN: It is quite clear, I think, that it is not intended that a country should be granted freedom to restrict its imports of any classes of goods if it has sufficient foreign

resources to pay for all of them. If it has sufficient external resources to pay for all goods that it might wish to import, then it is clear that this would not permit it to impose restrictions. Is that the point?

Any other comment on Paragraph 16? I take it Paragraph 16 is agreed.

Paragraph 17? Paragraph 17 agreed. Paragraph 18?

MR. HELMORE (UK): Mr. Chairman, is the quotation here accurate? Should it not be "A member may select imports for restriction on grounds of essentiality in such a way"?

THE CHAIRMAN: To bring this quotation into line with the change made in the draft Article 20 it is necessary to insert in the quotation after the word "restriction" - "on grounds of essentiality".

Paragraph 18 agreed.

Paragraph 19? Any comment? I take it as agreed.

Paragraph 20. Any comment? I take it as agreed.

Paragraph 21? Paragraph 21 agreed.

Paragraph 22? Paragraph 22 agreed.

I take it that the Report covering this Article is adopted, subject to the request of the Chinese Delegation that his reservation on the draft amendment submitted by his Delegation is made clear.

Shall we take Article 21 now, dealing first with the text? It is page 35 of the Document T/19. Paragraph 1. Any comment? Paragraph 1 is agreed.

Paragraph 2? Any further comment on paragraph 2? I take it paragraph 2 is agreed. Paragraph 3?

Mr JOHNSEN (New Zealand): Mr Chairman, there is a small point I am wishing to make in connection with paragraph 2 (c). I would suggest that we add at the end of that paragraph the words: "subject to importation being made within the prescribed period to which the quota relates". It would be very difficult to administer any system of quantitative regulation unless you could have some limitation over the time within which imports could be made.

Mr MORTON (Australia): Australia will support that suggestion.

Mr HELMORE (UK): Mr Chairman, we are in agreement with the idea underlying the New Zealand proposal. It does, however, occur to us, hearing this for the first time and not having had very long to think about it, that there might conceivably be - though I cannot think how - a quota of this sort laid down which was without period; that is to say, a country might say: We are prepared to license a thousand items, and we will split them up, five hundred to this country, two hundred and fifty to that and two hundred and fifty to that. When that thousand has come in, we will think about it again; and a definite period might not be laid down. So that if New Zealand would agree to their amendment reading "subject to importation being made within any prescribed period to which the quota may relate", that point would be covered.

Mr JOHNSEN (New Zealand): I would agree with that, Mr Chairman.

THE CHAIRMAN: Is there any comment on this suggested addition? We take it then that the suggested amendment which would add to paragraph 2 (c) the words "subject to importation being made within any prescribed period to which the quota may relate" is accepted.

Mr. KUNOSI (Czechoslovakia): Mr Chairman, I want to raise a question in connection with this Article. The case of Czechoslovakia has been put forward repeatedly concerning the fact that a very great part of Czechoslovak foreign trade is with countries with inconvertible currencies, and we do not know whether those countries will be Members of the International Monetary Fund. That is the first point. Secondly, their monetary position is such that, even if we can assume

that the International Monetary Fund will do something for them to help their monetary situation, even then we are afraid that when we have to export to these countries we shall be faced with the problem that we cannot get payment in any other way than by buying from them. I do not know if this case is covered in this Article or whether we should put forward some amendment.

THE CHAIRMAN: The Subcommittee did consider the points put forward by the Czechoslovakian delegation and dealt with them in Article 22. I would suggest that we leave the point until then, when the Czechoslovakian delegate can decide whether his points are adequately met.

Mr. KUNOSI (Czechoslovakia): Thank you.

THE CHAIRMAN: I take it that, with the amendment put forward by the New Zealand and United Kingdom delegates, Article 2 is adopted.

(Paragraphs 2, 4 and 5 were put to the meeting by the Chairman and adopted.)

Could we now turn to the report on this Article 21, on page 16 of the document T/19. Is there any comment on paragraph 1 of this report. I take it paragraph 1 is agreed. Now paragraph 2. There will be some addition to paragraph 2 (e) here to make it conform to the amendment to the Article itself. I presume that precisely the same words could be employed here. Is that agreed? Paragraph 2, as amended, is agreed to. Paragraph 3? Paragraph 3 is agreed to. Shall we take Article 22, page 38 in the document. This is the Article which deals with the problem referred to by the delegate for Czechoslovakia. As this is fairly complex, I suggest we take it sub-paragraph by sub-paragraph.

(Draft Article 22 was put to the Committee sub-paragraph by sub-paragraph and adopted.)

In relation to the point raised by the delegate of Czechoslovakia, it is not entirely clear at a glance the precise implications of Draft Article 22 in regard to the problem of non-convertible currencies, but I think the explanation is embodied in more readily understandable terms in the report itself, so that, before we finally leave Article 22, could we turn to the report and look that over, and if the delegate of Czechoslovakia, and other delegates for that matter, is satisfied, we will take Article 22 as agreed. If not, we will come back to it. Is paragraph 1 agreed? (Agreed.) I think that we might ask the Rapporteur to read this Section dealing with non-convertible currencies as it is a matter of considerable complexity and importance.

THE RAPPOREUR: "2. A more difficult problem arises in the treatment of inconvertible currencies" (reading from page 18 of Document E/PC/T/19 down to the words) "this prior approval would be obligatory" (on page 22).

THE CHAIRMAN: Are there any comments on that section?

MR KUNOSI (Czechoslovakia): I am sorry to say that I think we will have to think it over and study it closely. For the time being I will not raise any objection, but I feel, in reading it again, that we will have to think again on this.

MR HELMORE (U.K.): I have one drafting amendment, which I suggest with some hesitation, in this very carefully considered report. It is in paragraph 3 on page 19. Perhaps before I give the amendment I could explain the effect of it. This paragraph is a theoretical and "by way of example" exposition of the problem. I believe it would be better not to convey any implication here that we are talking about any particular members of the Organisation. We have not got on to that point yet; we are simply talking about the problem which confronts a country; so all I want to do in the second line is to read "Country A" and in the third line to read "Country B".

THE CHAIRMAN: Is that agreeable? (Agreed.) Is there any other comment on this section of the report? I take it, then, that this part of the report, down to paragraph 8, is agreed. (Agreed.)

Paragraph 9. There seems to be some verbal correction required there. There should be a letter "s" on "Provision". Are there any comments on this paragraph? (Agreed.)

Paragraph 10. Is that agreed? (Agreed.)

May we look now at Draft Article 23, on page 40 of the document? Is there any comment on paragraph 1? (Agreed.)

Paragraph 2. Any comments? (Agreed.)

Paragraph 3. Certain words are placed in square brackets here to indicate that in relation to them reference should be made to paragraphs 2 and 3 of the report covering this Article. Is there anything else on this paragraph? (Agreed.)

Paragraph 4. Is that agreed? (Agreed.)

Paragraph 5. Is that agreed? (Agreed.)

Paragraph 6. Is that agreed? (Agreed.)

Could we now take the report on Article 23, which commences on page 23 of the document? Paragraph 1. Are there any comments? (Agreed.)

I understand the Rapporteur has a suggestion for a new paragraph following paragraph 1.

THE RAPPOREUR: I must confess that I failed to follow the instructions in drafting this report and left out a paragraph. There is no explanation of the second paragraph of the Article. I would suggest, therefore, adding the following paragraph as a new No.2, the old No.2 to become No.3, and so on. It reads:-

"It was agreed that Members should undertake not to seek by exchange action to frustrate the purposes of this Charter, nor to seek by trade action to frustrate the purposes of the Articles of Agreement of the International Monetary Fund."

THE CHAIRMAN: Is it agreed that the paragraph as read by the Rapporteur should be included after paragraph 1 to cover the second paragraph of the Article? (Agreed.)

We turn now to the new paragraph 3. Is there any comment? (Agreed.)

Now we have the new paragraph 4.

THE RAPPOREUR: On paragraph 4, on reconsideration of the draft I felt it was not entirely clear on one point, and I would like to suggest adding a sentence at the end of the paragraph, to read as follows:-

"Pending this further examination, the Draft Article 23 in the Appendix to this Report has been expressed in a way which implies that Members of the Organisation would, in general, be expected to be Members of the Fund, but that means could be provided for non-members of the Fund to join the Organisation."

THE CHAIRMAN: Is it agreed that we add that sentence to paragraph 4? (Agreed.)

Now we have the new paragraph 5. Is that agreed? (Agreed.)

Any comments on new paragraph 6? (Agreed.)

We go now to Article 19, with which we have not yet dealt. We will deal with the Draft Article itself first, on page 25 of the document. Any comments on

paragraph 1? Is it agreed? (Agreed.)

We might take paragraph 2 sub-paragraph by sub-paragraph. Paragraph 2(a). Any comments?

THE RAPPORTEUR: In paragraph 2(a)(iii), the next to last word in the second line should be "of" instead of "or".

THE CHAIRMAN: Yes. Is there any further comment on 2(a)? (Agreed.)

2(b). Any comments?

MR TUNG (China): We have a suggested amendment for Article 19(2)(b) which was circulated as document C.II/W.63. The suggested amendment reads like this:

"Export prohibitions or restrictions on agricultural, mineral or other essential products which are imposed or maintained to safeguard a decent livelihood for the people, to facilitate industrial progress and to stabilize domestic prices so as to achieve a balanced development of national economy".

We think the original provision as put in the Report here is insufficient to provide for these requirements in relation to the livelihood of the population and industrial progress, and so we should like to have it amended.

THE CHAIRMAN: The proposal of the Chinese delegate is dealt with in Paragraph 12 of the Sub-Committee's Report on this Article. It reads as follows:-

"It was suggested by one Delegation that restrictions on exports should be permissible for the safeguard of living standards, for the facilitation of industrial development and for the stabilization of domestic prices so as to achieve a balanced development of the national economy, and that import restrictions should be permissible for the enforcement of governmental measures to regulate domestic production, distribution and consumption so as to maintain a dynamic equilibrium between the diverse economic activities of a nation in the process of industrialization. After discussion of these suggestions, there was wide agreement in the Sub-Committee that these proposals were already adequately covered in the proposals of the Joint Committee of Committees I and II on industrial development and by the proposals made by the Sub-Committee in regard to the use of import restrictions under Article 20 to safeguard the balance of payments. These latter proposals are in line with a request received from the Joint Committee that provision should be made to cover the position of a member who, as a result of its plans

"for industrial development or reconstruction, anticipates that its accruing international monetary resources will be inadequate to finance the needed imports of capital goods unless it imposes regulations in respect of certain classes of consumer goods'."

It was therefore, I take it, the view of the Sub-Committee that the substance of the amendment proposed by the Chinese delegate is embodied in the Charter in other places. Is that view acceptable to the Chinese delegate, or would he wish to reserve his position on this?

MR. TUNG (China): I just want to say a few words of explanation. I have read over the draft article of this Joint Body, which is 3(a), which provides that a Member shall only have the right to impose restrictions after long processes of consultation with regard to finance and other matters - about seven processes to be undertaken before any measures could be adopted - and I think if we have to go through that long process of consultation the measures would never be adopted, or at least their effect would be undermined.

THE CHAIRMAN: Does any other delegate wish to comment upon this suggestion of the Chinese delegate? I take it then that it is the view of the Committee that if the Chinese delegate wishes to press this point he should do it by reserving his position. The Chinese delegate would wish to reserve his position on this question?

MR. TUNG (China): Yes.

THE CHAIRMAN: Anything further on Paragraph 2(b)? I take it 2(b) is agreed. Paragraph 2(c): any comment? Paragraph 2(c) agreed. Paragraph 2(d)? Paragraph 2(d) agreed. Paragraph 2(e).

MR. MELANDER (Norway): Mr. Chairman, we are very much in doubt as to the wisdom of introducing an exception on the lines of 2(e). We feel that although this exception is qualified in many respects it is, after all, doubtful whether it would not be better to leave it out. In any case, we would not be agreeable

to going further than the original suggested draft put forward by the United States delegation, and consequently we would like to suggest that the words "or fisheries" should go out in the first line of paragraph 2(c).

THE CHAIRMAN: It is suggested we delete the words "or fisheries" in line 1 of paragraph 2(c), and presumably anywhere else where it appears in the Article.

MR. MELANDER (Norway): Yes.

THE CHAIRMAN: Does anyone wish to comment upon this suggestion from the delegate of Norway?

MR. SHACKLE (UK): I think the United Kingdom delegation would desire to see these words retained. It seems to me that the position of fisheries is in a way a special one, in that gluts of fish are very liable to occur, and if, shall we say, the United Kingdom were to do anything with a view to mitigating those gluts of home-caught fish, clearly the arrangement would not be effective if there were not some corresponding arrangement to deal with imports of foreign-caught fish. In order, therefore, to make such arrangements possible, I think it is necessary to keep these words "or fisheries".

MR. VIDELA (Chile): Mr. Chairman, on this particular point I remember that I raised the question of whaling products, and also I have made the reservation of two words, "agricultural" and "fisheries". On this particular point of fisheries I would like to make it quite clear that although we are not interested in sending fresh fish to Great Britain, we are actually sending the products of whaling. It is a new industry in Chile, and a very prosperous one, involving a great number of factories, a large amount of capital and many workers. I therefore second the proposal made by the Norwegian delegate. In addition, I have previously made my suggestion for the deletion of the word "agricultural" - both "agricultural" and "fisheries".

THE CHAIRMAN: You want to delete them both?

MR. VIDELA (Chile): Yes. That is my old proposal.

THE CHAIRMAN: It has a somewhat different effect.

MR. VIDELA (Chile): What I mean is, while we are discussing the particular point of fisheries I wish to back the proposal made by the Norwegian delegate.

THE CHAIRMAN: You would support the suggested amendment of the Norwegian delegate, but you would presumably prefer the deletion of both words?

MR. VIDELA (Chile): Yes.

THE CHAIRMAN: Any other comment?

MR. TUNG (China): Mr. Chairman, the Chinese Delegation has also suggested an amendment to (b), which reads:

"Import prohibitions or restrictions on specific agricultural, mineral, or manufactured products, imported in any form necessary to the enforcement of governmental measures which operate to regulate production, distribution and consumption of like domestic products, with a view to maintaining a dynamic equilibrium between the diverse economic activities of a nation in the process of industrialization".

However, I could accept an alternative amendment as suggested by the Chilean delegate, by the deletion of the words "agricultural" and "fisheries" at the beginning of this sub-paragraph, but also I should like the deletion of the last three sentences on page 27 of the Report, beginning with the word "Moreover", because we could never agree to any fixed ratio between the imported products and the domestic like products.

THE CHAIRMAN: You want to delete from "Moreover" to "consultations" on page 27?

MR. TUNG (China): Yes.

THE CHAIRMAN: Can we take these amendments in order? The first proposal we have before us is that from the delegate of Norway to the effect that he wishes to delete the words "or fisheries" in the first line of this paragraph. Is there any other comment on that particular proposed amendment? I think it would be as well if we were able to get a clear indication of views on this. Would those who favour the deletion of the words "or fisheries" indicate by raising their hands?

(There was a show of hands.) In view of the fact that the number is limited, I suggest that we ask those delegates if they desire to press this point or to reserve their position on it and ask the Secretariat to make the necessary changes.

Mr MELANDER (Norway): Mr Chairman, I would like to reserve this particular point and to have it included in the note on Article 19.

Mr TUNG (China): I wish to be associated with that.

THE CHAIRMAN: Gentlemen, we now take the amendment suggested by the Chilean delegate and supported by the Chinese delegate; that is that the words "agricultural or fisheries" be deleted. Are there any comment on this proposed amendment?

Mr SHACKLE (UK): Mr Chairman, I have already I think in the earlier session of this Committee explained the reasons why we consider that this paragraph should be limited to agricultural and fisheries products. Perhaps I might briefly state those reasons again. Our views are that agriculture is special in that its products are liable to frequent and large fluctuations of price and of supply, and also in that agricultural producers are very numerous, often small and unorganised, and that therefore it is frequently necessary for their governments to step in in order to introduce some organisation into the business. For that reason we think there is a special case for dealing with agriculture in this way, a case which does not exist for manufactured products or minerals.

THE CHAIRMAN: Is there any further comment on this? Would the delegate for Chile like to reply?

Mr VIDELA (Chile): Mr Chairman, I feel that this has been sufficiently discussed, and I merely want to give this explanation: it says here "One delegate desires" — that will be "some delegates" or "two delegates desire" — "that the words 'agricultural or fisheries' should be removed after the words 'import restrictions on any', at the beginning of 2 (e)."

THE CHAIRMAN: That is in the report.

Mr VIDELA (Chile): Yes, but I would like to have the explanation here as well, Mr Chairman.

THE CHAIRMAN: Is there any further comment? Would those who favour the deletion of the words "agricultural or fisheries" from this

Article please indicate by raising the right hand. (There was a show of hands.) I suggest in the circumstances that the Chilean and Chinese delegates should reserve their position, and we will ask the Secretariat to record that reservation, including the addition of the words the Chilean delegate has mentioned, explaining his reasons for wanting that change made. Now that leaves the amendment suggested by the Chinese delegate in addition to the one put forward by the Chilean delegate supported by the Chinese delegate.

Mr VIDELA (Chile): I would like to make a brief explanation; it is that the agreement adopted referring to "fisheries" probably would not be used as a device for restricting the importation of the products of the whaling industry, because I have a note here from my colleague which says that a whale is not a fish.

THE CHAIRMAN: I am not quite sure whether catching whales is not fishing. I think a question of such philosophical subtlety might be left to the Drafting Committee.

Mr VIDELA (Chile): The United Kingdom delegate may say something about this; he is also interested in restricting the importation of the products of whaling.

Mr SHACKLE (UK): Mr Chairman, I would like to say this; if the delegate for Chile will look at the Annual Statement on Trade and Navigation of the United Kingdom, he will see there a section which is headed "Whale Fisheries"; so that if we are inaccurate in this matter, we are inaccurate in good company.

THE CHAIRMAN: Could we look now at the amendment suggested by the Chinese delegate. He suggests the deletion of all words in this paragraph including and after the word "Moreover", on the ground that he would be unwilling to accept for his delegation a fixed relationship between imports and domestic products in the circumstances contemplated by this Article. Is there any comment on this. I should perhaps draw attention to the fact that in the relevant section of the report this question of the fixed relationship between imports and domestic production was referred to. On page 4 at the very end of paragraph 6 it is stated that "The view was, however, expressed that such

a rule" - that is a rule establishing a fixed relationship between imports and domestic production -- "might weigh unduly on the domestic producers, since the exporters in other countries might be able more readily to find alternative markets".

Mr VIDELA (Chile): Mr Chairman, this is the point raised by the Austrian delegation.

THE CHAIRMAN: No; I think the point was raised by the Indian delegate. I take it that the substance of the proposal of the Chinese delegate is in line with that comment embodied in paragraph 6. My attention has been drawn to the fact that paragraph 7 of the report is also relevant to this question. Paragraph 7 reads: "The suggestion was put forward by two Delegations that the exception in the case of agricultural products should be widened by permitting restrictions on imports without restrictions on home production so as to maintain domestic prices at a level sufficient to cover domestic costs of production or so as to enable a domestic surplus to be cleared. After discussion there was general agreement that such proposals would extend the scope of the exception to an undesirable degree." Would anybody wish to comment on the proposal of the Chinese delegate?

Mr. VAN KLEFFENS:

(Netherlands): Mr Chairman, the same sentence has caused us some difficulty as to its wording, and we would like the Drafting Committee to go into this wording, because as it stands it might cause some difficulties of interpretation. I think the general meaning is acceptable, but the wording leaves something to be desired.

THE CHAIRMAN: Will the Secretariat note the request of the Netherlands delegate that the Drafting Committee might examine the wording of this paragraph carefully to ensure that its meaning is adequately expressed. Is there any further comment on the amendment proposed by the Chinese delegate? Will those who favour the amendment indicate by raising the right hand. (There was a show of hands.) In the circumstances I would suggest that the Chinese delegate could meet his point by associating himself with the reservation or the point made by the Indian delegate which is embodied in the report. We could amend the report to make it clear that more than one delegate was associated with that view.

Mr TUNG (China): Mr Chairman, I want to make clear my suggestion that these sentences should be deleted. We want those three sentences entirely deleted because we could never agree to any fixed ratio.

THE CHAIRMAN: That will be embodied in the report as part of the Chinese delegate's reservations. Is there anything else on sub-paragraph (e)? I take it that it is agreed. Now, (f). Is that agreed? I think the notes have been covered during the discussion of the various paragraphs.

Mr SHACKLE (UK): Do we now discuss the report on this?

THE CHAIRMAN: Yes, we take the report on Article 19, which commences on page 2 of the document. Paragraph 1 -- is there any comment? We take paragraph 1 as agreed. Paragraph 2 -- agreed. Paragraph 3? Paragraph 3 is agreed. Paragraph 4? That is agreed. Paragraph 5? Paragraph 5 is agreed. Paragraph 6.

Mr MELANDER (Norway): Mr Chairman, I would like to have inserted in paragraph 6 -- I think the most appropriate place would be a new sentence after the second sentence reading: "There was wide agreement for the view that a clause on these lines was desirable". I think at that point it would be advantageous from my point of view to have inserted that "One delegate" -- or, if the Chinese and Chilean delegates also agree -- "some delegations doubted the advisability of introducing an exception on the lines suggested in Article 19 (e), and that in any case they" or "that delegation would not agree to the extension of the exception beyond the original suggested Charter, and that consequently the words 'or fisheries' should go out."

That is not the exact wording; I have not got the exact wording. It is only meant as an indication to the Secretariat, and I would be glad if the Secretariat would deal with that point.

THE CHAIRMAN: I think that the delegate of Norway can take it that the point will be covered and I think the place he has indicated is the right place for its inclusion. I suggest that we leave the precise wording to the Rapporteur. Is that agreeable?

MR MELANDER (Norway): Yes.

THE CHAIRMAN: Similarly in relation to the extension of the next part of the sentence: It is clear that it would be necessary to amend this, to note that there was more than one delegation who proposed that the exception should not be confined to agricultural and fishery products. Would the reference here which I think is expressed in the words the Chilean delegate himself used, meet your point?

MR VIDELA (Chile): Yes.

THE CHAIRMAN: Thank you. Are there any further comments on this paragraph? Is paragraph 6 agreed? (Agreed). Paragraph 7.

MR TUNG (China): On paragraph 7, which covers the point I raised a moment ago, how do you change that, because originally there were two delegations and now it is more than two.

THE CHAIRMAN: "by some delegations" - that might meet it.

MR TUNG (China): Yes.

THE CHAIRMAN: Instead of specifying two, we could say, "suggestions put forward by some delegations."

MR TUNG (China): I would rather see it covered by deleting the last part of this sentence.

THE CHAIRMAN: Yes; I think it is clear that we might make reference to this specific Chinese suggestion and that the last three sentences of the paragraph should be deleted.

MR VAN KLEFFENS (Netherlands): Mr Chairman, I have only one point on paragraph 7. There is a reservation there. I do not want to press it now, but, on the other hand, it says here: "after discussion there was general agreement," and so on. That is a bit strong. I would propose to put in "after

discussion it was felt."

THE CHAIRMAN: Delete "there was general agreement" and insert "it was felt."

MR VAN KLEFFENS (Netherlands): Yes.

THE CHAIRMAN: Any objection? I think some change is clearly necessary. To say that there was general agreement is an overstatement. Is that agreed?

(Agreed).

Paragraph 11. (Agreed). Paragraph 12. There will, of course, be an incidental amendment to the quotation at the end of this paragraph to bring it into line with the precise wording of the message actually received. It is at the top of page 6. The Secretariat will deal with that.

Paragraph 13.

MR HELMORE (UK): Mr Chairman, I think the delegation referred to in the opening sentence of paragraph 13 is not now represented. I wonder if, in these circumstances, we could leave this paragraph for the time being?

THE CHAIRMAN: For the time being?

MR HELMORE (UK): Yes, until they are represented.

THE CHAIRMAN: I see. In the absence of the Indian delegate, from whom this suggested addition originated, I think it is wise for us to accept the suggestion of the delegate for the United Kingdom and defer consideration of paragraph 13 finally and I suggest that we begin our activities this afternoon by dealing with this paragraph before we go on with our other work.

MR SHACKLE (UK): Before we leave this passage, Mr Chairman, I should like to call attention to a typewritten sheet which I think has been distributed and which is suggested for insertion as paragraph 14 at this point. I am not quite sure whether everybody has the paper, and it might possibly be for the convenience of the Committee if I read it through - it is not long. It reads like this: "The Committee considered the question of the treatment of certain existing preferential arrangements which were established under international agreements but not effected by the normal method of a difference in rates of duty. In these special circumstances they recommend that any such arrangement remaining after the negotiations

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contemplated for April 1947 should be dealt with by a provision in a protocol to the Charter or, pending the conclusion of the Charter, to the general agreement on tariffs and trade, to the effect that 'The member applying these arrangements shall be entitled to continue them or equivalent measures pending either (a) an arrangement under Chapter VI if the member countries concerned desire that a product should be made the subject of such an arrangement, or (b) some other arrangement regarding the matter between the member countries concerned.' The Committee agreed further that only a very limited number of commodities fall under this heading and that the countries concerned should establish the facts about them so that this recommendation on the subject could be taken into account in the forthcoming negotiations. It was further recognized that the concessions, or lack of concessions, in respect of the items concerned would, for purpose of assessing the results of the negotiations, stand on the same footing as concessions, or lack of concessions, in respect of particular tariff or preference items." I think the Committee will recall that at an earlier session of this Committee the delegate of Australia raised the case of certain commodities on which a preference has been given, not by way of tariffs, but by way of quotas. The consequence of that is that, while tariff preferences would be negotiable under Article 18, there was no provision in the draft Charter as it then stood for dealing with the position of those preferences accorded by means of quotas. It was agreed that a small sub-committee should go into the matter. That small sub-committee has held a number of meetings, and this paper is what they suggest should be put into our report in order to deal with the point. I trust that the paper is reasonably self-explanatory. I have only one explanation to add in regard to it. It is a statement which I would like to see included in the verbatim record, and it runs as follows: "The United Kingdom Delegation understands that the commodities in question for the purpose of this paragraph are beef, mutton, lamb, bacon and processed milk imported into the United Kingdom from Commonwealth and other sources."

Thank you, Mr Chairman.

THE CHAIRMAN: Is there any comment on this suggested inclusion in draft Article 19?

MR JOHNSEN (New Zealand): I would like to support its inclusion, Mr Chairman.

THE CHAIRMAN: I take it then that this is agreed for incorporation in Article 19. Presumably a corresponding paragraph will be required in the draft report.

MR SHUCKLE (UK): This is intended for the draft report.

THE CHAIRMAN: I sec. That is agreed? (Agreed).

MR JOHNSEN (New Zealand): Mr Chairman, I should like to make a statement.

We have been concerned this morning with being confronted with a very complex set of documents relating to quantitative regulations and exchange control. The New Zealand delegation have not been able to give adequate study, in the limited time available since the documents were issued, to the proposals, which must be considered in conjunction with those relating to industrial development, and to see how far they cover the proposals on which we made submissions and with the principles to which we desire to adhere set out in paper numbered E/FC/T/C.II/22, and supporting verbal statements. No doubt other delegations are in the same position. It is understood, however, that it is not intended that there should be any commitments at this stage by signifying acceptance or otherwise of the proposals before us. On behalf of New Zealand, therefore, we should like it to be recorded that these proposals are being accepted purely as a basis for further consideration and discussion.

THE CHAIRMAN: That is clear.

MR TUNG (China): I join with the New Zealand delegate in the view he has just expressed.

THE CHAIRMAN: I suggest the meeting should now adjourn and that we reassemble at three o'clock. Thank you.

(The meeting rose at 1.15 p.m.)

(For verbatim report of afternoon session, see Part 2 of
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The meeting resumed at 3 p.m.

THE CHAIRMAN: Before we complete the report dealing with Quantitative Restrictions it is necessary for us to finalise the paragraph 13 of the report covering the subject matter of Article 19. This is on page 6 of the document. You will remember we deferred this from this morning since I understand that the delegation mainly interested was absent at that time.

MR LOKANATHAN (India): Mr Chairman, I am sorry for my absence this morning; I had an appointment which required my getting away in good time. One of the delegations referred to at the beginning of paragraph 13 is the Indian delegation, and I should like to take this opportunity of clarifying our position in this matter. Our views on quantitative restrictions are well known. We believe that they are a legitimate form of protection in appropriate circumstances and under adequate safeguards. We hoped that one of the ways by which we could get satisfaction in respect of this matter was through the chapter on Industrial Development; but, having considered that, we felt that the procedure laid down therein was too cumbersome and likely not to afford the facility those countries may need without undue delay or undue stress. Hence a more general exception was sought to be provided for by us by asking for a further amendment of Article 19. Since we made that reservation, however, we have been advised that the matter will be looked into more closely with the view of meeting the standpoint of India and other countries, and that the relevant Article in the chapter on Industrial Development might be amended so as to be more satisfactory to us. Should that eventuate, Mr Chairman, we should only be too glad to reconsider our reservation here, as our anxiety has been all through to provide for the use of quantitative restrictions under adequate but not excessive or almost impossible safeguards. In other words, we want a provision which would enable a country to have recourse to quantitative restrictions and get the approval of the Organisation with reasonable ease and celerity, provided it is in conformity with criteria laid down by the Organisation, of which, of course, one important consideration would be whether the particular form of quantitative restriction would be less restrictive than alternative forms of protection.

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Due notice will of course be given to the Organization, and it should be open to the Organization to accede to this without needless formalities, subject to defined tests, which should be easily applicable.

Mr. Chairman, if after examining the provisions contained in the Chapter on industrial development later on we feel that this matter is amply provided for we should not like to press this reservation here, but whether we can take it back or not will depend very much upon the sort of improvement that we hope might be put in when we meet again. Subject to these things I wish to say that we approve this paragraph as it is.

THE CHAIRMAN: Any further comment on this paragraph?

MR. HELMORE (UK): Mr. Chairman, some delegations here will know that the last words in this paragraph were mainly attributable to the United Kingdom. In the light of what has been said, if the Indian delegation could agree to state their reservation with the reason, if we could insert some such words as "since they thought the procedure laid down in the draft Chapter on Industrial Development needed further examination", then I think we would be perfectly content to have our view recorded, that we thought the procedure in the Industrial Development Chapter was satisfactory. That would lead, I think, to a Report which would not make the world think there had been a great and irreconcilable row about this point, which indeed there was not. Would that suggestion be acceptable?

MR. LOKANATHAN (India): Yes, that would be all right

THE CHAIRMAN: That would be "Some delegations announced that because they" --

MR. HELMORE (UK): "considered".

MR. LOKANATHAN (India): Yes.

THE CHAIRMAN: "that the procedure laid down in the draft Chapter on industrial development" --

MR. HELMORE (UK): Perhaps we might insert a reference there, if I could give it to you in a moment or two - "needed further examination", and then it would go on as in the text.

THE CHAIRMAN: It is Article 4, paragraph 3 of the Industrial Development Chapter.

MR. HELMORE (UK): It is really 3 (a) and (c), since 3(b) refers to a case where a member has undertaken an obligation.

THE CHAIRMAN: It would then read "because they considered that the procedure laid down in Article 4, paragraph 3 (a) and (c) of the draft Chapter on industrial development needed further examination, they might propose an addition", etc. In that case, the United Kingdom suggest that the view of the other delegations might be altered to read "Other delegations considered that the procedure laid down in the draft" - you could leave that sentence pretty much as it stands, could you not?

MR. HELMORE (UK): Yes - "that this point was sufficiently met".

THE CHAIRMAN: Then the last sentence would be deleted.

MR. LOKANATHAN (India): We wanted to add that it would be further considered, further examined, or something of that kind.

MR. HELMORE (UK): That comes in the first sentence. May I read the whole paragraph as it would go now? "Some delegations announced that because they thought that the procedure laid down in the draft Chapter on industrial development" - and then the reference needed further examination, they might propose an addition to Article 19 paragraph 2 to include another exception in the following terms" - and then again the quotation. "Other delegations considered that this point was sufficiently met in the draft Chapter relating to industrial development".

THE CHAIRMAN: I am not quite sure whether that does not require some alteration, the point in this case being, it seems to me, that the delegations referred to considered that the procedure required further examination. I think it would be better to

say "Other delegations considered that the procedure was appropriate".

MR. HELMORE (UK): "the procedure in question".

THE CHAIRMAN: "the procedure in question was appropriate". Then, of course, the fact that there are two views on this question would quite clearly imply that further examination of that question would be undertaken at the Second Session. Is that acceptable to delegations?

MR. LOKANATHAN (India): What about the last sentence?

THE CHAIRMAN: The last sentence is deleted - "Other delegations considered that the procedure in question was appropriate".

MR. HELMORE (UK): Perhaps we should say "however".

THE CHAIRMAN: Yes - "Other delegations, however, considered". Is that acceptable? Then I take it that Paragraph 13 as amended is agreed.

That completes the Report on Quantitative Restrictions. It remains only for us to record our thanks to the Drafting Committee, and particularly to our Rapporteurs, who have done such valuable work indeed in this - even more than usual, I think

MR. GUNTER (US): Mr. Chairman, I should like to point out that Mr. Meade, of the United Kingdom delegation, is primarily responsible for this Report, and I consider it a very excellent job.

THE CHAIRMAN: Can we pass now to consideration of Subsidies? There are two parts to this Report. Part I deals with the Report of the Sub-Committee on Subsidies on Manufactured Goods. Have we a Rapporteur or Chairman of the Sub-Committee who could introduce this? If not, then we proceed straight to examine it.

Any comment on Part I? Approved.

Part II. Anything on the first paragraph of Part II? Then I take it it is agreed.

Any comment on the second paragraph?

MR. SHACKLE (UK): There is just one point. It is really a question of clarification. This Report now before us of the Sub-Committee on Subsidies on Manufactured Goods ends up by saying, in the very last sentence, "In view of those facts no change in Article 25 of the draft Charter was considered necessary". Of course, that might refer to one of two things. It might refer either to the draft as it was printed in the original United States Draft Charter, or, on the other hand, it might refer to the somewhat amended version which forms the appendix to paper T/21, the Report of the Drafting Sub-Committee on Subsidies on Primary Products, which we shall now go on to consider. In that version in the appendix to paper T/21 it will be seen that a complete context is given which would cover both subsidies in general and also, in particular passages, subsidies on primary products. I think we perhaps need to clear up that little ambiguity. I presume that the last sentence of paper No. 20 can be read as referring to the version in the appendix to paper T/21. If so, all is clear. If not, we have an inconsistency.

THE CHAIRMAN: Could we leave out the reference to the draft Charter and say Article 25 is embodied in the appendix?

Mr SHACKLE (UK): In the appendix to paper 21? It is a separate paper, is not it?

THE CHAIRMAN: No change in the draft Article 25 as embodied in or as appended to Document T/21. It will be necessary for the Secretariat in combining the report, of course, to change that particular reference, since it will not appear presumably as document in the combined report; but if we leave it as that, it will make it quite clear to which particular draft we are referring, and the precise drafting can be attended to by the Secretariat. Is that agreeable? Is there anything else on that paragraph? I take it that the report of the Subcommittee on Subsidies on manufactured goods is approved. Again we offer our thanks to the Committee. We pass now to the report of the Joint Drafting Subcommittee of Committees II and IV on Subsidies on Primary Products. This was referred to a Joint Committee because of its close association with the work being done on intergovernmental commodity arrangements by Committee IV. Part I — is there any comment?

Mr JOHNSEN (New Zealand): "New Zealand" should be deleted. New Zealand was not on that Committee.

THE CHAIRMAN: "New Zealand" is a misprint for "Netherlands". Delete "New Zealand" and insert "Netherlands". With that amendment, is this Part I agreed to? Part II, paragraph 1. Is there any comment on paragraph 1?

Mr HELMORE (UK): Mr Chairman, may I speak not in my capacity as United Kingdom delegate but as Chairman of Committee IV, which is now dead. I think I am right in saying that the members of my Committee would probably have preferred to say "the special difficulties referred to in chapter 6" and not "the special difficulties which make necessary the provisions of chapter 6".

THE CHAIRMAN: Yes, this is in the second paragraph: "As concerns primary products"—. The wording you suggest is to delete "which make necessary the provisions of" and insert "referred to in"?

Mr HELMORE (UK): Yes.

THE CHAIRMAN: I think that is an improvement. Is that amendment accepted? Is there any further comment on paragraph 2. Then I take it as agreed. Paragraph 3.

Mr LOKANATHAN (India): I should like to know the force of the "but" there in the fourth line of paragraph 3.

THE CHAIRMAN: You feel that it is incorrectly used?

Mr LOKANATHAN (India): I do not quite follow. I suppose it refers to the elimination of the export subsidies, and only to the limitation of the latter - not the elimination of the latter.

THE CHAIRMAN: I take that to be the meaning, quite clearly, that the Article does look towards the early elimination of export subsidies, but, on the other hand, only to the limitation of general subsidies. Is that clear? Is there anything else on paragraph 3? That is agreed. Paragraph 4? Perhaps we ought to take the suggested changes one at a time.

(The Chairman called for comment sub-paragraph by sub-paragraph on 4 (a) to (j). There being no comment, these were taken as adopted.)

We take now the actual text of the Article. Paragraph 1?

Mr SHACKLE (UK): Mr Chairman, I am sorry at this late stage to make a suggestion which is, I think, to some degree a small suggestion of substance. I do not wish to provoke a discussion on the point. I merely suggest that it be noted for consideration by the ^{Interim} Drafting Committee ^{or} at a later stage. The suggestion would consist in adding after the words "such product" in the 5th line the words "or of closely competitive products". What I have in mind there is, for example, the case of synthetic and natural products which are liable to be closely competitive. As I say, I would be content if that were held over for consideration either by the Interim Drafting Committee or at whatever later stage may be appropriate. I should like just to mention it now. I will repeat my suggestion, which is that after the words "such product" in line 5 there might be added the words "or of closely competitive products".

THE CHAIRMAN: Is it agreed that we invite the Drafting Committee and the Second Session of this Committee to consider the possible inclusion of those words in the fifth line of this Article following the words "such product"? It is not proposed to include the words at this stage, but merely to record them with a request that the Drafting Committee, and, if necessary, the Second Session, consider this proposal. Is that agreeable?

Mr VIDELA (Chile): I should prefer to keep the present drafting.

THE CHAIRMAN: It is not proposed to alter the draft.

Mr VIDELA (Chile): Not to alter the draft?

THE CHAIRMAN: No - merely to note this suggestion for consideration next year.

Mr VIDELA (Chile): With my reservation, Mr Chairman, because this practical part was not my responsibility; it was another member of the Chilean delegation.

THE CHAIRMAN: It is agreed then to note that suggestion for later consideration, recording also the comment of the Chilean delegate, that he is not in a position to judge whether that request should be made. Is there anything else on paragraph 1? Is that agreed? (Agreed). Paragraph 2.

MR LOKANATHAN (India): Mr Chairman, on page 8, line 5, it says, "but in any event not later than three years from the day on which this Charter enters into force." I think, Sir, the Indian delegation feel that three years is really too long a period, especially taking into account the fact that it may be another two years or eighteen months before the Charter comes into force, and if, as is obviously clear, export subsidies are likely to inflict greater injury upon other countries, there is no justification for giving such a long period; and we feel that one year will be as long as is warranted by the circumstances. Therefore, I should like either to move that amendment or, if that is not necessary, at least to make that point for future consideration.

THE CHAIRMAN: What specific period had you in mind?

MR LOKANATHAN (India): I would say, "but in any event not later than one year from the day on which this Charter comes into force." That in itself means somewhere about 1949 or 1950, and therefore that is quite a long period.

THE CHAIRMAN: The Indian delegate has suggested that the word "three" in the fifth line be amended to read "one," so that members would be required to give effect to this provision not later than one year from the date on which the Charter enters into force. Any comment on this amendment?

MR HAWKINS (U.S.): Mr Chairman, I cannot say definitely that that would be acceptable from the point of view of the United States, but I think it would; but I just have not got the information to reach a decision upon it. My own legislation is involved in this Article, and it also involves a modification of the United States Statute. Now there is a question of how long is allowed to do that and that is therefore of some consequence to us. I recognize, however, that one year from the time the Charter comes into force is putting it still quite a way in advance, and I think that very likely we can accept it. I should prefer, however, to leave it over for further consideration at the Drafting Committee stage.

THE CHAIRMAN: Is there any other comment upon this?

MR TUNG (China): Mr Chairman, the Chinese delegation has already proposed a reservation on this point, and I wish to read that out: The adoption or maintenance of subsidies or similar measures to promote the production or exportation of certain special commodities in a Member country which has suffered from a chronic adverse balance of payments should be allowed until such a time as its equilibrium in the balance of payments will have been actually attained, when the question of such measures -----

THE CHAIRMAN: Excuse me. I should like to dispose of this particular amendment suggested by the Indian delegate before we deal with any others, if you would not mind waiting until we have done that.

MR TUNG (China): Very well.

THE CHAIRMAN: Could I have the views of any other delegations who wish to comment on the suggestion made by the Indian delegate that we should amend the word "three" in the fifth line to "one"?

MR ALMEIDA (Brazil): Mr Chairman, we understand the reasons of the United States delegation about her great difficulties to change the situation created with the subsidizing of cotton. We fully agree with the Indian delegate because three years is a very long time for this change. This Charter, and the provisions that the Conference will decide on, represent some changes in the legislation of all countries involved in it. Therefore, I think the United States, to whom the whole world is owing the services as the forerunner in the field of the organization of economic peace, will make efforts to change that situation in a few months as the Indian delegate has suggested.

THE CHAIRMAN: Are there any other comments on this?

MR LECUYER (France) (interpretation): Mr Chairman, I would see no objection, from the French point of view, to the fixing of a lapse of one year instead of three years. I think, nevertheless, that quite a number of countries' legislations would be affected by this and that this would require changes in many regulations. I think, therefore, it would be wise to reserve the matter, in order that it might be regulated at the time of the next Conference.

THE CHAIRMAN: Could I suggest to the Indian delegate that it is clearly a fairly difficult thing for delegations to make a judgment at this stage as to what the implications of any period would be for them, and if it would meet his point we could add to the report a note that some delegates consider that three years is an unduly long period and that it was agreed that this matter should be examined again in the light of the views to be expressed later by the various delegations on the effect of this on their own legislation, or something of that sort.

MR LOKANATHAN (India): That would be quite satisfactory.

THE CHAIRMAN: Would that meet the delegate? We suggest that the precise wording should be worked out by the Secretariat. Is there anything else on paragraph 2?

MR LOKANATHAN (India): We have the record of the American delegate's speech also here, because that will be very useful.

THE CHAIRMAN: Yes.

MR TUNG (China): Mr Chairman, I had not finished my statement. I want to read this. At the present stage of her economic development China still finds it necessary to rely on agricultural and mineral products to make up the principal items of her export trade. Such special products as wood oil, tea, silk, bristles, tungsten, tin, and so on, have long enjoyed an acknowledged position in the world markets and have for the past few decades given steady employment to large numbers of her working population. In view of the increasing foreign demands for these commodities, the Chinese Government has spared no effort to standardize their quality, to enlarge the capacity and reduce the cost of their production so as to give the world markets a more regular as well as plentiful supply at reasonable prices. To keep up these standards in the future, it will have to adopt or maintain such measures as subsidies or price support which are indispensable to its plans for promoting the production or exportation of the aforesaid special commodities. These measures, we need hardly point out, will have the effect not only of safeguarding the employment of a large section of the Chinese population, and of ensuring steady and economical

supplies for the international markets, but also of increasing China's exchange resources to pay for her much needed imports and thereby serving to bring about her balance of international payments. As such, they are conducive to the achievement of the main aims of the proposed International Conference on Trade and Employment and their application should, therefore, not be limited by any fixed date and should be free of any restraint based on the data of any previous representative period. For these reasons, the Chinese delegation would like to place on record the following two-point reservation on Article 25 of the U.S. Draft Charter:

(1) The adoption or maintenance of subsidies or similar measures to promote the production or exportation of certain special commodities in a Member country which has suffered from a chronic adverse balance of payments should be allowed until such a time as its equilibrium in the balance of payments will have been actually attained, when the question of such measures may be reconsidered through consultation by the countries concerned.

(2) The share of any such special export in world trade, whether or not acquired as a result of the use of subsidies or similar measures, should not be subject to limitation by its share in world trade during any previous representative period, except when it is proved to be part of a burdensome world surplus.

The first point of the reservation applies to paragraph 2 here and the second point of the reservation applies to the following paragraph.

THE CHAIRMAN: Is there any comment on the first reservation submitted by the Chinese delegation? I shall be glad of the views of the Committee as to whether it is necessary for us to determine the manner in which this reservation will be recorded, or whether it will be incorporated in any way into the Articles themselves.

MR HAWKINS (USA): I think it would be unwise to adopt the amendment. The effect of it would be that a country with an adverse balance of payments could subsidize exports possibly with a view or at least having the effect of, taking trade away from another country which may be in balance of payments difficulties; in other words, it might lead to, or in fact result i

a virtual trade war. Therefore, I think the amendment is open to serious objection.

MR SHACKLE (UK): I would like to support the view, expressed by Mr Hawkins, on behalf of the U.K. delegation.

THE CHAIRMAN: Are there any delegates who wish to support the reservation made by the Chinese delegate? If not, I would ask whether he would be content that it should be recorded?

MR TUNG (China): Yes, I wish it to be recorded.

THE CHAIRMAN: Any further comment on paragraph 2? If not, I take it paragraph 2 is agreed? (Agreed).

Gentlemen, the interpreters have asked me to request delegates not to begin speaking until they have been called upon by me. That gives them time to make the necessary adjustments.

MR JOHNSEN (New Zealand): One point I would like to have made clear in respect of paragraph 3 of Article 25 concerns the returns to producers of primary products. We make a comparison here between the sale of a product for export at a price higher than the price charged for the like product to buyers in the domestic market. I think the comparison there should be with the price paid to producers in the domestic market. I do not know just what was intended by the draftsman of the Article.

MR SHACKLE (U.K.): My impression is that the draft Article as submitted for the consideration of this Committee did make as its test of what is an export subsidy the relation between the export price and the price charged to domestic buyers, not the price charged to home producers. There is, I think, a particular reason for that, namely, that general subsidies to home producers are permitted under the first paragraph of the Article - subject, of course, to conditions - and that for that reason it was thought that the appropriate test was the price to home buyers, not the price paid to home producers.

THE CHAIRMAN: Does that meet the point raised by the delegate for New Zealand?

MR JOHNSEN (New Zealand): I do not know that we could accept that, Mr Chairman. We would like to have an opportunity to give further consideration to this. Perhaps it could be noted in the report that this matter would be subject to further consideration.

THE CHAIRMAN: We could say: "One delegation raised the question of whether the comparison made in this paragraph should not be between the export price and the price paid to domestic producers, but asked for further time to consider this question." If we included words to that effect in the record would that meet your point?

MR JOHNSEN (New Zealand): Yes; and that we asked that a later opportunity be given to us to consider this matter.

THE CHAIRMAN: "...and that a later opportunity be given to the delegation to consider this matter".

MR VIDELA (Chile): Mr Chairman, I only wanted to remind the Committee that, when we started discussions, I put forward an example, and I trust that example was taken into consideration by the Sub-Committee. I was not there. I said at the time the discussion started that the wool produced in the centre of Chile had a different price from other wool produced by big enterprises in the south of Chile only for export; and I remember that the Australian delegate gave a further

example, and said that in his view both examples related to domestic subsidies and were not to be considered as relating to export subsidies. Perhaps that explanation will satisfy the New Zealand delegate.

THE VICE-CHAIRMAN: I have a small point to raise on something which is not quite clear. Who are the "buyers in the domestic market"? When you sell certain products abroad on the domestic market you mostly find that you have different kinds of buyers, so I would ask: is it sufficiently clear as we have it here?

MR SHACKLE (U.K.): Might I suggest that probably the answer to that lies in the word "comparable" - "the comparable price". That surely means the price in a comparable transaction, the price to a domestic buyer for, shall we say, a whole-sale purchase of a similar size to the export sale. I think that probably that is the key to this.

THE CHAIRMAN: Is there anything further on this paragraph? May I take it that paragraph 3 is agreed? (Agreed.)

Paragraph 4. Is there any comment on 4(a)? Is it agreed? (Agreed.)

4(b). Any comments? (Agreed.)

4(c). Any comments?

MR TUNG (China): I have already made my point of reservation. Shall I read it again?

THE CHAIRMAN: You have made your reservation, and that is embodied in the report. Is there any further comment on 4(c)? I take it that is agreed. (Agreed.)

Paragraph 5. Is that agreed? (Agreed.)

You will recall that in examining the first part of this report an error was noted in the names of the delegations who were on the Sub-Committee. I understand that there are other errors there also, and I think the Committee can take it that the Secretariat will check the precise composition of this Sub-Committee and will amend Part I to accord with the facts of the case.

MR VIDELA (Chile): Mr Chairman, if any of the delegates would like to look up the particular point I referred to a few moments ago, the reference to it is C.II/FV/6, pages 32 and 33; and the Australian delegate was Mr McCarthy. He gave the example of butter on that particular point.

THE CHAIRMAN: Would those delegates who are interested in consulting the record please note the reference: C.II/FV/6.

Now, is there anything further on this report? . . . I take it, then, that the Report on Subsidies in relation to Primary Products and the relevant Articles covering subsidies of all kinds is approved. (Agreed.) We must again record our thanks to the Sub-Committee concerned. Is it your wish that we adjourn now for tea? (Agreed.)

After a short adjournment:-

THE CHAIRMAN: Report of Sub-Committee on State Trading, Document 22.

Part I. Any comment on Part I? I take it Part I is agreed.

Part II. Shall we take these sub-paragraphs in order?

The Report states: "The provisions of Article 26 of the Draft Charter were, on the whole, deemed acceptable to the Sub-Committee on State Trading, subject to the modifications indicated below."

Any comment on Paragraph 1? I take it Paragraph 1 is agreed.

Any comment on Paragraph 2?

MR. JOHNSEN (New Zealand): Mr. Chairman, I think it might be worth while to pick up what appears to be a clerical error in the last line of Paragraph 2. I think the word "effecting" should be "affecting".

THE CHAIRMAN: Is that correct, Mr. Shackle?

MR. SHACKLE (UK): Yes, that is right, sir.

THE CHAIRMAN: Any other comment on Paragraph 2? I take it Paragraph 2 is agreed. Paragraph 3? Paragraph 3 agreed. Paragraph 4?

MR. SHACKLE (UK): In the last line I think the word "that" should be "the".

THE CHAIRMAN: Delete "that" in the last line of Paragraph 4 and insert "the" - "the provisions of Article 30 of the Charter."

Agreed? Any other comment on Paragraph 4? Paragraph 4 agreed.

Any comment on Paragraph 5? I take it Paragraph 5 is agreed.

Paragraph 6: Any comment on Paragraph 6? I take it that is agreed.

Any comment on Paragraph 7?

MR. VIDELA (Chile): Mr. Chairman, I have been instructed to make a statement on Article 27, related with Article 26. I will reserve it for Article 27.

THE CHAIRMAN: Any further comment on Paragraph 7? I take it Paragraph 7 is agreed.

"Expansion of Trade by State Monopolies of Individual Products".

"The principle underlying Article 27 of the Draft Charter, being the counterpart of paragraph 1 of Article 18 of that Charter, was considered generally acceptable by the Sub-Committee. The changes which were recommended and which are listed below serve mainly two purposes - first, to provide a more accurate basis for the determination of the 'negotiable margins', and secondly, to take into account the special nature of fiscal monopolies."

Can we take these sub-paragraphs one by one? Paragraph 1.
MR. MELANDER (Norway): Mr. Chairman, we have a general reservation to make on Article 27. I do not think it would be useful at this stage to go into the details, and I think therefore that the best thing would be to insert a reference here on this page 3, which we are now discussing, to the effect that "One delegation made a reservation as to its attitude towards the proposed Article 27", and I would there refer to the statement which our delegation sent to the Secretary of Committee II on the 22nd November.

THE CHAIRMAN: Can we put that appropriately, do you think, at the end of the section of the Report dealing with the Expansion of Trade by State Monopolies of Individual Products?

MR. MELANDER (Norway): Yes.

THE CHAIRMAN: We could make it Paragraph 7. Do you wish to state the nature of your reservation, or make it quite general?

Mr NELANDER (Norway): I think I would rather make it quite general.

It refers particularly to import monopolies and the price policy; but it is better to leave it as a general reservation, I think.

THE CHAIRMAN: We add there, as paragraph 7: "One delegation found it necessary" or "wished to reserve its position generally upon this Article".

Mr NELANDER (Norway): Yes.

THE CHAIRMAN: Shall we take these sub-paragraphs one by one,

(The Chairman called for comment on paragraphs 1 to 5 paragraph by paragraph. There being no comment, these were taken as adopted.)

THE CHAIRMAN: Paragraph 6?

Mr SHACKLE (UK): "selling prices", of course, in line 3.

THE CHAIRMAN: Yes. That is the last word inside the parenthesis. Is there any comment on paragraph 6. I take it paragraph 6 is agreed. Paragraph 7 would include a general reservation made by the Norwegian delegate. I understand the delegate for Chile to say he wished to raise a point on this Article?

Mr VIDELA (Chile): Yes, Mr Chairman. When the general discussion on this matter was open, I remember that as the Chilean delegate I raised this question of commercial considerations, and I may refer to C.II/PV/5, page 38, and the question I raised was answered by Mr Hawkins. The reference is C.II/PV/6, page 7, where Mr Hawkins said: "The Delegate for Chile enquired whether an export monopoly could charge different prices in different markets. That is more or less the obvious answer of a previous question which I have just commented on. The answer, though, specifically would be: If this is done for commercial reasons — such, for example, as meeting local competitive conditions. We think that entirely consistent with the provision; in other words, I think I am merely agreeing with the proposition as the Chilean Delegate put it". I have been instructed by the Chilean delegation to make this statement, Mr Chairman:—
The Chilean Delegation fully appreciates the difficulties which the sub-committee has had to contend with in trying to reconcile the points of view expressed by the different Delegations on the question of State enterprises and State trading. As you so rightly

said, and I think also Mr Hawkins, this is an entirely new field in which experience has been limited. The subject, however is a very important one, more so today when so many enterprises, especially in small countries, come under that category. As Article 26 now stands, it covers substantially the views expressed by the different Delegations. To us it is quite clear that an enterprise coming under the category of a State enterprise can, for commercial considerations, practise different level of prices in different markets. However, it seems to us that there is an apparent contradiction between what is set out in Article 26 and what is said in Article 27, sub-paragraph b. Here it is said that in the case of an export monopoly, the margin etc. etc. This seems to us to nullify what is set out in Article 26. For example, if an export monopoly product is sold in the home market at, say, 10, and the maximum margin to cover freight, insurance, etc. is another 10, the price in the export market would then be 20. But supposing that for commercial considerations that country has to sell it at 18, then since the maximum margin of 10 is a constant factor, it would appear that the home market price would have been cut to 8, which would not be allowed under sub-paragraph b. We do not, at this stage, wish to find words to cover this contingency, as it might involve a lengthy discussion and we are pressed for time. However, the Chilean Delegation would request that this point be brought to the attention of the Interim Drafting Committee, so that when it meets next January it can further explore it with a view to make it more clear. That is all, Mr Chairman.

Mr SHACKLE (UK): Mr Chairman, there is just one comment I would like to make on that point. That is that there is no compulsion, of course, at all to have any export margin; it is merely if one wants to put up something which is equivalent to an export tax; and all this does is that if one does want to put up something equivalent to an export tax, if it happens to be done by something equivalent to a State export monopoly, then if some other country comes along and wants to negotiate about the level of that margin, it can do so, just in the same way as it would have been allowed to negotiate about an export tax. I think possibly with that explanation the difficulty felt

by the Chilean delegate may to a considerable extent disappear.

At least, I hope so.

THE CHAIRMAN: Does that meet the Chilean delegate's point?

Mr VIDELA (Chile): I think so. I must refer this point to my delegation.

I thank the United Kingdom delegate for his explanation.

THE CHAIRMAN: Is there anything further on this paragraph? The next paragraph deals with "Expansion of Trade by Complete State Monopolies of Import Trade". The report says: "Although Article 28 of the Draft Charter was not discussed as to substance, it was decided that it should remain provisionally as it appears in the Draft Charter, subject to possible consideration at a later stage." It is quite possible, Mr Shackle?

Mr SHACKLE (UK): We hesitate to make prophecies. That is all. It depends on whether the country concerned comes to discuss the matters with us or not.

THE CHAIRMAN: Is there any comment on this paragraph?

Mr KUNOSI (Czechoslovakia): Mr Chairman, if I may suggest it, I think no harm would be done if the words "subject to possible consideration at a later stage" were deleted. I would find it useful.

Mr SHACKLE (UK): I have no objection to that, Sir.

THE CHAIRMAN: It is suggested that we delete all words after "Charter" in the third line.

Mr KUNOSI (Czechoslovakia): Yes.

THE CHAIRMAN: Is that agreeable? There is the word "provisionally". Is there any comment on that? I take it that this paragraph as amended is agreed to. Now we take the actual draft Articles as embodied in the appendix. Article 26, paragraph 1. Is there any comment? You will notice the square brackets which were referred to in paragraph 2 of Part II of the report. Is there any comment on this paragraph? I take it that this paragraph 1 is agreed.
Paragraph 2?

Mr TUNG (China): Mr Chairman, referring to the phrase "for governmental use and not for re-sale" in paragraph 2, Article 26, , I just want to have the following statement recorded: The Chinese Delegation accepts this phrase only with the understanding that supplies for

"governmental use" include supplies for administrative uses, supplies for public works and all other types of government supplies which are not for re-sale. That is all. Thank you.

THE CHAIRMAN: The Chinese view will be recorded.

Mr SHACKLE (UK): I would like to say just this, Sir, that I think that is to some extent implied in paragraph 5 of the covering report, the third sentence: "The discussion on this latter point was prompted by the consideration that in some countries purchases of industrial and other equipment of various types"—. I do not know whether the covering report will be taken in the future as interpretative of what the Articles are intended to mean, but that clearly implies a construction of "governmental" which is somewhat like that which the Chinese delegate would wish to see, I think.

Mr TUNG (China): Yes, it is in the report there; but I just want to make that note so that there will not be any misunderstanding at all.

THE CHAIRMAN: Thank you. Paragraph 2: any further comment? I take it paragraph 2 is agreed. Paragraph 3 -- any comment? Paragraph 3 is agreed. Article 27, paragraph 1?

Mr SHACKLE (UK): The brackets, of course, stand there for the reason which has already been mentioned in the report, that Article 28 is itself there purely provisionally. Consequently, these words which refer to it are similarly provisional.

THE CHAIRMAN: My attention has been drawn to the fact that in sub-paragraph (b), the words following the word "after" in the fourth line should commence a new line, since the wording there "after due allowance in either case" refers not only to sub-paragraph (b) but also to sub-paragraph (a).

MR SHACKLE (UK): I think it might help matters if we had some more breaking up in the lines in the following paragraph. The sentence which begins: "Members newly establishing any such monopoly" is really a separate point, so that, although I would not wish to suggest a separate numbered paragraph, I think we might have a new line there also.

THE CHAIRMAN: Any further comments on this paragraph? I take it paragraph 1 is agreed? (Agreed). Paragraph 2. (Agreed). Article 28, as you see, is in square brackets in accordance with the relevant paragraph of the report, to indicate that it is included provisionally. I take it that is agreed.

(Agreed)

That completes our examination of the report of the Sub-Committee on State Trading. Again, it remains only to thank the Committee for their very valuable work. You will recall that in view of the action taken arising from the work of the Technical Sub-Committee it was necessary to prepare for inclusion in the report for publication a section dealing with the work of the Technical Sub-Committee. A draft has now been prepared by the Secretariat and has been circulated for discussion. I suggest that we might now deal with that. It is document E/PC/T/C.II/64. Part I is precisely the same as in the draft of the Sub-Committee's report itself, and I suggest that we might adopt that without further discussion. (Agreed). Part II is a summary prepared for the purpose of publication for inclusion in the report. Shall we look at Part II?

MR SHACKLE (UK): I would like to suggest a small verbal change; it is in the second sub-paragraph, not the first, the fourth line: "If adequate time had been allowed." I would suggest that it should read: "If more time had been available."

THE CHAIRMAN: The suggested amendment is to delete, in the fourth line of the second sub-paragraph, the words "adequate" and "allowed" and replace them by "more" and "available" respectively. So that the sentence would read: "A greater degree of unanimity might have been possible if more time had been available." Is that agreed to? (Agreed). Is there any further comment on these two paragraphs? I take it they are agreed? (Agreed). Article 9. Is

there any comment on Article 9?

MR MORTON (Australia): The second part of Article 9 appearing in the Report, Mr Chairman, the first line, reads: "It was felt that national treatment could not be applied to the procurement by governmental agencies of supplies for governmental use and not for re-sale." I suggest that the word "national" is entirely opposite to what was intended and that the phrase "most-favoured-nation treatment" should be used there rather than the words "national treatment." It has reference to Article 8, which you will remember has been agreed to read: "The provisions of this Article shall not apply to procurement."

THE CHAIRMAN: This sentence is a direct quotation from the report of the Sub-Committee itself, the second paragraph of which did begin in precisely that way.

MR MORTON (Australia): Article 8 as agreed to now would permit countries making governmental purchases full freedom to purchase national products, but no country should be entitled to use the most-favoured-nation consideration in regard to governmental purchases.

MR SHACKLE (UK): Mr Chairman, I am not entirely sure that I have grasped the point accurately. But the position as it appears to me is this. Article 8 is not concerned with national treatment. It is concerned only with most-favoured-nation treatment. It is true that it incorporates by reference certain provisions of Article 9 which are concerned with national treatment. When we came to discuss this matter in the Procedures Sub-Committee the point was made that it would be difficult for many countries to agree to a requirement of national treatment as regards governmental procurement of supplies which were not for re-sale, and an amendment was made in one sentence of Article 9 accordingly; a corresponding consequential amendment was made in Article 8 so as to produce correspondence. Then, when we came to deal with this matter in the State Trading Sub-Committee we felt we had to deal with it on the lines which we had already seen when we were considering the State Trading Sub-Committee's report just now, namely, paragraph 2 of Article 26 in paper T/22, which we have just read:

"The foregoing provisions of this Article relate to purchases by State enterprises for re-sale." In other words, the principle of equality of treatment of commercial considerations applies to purchases by State enterprises for re-sale. It goes on: "With respect to purchases by State enterprises for governmental use and not for re-sale members agree to accord to the commerce of other members fair and equitable treatment, having full regard to all the relevant circumstances," which is a rather looser phrase. I hope that this explanation will have made clear the position in which I conceive that matter has been left.

MR MORTON (Australia): Do I understand that by the words "national treatment" you mean "universality of treatment" and not just treatment on a national basis?

MR SHACKLE (UK): No, by national treatment I meant the same sense in which that term is commonly used either in commercial treaties or in - what shall I say? - works about commercial treaties, namely, that it means the same treatment for a foreign product as is accorded to a national product.

MR MORTON (Australia): I understood that to apply, in which case that sentence is correct.

THE CHAIRMAN: Is there any further comment on Article 9? I take it Article 9 is agreed? (Agreed).

MR HAWKINS (USA): Mr Chairman, this is more or less a point of procedure, but I had understood that the report of the Technical Sub-Committee was adopted as a working document and that the whole matter was to be referred to the Drafting Committee. I am wondering why now we are going into these Articles here. I should have thought that the appropriate disposition of the subject would have been to include the first two paragraphs only, leaving the whole matter for further consideration in the Drafting Committee. The discussion here, if that was the sense of the decision, was that anything done here tends to prejudice or limit the freedom of the Drafting Committee when considering this question.

MR RODRIGUES (Brazil): Mr Chairman, in the Technical Sub-Committee I had occasion to explain---

THE CHAIRMAN: The Delegate of the United States has raised a point which

is in effect a point of order, and I would like to dispose of that before we go any further.

The United States delegate has suggested that it was the decision of this Committee, when it considered the Technical Sub-Committee's report, that the report should be approved as a working document only and should be referred to be dealt with by the Drafting Committee in accordance with its terms of reference.

He has pointed out that by the inclusion in this report of any form of summary of the work of the Technical Sub-Committee there is a danger that some of the issues involved in these Articles on which there was difference of opinion expressed may be prejudged, and he suggests, in effect, that we should delete the whole of this report in so far as it refers to particular Articles and merely add, after the first two paragraphs of Part II, an explanation that the Committee considered therefore that the report should be approved as a working document and referred to the Drafting Committee for further examination. Would that be the effect of what you would suggest?

MR HAWKINS (USA): Yes. My idea was that you could stop with the first two paragraphs that they would really be self-sufficient, since they explain what the action had been.

MR SHACKLE (U.K.): Might I support that suggestion of Mr Hawkins?

THE CHAIRMAN: Are there any other comments?

MR KUNOSI (Czechoslovakia): Mr Chairman, I would very warmly support the American suggestion; I think it is quite right and the only really sensible thing to do at this stage of our work.

MR JOHNSON (New Zealand): Would it be necessary to mention the numbers of the Articles in question for the purpose of giving reference to them?

THE CHAIRMAN: They are covered in the first part of the report, where the Articles referred to this Technical Sub-Committee are listed. Speaking as Chairman of the Committee, I do feel that the suggestion Mr Hawkins has made is the correct one. I think there would be real danger in any attempt to summarise the work of the Committee, and that some injustice might be done to particular views or reservations made by individual delegations, and I would therefore suggest, for formal reasons, that it would be wise to adopt the suggestion of the United States delegate. Do the Committee agree with that view? The proposal is that Part II of the Report stop at the words "January 1947", deleting the words, "The substance of the discussions is given below" and all subsequent material embodied in the report.

MR SHACKLE (U.K.): Including the concluding remarks, I gather?

THE CHAIRMAN: I think we could delete that part, too. Since the concluding remarks also are in the working document, it does not seem necessary to include them here. I suggest that we delete the whole of the remainder. Is that agreed? (Agreed.)

The suggestion has been made that we ought perhaps to amend the first part of the Report, in paragraph 5, to add to the last sentence, "The Final Report of the

Sub-Committee was submitted to the main Committee and approved as a working document." Is that agreed? (Agreed.)

With those changes, then, I take it that this material for inclusion in the report of Committee II is approved. (Agreed.)

There remains only the consideration of the matter of "Relations with Non-Members". Here we have the benefit of a report prepared for the consideration of the Committee by Mr Shackle of the United Kingdom Delegation. Would you like to comment on this, Mr Shackle?

MR SHACKLE (U.K.): Well, Sir, I have tried to make this paper self-explanatory and really I think there is very little I would wish to add, but merely to invite questions upon it. It tentatively suggests a kind of conclusion, which is that we might put into the paper that comes out from Committee II alternative versions of the Article which is now numbered 31, but both, as it were, in square brackets, and entirely provisionally, for further consideration, one being Article 31 of the United States Draft Charter, the other being the revised version which is contained in the Annex on the last page of this paper.

THE CHAIRMAN: I think we might crystallise our consideration of this question if we turn to paragraph 5 of Mr Shackle's Memorandum, on page 6, where he summarises the possible lines of action open to the Committee; and I think if we could decide as to which of those three possibilities the Committee favours, it would be then relatively simple to decide the content of the Articles concerned. The possible lines of action open to the Committee are referred to by Mr Shackle in the following way: "(a) to omit from the draft convention any provisions on the question, leaving it entirely to the general conference; (b) to include a draft Article on the lines of Article 31 of the United States draft, with an indication that it is no more than a possible basis for discussion by the conference; (c) an alternative form of Article on the lines suggested in the Annex. Balancing the various considerations described above, the Committee may, perhaps, feel it advisable to include in the draft convention both the alternative forms of draft Article indicated at (b) and (c) above, with an explanation that these are submitted solely as possible bases for discussion by the conference."

MR HAWKINS (USA): I should be inclined to favour (b), not that I have any objection to the draft as presented - in fact, I think it is pretty good - but for this reason. We do not seem to be leaving the matter open for discussion at a later conference if we start drafting now, and I should think the best way to handle

this would be really to leave it open: to put the Article in the draft in brackets, with the comment that this subject is left for consideration by the World Conference.

MR KUNOSI (Czechoslovakia): Mr Chairman, in the general discussion of the Conference and in the general discussion of this Committee we made it quite clear that we considered this point of major importance, so much so that we feel that even the practicability of those Articles on which we agreed very much depended on this Article. Therefore I submit to you, Mr Chairman, that we should accept (a); and in so doing I would like to stress this point and insist on the omission from the draft convention of any provisions on the question, thus leaving it entirely to the general Conference to decide it, and making it quite clear that we are doing so in view of the great importance of this Article for the whole result of the Conference.

MR HAWKINS (USA): Mr Chairman, I think that the history of this question is such that to adopt alternative (a) and to put out a report in a draft that made no mention of this question would tend to prejudice the question. There was a provision in the draft Charter - Article 31 - which the United States put forward for consideration. Its complete omission would imply that there will be no such provision or no provision of any kind on this subject in the Charter. My sole point (and I do not think my view differs greatly from the view of the delegate of Czechoslovakia) is really to leave the question open. I think the omission of the Article - the omission of any text or reference to the subject - tends to prejudice the case in view of the fact that it was included in the draft that we submitted.

MR. MELANDER (Norway): Mr. Chairman, like the delegate for Czechoslovakia I would say that this problem with which we are now dealing is of major importance, and I may say that our view was and is that it would be very difficult to adopt anything like the originally suggested Charter Article 31. On the other hand, I appreciate the view put forward by the delegate of the United States, that it would be better to just leave the text as it was in the original Charter put forward by the United States and make a specific point commenting upon it, to the effect that this question has been left completely open and that it is open to further discussion at a later stage.

THE CHAIRMAN: You would support alternative (b)?

MR. MELANDER (Norway): Yes.

THE CHAIRMAN: Any further comment?

THE VICE-CHAIRMAN: May I ask, is it the intention to leave it until the World Conference?

THE CHAIRMAN: I do not think that is necessarily the decision. It is left at the present time. If the circumstances at the April Conference were such as to make its consideration easier it might be considered there, although it is rather hard to see how, in respect of having the necessary information to determine this question, we could be very much further advanced in April.

THE VICE-CHAIRMAN: I only ask this question for this reason: would we have to say in the Report that we have left it entirely open until we have had a World Conference, or do we say only that we have left it entirely open, or do we say that we have left it open for possible discussion at a later stage? There are three things to choose from.

MR. MELANDER (Norway): I would suggest that we put in the comment that we leave it open until a later stage - for discussion at a later stage - and then it is up to us to see how things develop, and we can consider all possibilities.

MR. LECUYER (France) (Interpretation): Mr. Chairman, I agree with the opinion of the Norwegian delegate that under the circumstances it is quite important to take no decision at the moment. I think the best solution might be one of making an annex to the text, this annex including Article 31 of the American draft. Therefore, the Committee would not take upon itself any decision concerning this Article, while bringing to the attention of the Conference that such an Article did exist and should be considered.

MR. SHACKLE (UK): On behalf of the United Kingdom delegation I should be prepared to accept the suggestion made by Mr. Hawkins, and as to what is said in our Report, I think we might very well say that the matter is left open for a later stage.

MR. KUNOSI (Czechoslovakia): Mr. Chairman, I am very sorry, but I feel that if we leave the text even in brackets it might still give the impression that the United States delegation is still behind this proposal, and I do not know if it is quite a fact. Secondly, it indicates anyhow a line of thought on this matter. Why not simply just give an indication that there is room for and that we intend to put there an Article on relations with non-Members, and leave it like that, with the addition that the problem will be studied and decided at a later stage or at the World Conference. I am rather reluctant to present this published document with this Article as it is proposed by the United States still intact in it, even if we put some kind of remark in relation to it.

THE CHAIRMAN: The suggestion of the delegate of Czechoslovakia would, as I understand it, mean that in the appendix there would be a heading, "Article so and so - Relations with Non-Members", and then a note that this question was left for further consideration at a later stage.

MR. KUNOSI (Czechoslovakia): Exactly.

THE CHAIRMAN: Without any draft, either the original American or any alternative.

MR. HARKINS (US): Mr. Chairman, I think we need to have enough in the Report to indicate the nature of the question. I would be willing to drop it from the text - not have it in the text - if the Report indicates a little more clearly what the problem is and the nature of the question, rather than simply saying "Relations with Non-Members".

THE CHAIRMAN: As I understood the proposition of the delegate of Czechoslovakia it concerned itself only with the Article. If we agree on that, or if we could make a decision on what is to be included in the appendix where the various draft Articles are placed, we could then turn to the question of what should be said in the Report. I think it is fairly clear we should want something rather more than that there.

MR. KUNOSI (Czechoslovakia): I agree with Mr. Harkins's suggestion that it should be clearly stated that the Article will be about.

THE CHAIRMAN: Could we agree then that in the appendix which includes the draft Articles the only reference to this would be the number of an Article and a heading, "Relations with Non-Members", with a note to the effect that this had been left for further consideration at a later stage? Is that agreeable? Then it will be necessary for us to decide what should be said in the draft Report itself, and here it would obviously be necessary to say rather more than that. Has Mr. Shackle got a suggested wording that might do for the Report?

MR. SHACKLE (UK): Perhaps the simplest plan would be to quote the original American draft Article in the Report, and simply say that consideration of the question which it raised was left over.

MR. KUNOSI (Czechoslovakia): Mr. Chairman, I feel I have to thank you and Mr. Harkins for the great understanding you have shown in seeing my difficulties.

THE CHAIRMAN: Will a Report in the terms suggested by Mr. Shackleton be acceptable? I take it that is agreed.

That disposes of the Report dealing with Relations with Non-Members, and I think we are very much indebted to Mr. Shackleton for his work on this matter.

MR. JOHNSEN (New Zealand): If I might raise a point of order at this stage in connection with the question of Subsidies and Stabilized Price Policies which we were discussing a short time ago, I just wanted to place on record that the New Zealand delegation had submitted a paper on that, the number of which is E/PC/T/C.II/23. I have only to assume that it was taken into consideration by the Committee which considered that subject, but I would like to call attention to it again, so that it could be taken into consideration by the Interim Drafting Committee. Thank you.

THE CHAIRMAN: I think it is desirable that in the formal part of the Report on these questions reference should be made to any documents which were before the Sub-Committee. I think that is the usual practice, and if reference was not made to the New Zealand document on this question, then I would suggest that the Secretariat be asked to include a reference to it and to any other documents, formally submitted documents, which were before the Sub-Committee. Will that meet your point?

MR. JOHNSEN (New Zealand): Yes, Mr. Chairman.

THE CHAIRMAN: Is there any further business?

MR. HAWKINS (US): There is one matter of business, fully as important as anything we have done because it is so closely related to it, and that is, to express the admiration and appreciation of the Committee for its Chairman. I think we are deeply indebted to him. (Applause).

MR. VIDELA (Chile): Mr. Chairman, I would like to say a word here and to pay a special tribute to your work, because the

Chilean delegation is, I may say, proud to have nominated you as our Chairman.

Also I should like to refer to the ladies accompanying us. I would like to pay a special tribute to the ladies who have, with their presence and their devoted and silent work, made our duty more agreeable. In other times ladies and gentlemen devoted their time, in looking for an escape, in the old and pleasant game of "Labyrinthine", which one can still play at the Hampton Court Palace. In our time we expend our days and nights in trying to find more and more "escape" clauses! And I must say that although this game is not so pleasant, we must be grateful for the company of the ladies.

THE CHAIRMAN: I should like to thank the delegates for the kind things which Mr. Hawkins said about me and which they accepted. I can only say that I have been happy to have been of service to the Committee, and to assure you that the task which I have had to do has been made easy by the very genuine assistance and co-operation I have had from all members, and, furthermore, by the very real desire which they have^{all} shown to work to a common end in the solution of the very difficult things with which we have had to deal. Thank you. (Applause).

I am sure all the delegations will join with the delegate of Chile in his thanks to the staff, male and female. (Applause).

The meeting is closed.

The meeting closed at 5.58.

MR HAWKINS (USA): Yes, subject to any limitations that there might be on the loan. That is a question we had up at the full Committee and there I suggested that there would be no violation on the part of the buying country if the loan was limited in its use to purchases from particular sources. Anything that comes in there is on the part of the lending country.

MR TUNG (China): If you omitted the words "or produces" what would be the effect on the whole of this Article?

MR JOHNSEN (New Zealand): I cannot see the relationship of the words "or produces" to the rest of the sentence.

MR TUNG (China): Yes; what we want to control are purchases and sales.

MR HAWKINS (USA): Yes; it might not affect it; but the purpose of it is to cover cases in which there is a monopoly of production which involves, or may involve, purchases from abroad, and in that case the obligation on the State producer is to avoid discrimination in its purchases abroad among foreign suppliers.

MR JOHNSEN (New Zealand): I think it would apply even with the words "or produces" out.

THE CHAIRMAN: It is difficult to imagine any case in which you would have a State-run industry which never bought anything from abroad. Take coal-mining: even there you are bound to buy your pit-props from abroad; and it is a little hard to see that the addition of these words "or produces" is really achieving anything.

MR JOHNSEN (New Zealand): If you look at it in relation to the second part of that sentence it makes it appear even less necessary.

MR TUNG (China): Yes.

THE CHAIRMAN: Yes; if a nationalized manufacturing enterprise does not buy anything abroad, then the Article simply remains inapplicable.

MR JOHNSEN (New Zealand): Yes.

MR TUNG (China): Yes; it is unnecessary.

MR HAWKINS (USA): The first part is descriptive of the kinds of State enterprises that you are talking about. The second part is the obligation on

those state enterprises as defined with respect to foreign purchases, if any.

MR TUNG (China): I think the best definition of a State enterprise is that given in paragraph 2, and I think that is enough.

MR HAWKINS (USA): The purpose of the second paragraph is not to cover the kind of activity; it is intended to cover the degree of governmental control. That is the purpose of that second paragraph.

MR TUNG (China): Yes. I think we should deal only with State-trading enterprises. The whole of the section is dealing with State trading.

MR HAWKINS (USA): Yes; but the point is that a State monopoly for the production of a particular product may - and is likely also - to be a trader to the extent that he buys from abroad. It is intended to cover that kind of case. It has nothing whatever to do with what the producing organization does in the field of production; it relates only to its foreign purchases.

MR TUNG (China): What I am afraid of is that activities in production would also be involved in this application of the principle of equitable commercial considerations; but as a matter of fact we want only to control purchases and sales, not production. We do not want to interfere with any production.

MR HAWKINS (USA): No, there is no intention here to do that. It is only to the extent that a producing agency buys abroad; that is the whole purpose of it.

THE CHAIRMAN: I must confess that I find it hard to see how these words really introduce anything fresh into the Article. It seems to me rather that if your state enterprise purchases or sells any product, then the Article will apply in any case; but if, on the other hand, it does not purchase or sell products then the Article will not apply; so that, on the face of it, I would be rather inclined to think that the suggestion of the Chinese delegate is correct, and that we could have a considerable simplification of the wording without losing any of the substance. I may of course be wrong in that.

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MR JOHNSEN (NEW ZEALAND): That would be my view also; and if you look at it in relation to Article 8 (and this is intended to bring State trading into line with Article 8) it refers only to importation and exportation.

THE CHAIRMAN: It is I think conceivable that you might have some kind of state enterprises which were not really even commercial but which might buy some things - I suppose missionary societies, for example - and in that case it is difficult to see, even so, that the issue is affected by these words.

MR HAWKINS (USA): I think there might be something in it from the point of view of drafting. As I understand it, there is no objection here to our requiring a state producing agency which does buy from abroad would give fair and equitable treatment among foreign suppliers. There is no objection I take it in substance; but it is a question of whether the words referred to are necessary. Off-hand, I am inclined to think that they are not and that you could drop them without much loss, because it is referring to any agency which imports, exports, and so on.

MR JOHNSEN (New Zealand): Yes. I think they could be dropped without destroying the sense at all.

THE CHAIRMAN: Without affecting the substance?

MR JOHNSEN (New Zealand): Yes.

THE CHAIRMAN: May we ask the Rapporteur to consider that point further?

MR HAWKINS (USA): I think, off-hand, that it would be all right to drop those words.

MR JOHNSEN (New Zealand): There is another question that arises and that is in relation to the second part of that sentence, "or any Member granting exclusive or special privileges, formally or in effect, to any enterprise," and so on, "shall accord to the commerce of each of the other Members treatment" and so forth. Now one can contemplate a Member granting an exclusive right to some private organization to import, in which case the Member could not really grant most-favoured-nation treatment.

MR HAWKINS (USA): Paragraph 2 is intended to cover that.

MR JOHNSEN (New Zealand): It would all depend---

MR HAWKINS (USA): --- on the degree of control

MR. JOHNSON (New Zealand): Looking at that in relation to the previous sentence, what is really intended I think is that the member granting such inclusive or special privileges shall arrange for most-favoured-nation treatment ~~of the~~ to be accorded in respect of imports, exports, etc.

MR. HAWKINS (United States): If the member has effective control. It is the member that has the obligation to use the control in such a way as to conform with the Article.

THE CHAIRMAN: I am not quite sure whether a difficulty arises from the change in wording which has been made here. Originally that sentence in the Article was in the passive and not in the active. I think as a result of that the fact that the member itself would not directly accord treatment which was in fact accorded by an enterprise which had been set up is, so to speak, covered. Is not that so? The original wording was: "If any Member establishes or maintains a state enterprise ..

... or if any Member grants exclusive or special privileges, formally or in effect, to any enterprise to import, export purchase, sell, distribute or produce any produce or service, the commerce of each of the other Members shall be accorded nondiscriminatory treatment, as compared with the treatment accorded to the commerce of any country other than that in which the enterprise is located, in respect of the purchase or sale by such enterprise of any produce or service."

From the drafting point of view I think that does get over the difficulty to which the New Zealand Delegate has just called attention.

MR. JOHNSON (New Zealand): That is right.

THE RAPPORTEUR: It is easy to put it back to the original while substituting for "nondiscriminatory treatment, as compared with the treatment", "treatment no less favourable than that."

MR. JOHNSON (New Zealand): I think that is right.

THE CHAIRMAN: Are there any other points on Article 26? If nobody has any further points on Article 26 we might now turn to Article 27 so far as it is dealt with in the portion of the Rapporteur's report which we

have before us. May I ask for any comments on Article 27.

MR. JOHNSON (New Zealand): Is there any suggestion at this stage of setting out a new draft of Article 27?

THE RAPPORTEUR: In that connection may I say that it was my understanding that the sub-committee had not proceeded sufficiently far with Article 27 to warrant an attempt to produce a new draft yet. The purpose of the observation set down in the report is to record points mentioned, questions raised and alterations agreed to in general, without attempting to go any further, because it was felt that the whole matter was subject to further discussion at this meeting.

THE CHAIRMAN: In that case perhaps the best plan might be to go through the numbered paragraphs on page four of the draft report which we have before us and take them one by one. Firstly,

"1) The Sub-Committee on Procedure is understood to have agreed that Article 27 should be amended by the addition of the words 'and preference' after the word 'tariffs' at the end of line 5."

Are there any further comments on that point? I think we have dealt with a point akin to it in the case of making exception under Article 26 to the equality of treatment rule from preferential margins in so far as they may remain after negotiation. Apart from that, has anybody any point on paragraph 1? Then follows:

"2) It was agreed that a modification of Article 27 would be made to allow for restrictions of imports which are connected with price control or rationing, whereby the satisfaction of full domestic demand would be precluded."

Are there any further comments to make upon that?

MR. JOHNSON (New Zealand): It is a matter of drafting something there.

THE RAPPORTEUR: It is a matter of drafting. We have not yet decided just how to put it.

THE CHAIRMAN: "3) It was agreed that there should be appropriate cross-references to other pertinent portions of the Charter."

I think we have already discussed that on Article 26.

"4) It was agreed to insert the words 'upon request' in line 4 of sentence 1, following the word 'member.'"

MR. JOHNSEND (New Zealand): I think there we suggested we should add a little more than that -- "upon request of any member having an interest in trading in the produce concerned." I think you want to indicate what type of member should have the right of making a request.

MR. HAWKINS (United States): It should be parallel language to Article 18.

MR. JOHNSON (New Zealand): I think that would be as well.

MR. HAWKINS (United States): You would put exactly the same language in.

THE CHAIRMAN: "5) It was agreed that 'landed price' should be substituted for 'price at which a product is offered for sale' in (a) of this Article."

I think that is a question which is closed, at any rate at this stage.

"6) A question has been raised of including profit as a factor to be considered in connection with the negotiation of the margin. This is subject to further discussion."

I had the impression that as a matter of principle it was agreed that profit was a reasonable element to include. There was the question how, if you said "reasonable profit" the reasonableness would be determined, whether it would be a matter for the I.T.O. to settle or whether it should be a matter for negotiation - or whether, indeed, it might not be both. You might have negotiation about it, or, alternatively, you might have reference to the I.T.C. in some case in which it was considered that a monopoly was charging an unreasonable profit. Apart from that I thought we had agreed (had not we?) that reasonable profit was a reasonable thing to include.

MR. HAWKINS (United States): I think the only question was how to handle it. I think that is agreed to. My own view was that is the sort of thing which inevitably would come up in the negotiating process when you are trying to determine that margin.

MR. JOHNSEN (New Zealand): At this stage it was purely a matter of indicating to the Organization what factor should be included when considering the margin.

THE RAPporteur: I did not attempt to elaborate that because of the rather extensive discussion which took place regarding it, and because there was some difference on the phraseology as it now is in the draft - whether after "due allowance" you insert words to make it read "due allowance for profit", or whether you want to take into consideration the profit and other factors involved. "Due allowance" would imply - to me at least - that you would say so much for profit, so much for tax, and so much for this, that and the other thing; whereas consideration would involve looking at this as a factor. I felt it was not quite clear from the discussion how that ought to be left.

THE CHAIRMAN: It is rather a question of how the negotiations on a margin would go. It might go in one of two ways. You might be discussing something which corresponded to a protective tariff or an overall margin, which would include all the different elements of distributive costs. If you were negotiating on the second point you would have to set down, I take it, certain figures or percentages which might be regarded to cover the distributive costs and it would, so to speak, be agreed in the negotiations whether those figures were to be regarded as reasonable or not. I should have thought myself that as a practical matter that would be very difficult, and that a negotiation which covered that element which corresponds to tariffs is about as much as one could contemplate as a practical matter. I may be wrong about that. If it was a question of negotiating a reasonable profit does it follow that a reasonable profit at one time would be reasonable at another? The cost of borrowing money, rates of interest and so on vary from time to time, and for that reason it may be that what would be a reasonable rate of profit for state enterprise to make at one time would not be reasonable at another. It is a little difficult to contemplate a negotiation which, as it were, freezes the rate of profit.

MR. JOHNSON (New Zealand): You would really negotiate about the margin over total cost and the total cost would include all factors - including duty distribution of charges, or any other factor.

THE CHAIRMAN: In that you have to bring up, not exactly what your trading account is but something like it to satisfy the other parties as to what is a reasonable distributive cost and so on. It is asking rather much, is not it?

MR. JOHNSON (New Zealand): If you are going to get down to facts it is the only basis on which you could determine it.

THE CHAIRMAN: Suppose you have it laid down in principle that your margins are to cover - so far as they are not corresponding to protective tariffs - the actual cost and a reasonable profit, if there is some recourse on what is reasonable you do not need to go into all these factors in the negotiations. You could confine yourself to negotiating something which corresponds to a customs tariff rate. Is that not so?

MR. JOHNSON (New Zealand): I do not think we could introduce customs tariffs into this at all. After all, that is a fixed factor.

THE CHAIRMAN: But that is bound to be one of the elements of negotiation, is not it?

MR. JOHNSON (New Zealand): I understand this Article to cover the situation after these tariff negotiations are completed. This relates purely to the procedure under which a state trading monopoly operates in importing and selling goods. The object is to ensure that the state trading monopoly - which for some reason or other might not wish to negotiate the importation of goods, in the minds of other interested members - should not so increase the price of the commodity that it restricts the quantity that might be sold or imported. Is not that the case, Mr. Hawkins? I understood that was the essence of this particular Article. If that is not the case I cannot see much use for it.

THE CHAIRMAN: I think that was our conception. We had felt that some of the elements in this margin would not be determined by negotiation. They

would be rather on the basis of matters of fact, in a sense, on which there could be an appeal to the I.T.O. You would say distributive costs are to be covered and it would follow there that they must be real costs - and, if necessary, must be justified to the Organization as representing real costs. I agree that the profit margin does rather complicate the question what is a reasonable profit margin. There again I think our feeling was that that might be determined by recourse to the Organization, and if it was felt in a particular case that the profit being charged was unreasonable you would then be left to negotiate just what corresponds to a tariff. It does not follow it would be merely and actually a tariff which you would negotiate in any given case because it is conceivable that a state trading organization might not pay duty. It is rather a question of bookkeeping and procedure, as it were, whether it actually pays something which is called a customs duty. You want to make sure that whatever corresponds to customs duty shall be negotiable.

MR. JOHNSEN (New Zealand): The position as I understood it was that it would be any margin over the total cost, inclusive of all factors.

THE CHAIRMAN: I agree that the way in which it is worded here does seem to imply you negotiate for the total margin and the negotiating parties review the elements of distributive costs. However, I am wondering whether that is not very difficult as a practical matter of procedure, and whether you have not got to cover some of this by general principles such as saying that the costs must be real costs - must not exceed the real costs. That would simplify the negotiations a great deal. As regards the profit margin, it does seem to me a little difficult to try to freeze that for a long period. What is reasonable at one time may not be reasonable at another.

MR. JOHNSEN (New Zealand): I suggest the easiest way to cover the situation is to provide merely for the margin over total cost.

THE CHAIRMAN: In that case you would bring in the reasonable element of profit.

MR. JOHNSEN (New Zealand): That is included in the margin over total cost.

THE CHAIRMAN: Yes, and you include the profit in the total cost.

MR. JOHNSEN (New Zealand): No, the profit would be in the margin. It would not be included in the total cost.

MR. HAWKINS (United States): That would mean a separate negotiation.

MR. JOHNSEN (New Zealand): That is if any member was so disposed as to want to have a look at it.

MR. HAWKINS (United States): That was my conception, because profit is a variable thing, as Mr. Shackle pointed out.

THE CHAIRMAN: Really as regards reasonable profit you would have, as it were, two recourses. First of all you could negotiate it; and secondly, if you did not negotiate it you could, if you wished, appeal to the Organization.

MR. JOHNSEN (New Zealand): You said "landed costs" previously. I think, "may exceed the total cost of the product."

THE CHAIRMAN: Are we agreed upon the general idea underlying that, that the distributive costs element and the other costs element should not themselves be subject to the negotiation? That what is subject to negotiation is what corresponds to tariff plus possibly the reasonable profit. If we agree that is the right way to have it I think it will mean some change in the drafting of this sentence.

MR. JOHNSEN (New Zealand): I think so, but I suggest we omit all reference to tariffs, otherwise you just complicate the issue.

I should think that most governments would not be in a position to negotiate on the tariff after they had made trade agreements.

THE CHAIRMAN: No, except that in a particular case, of course, you may have a state trading organisation already operating and not paying duties at the time when you negotiate. If that is the situation you then have to negotiate something which corresponds to the tariff which would have been charged under private trade. Is not that so?

MR JOHNSON (New Zealand): Yes. There again I think that factor would be taken into consideration in arriving at the total cost.

THE CHAIRMAN: There is one point about "reasonable profit". I think I must rather reserve for the purchasing departments of the United Kingdom their position, as I do not know their views on the question of negotiating on the rate of profit. I think it is possible they may see difficulties. They might tend to say it should be a matter which could be taken to the I.T.O. but that it was not a proper subject of negotiation. I do not know that they will say it, but it is possible that they may, and to that extent I would like to hold the position open and not be taken as committing them.

MR TUNG (China): Suppose a state enterprise puts out a certain amount of funds each year to ensure against possible loss which it might incur in the following years, would you call that a cost or could you include that in the profit? I think that should be considered as cost.

THE CHAIRMAN: It should certainly come in one or other of these two heads, should it not?

MR TUNG (China): It is quite possible for a state enterprise to lose money, and it often is the case. If they put it aside as a kind of insurance against future losses it should be counted as cost and not be brought into negotiation. What is your view on that, Mr Hawkins?

MR HAWKINS (U.S.A.): I think you need to examine the point rather carefully, otherwise it would be possible for prices to be fixed so high as to build up a huge reserve beyond any possibility of being absorbed by future losses. But, on the principle as you have stated it, a charge to take account of future losses, I should think that could properly be regarded as a cost. That is literally what it is. It is not profits in the sense that shareholders would get a profit. It is merely to prevent a deficit. I think from an

accounting point of view you could regard that as a proper element of cost, because there is always a danger, as you can see, of building up a reserve which is much larger than is necessary for the purpose and ultimately declaring an extra dividend - the sort of thing that some private corporations have been known to do. We are not, of course, talking about that; we are talking about a reserve genuinely for the purpose of preventing a deficit in future years.

MR JOHNSEN (New Zealand): Would not that be a case of providing in the margin or making some provision in it to cover contingencies? It is really not a cost; I think it would have to be regarded as included in the margin between cost and selling price.

THE CHAIRMAN: If we are trying to work all the way through this on the analogy of what a private enterprise would do, does it not fall within the profit rather than the cost? One assumes the profit which a private trading concern makes is sufficient to cover possible losses - at least, it is out of its profits that ultimately the possible losses have got to be recouped. Is not that so? So that notionally it should be rather out of the profits than the cost, should it not?

MR JOHNSEN (New Zealand): What normally represents the cost is the margin between the two.

MR HAWKINS (USA): The purpose is to ensure this "reasonable profit" over a period of years. I think that is right.

MR JOHNSEN (New Zealand): That would be a matter the subject of discussion with any member particularly interested and who wanted to raise it.

THE CHAIRMAN: Yes; perhaps we can leave it there for the moment.

MR TUNG (China): Shall we discuss it again?

THE CHAIRMAN: I think we shall probably need some re-drafting of this passage, shall we not, if we really accept the idea that the cost elements are not to be actually within the negotiation but are to be governed by a general principle such as that they must correspond to real costs. I am not sure whether we have agreed to that or not, but I have the feeling that if we do not it is going to be a very complicated negotiation. I would like to ask for further views on that point. Do we contemplate that the figures to be inserted in the margin for distributive costs are to be negotiated about?

MR JOHNSEN (New Zealand): I do not think they are subject to negotiation; I think they would come under review should any member raise a question regarding the margin, which is taken as profit over and above actual cost. If he had any information which suggested that too much allowance was being made for distribution of costs or anything like that he would be entitled to raise it.

THE CHAIRMAN: I have a feeling that the way in which the sentence is now worded, to the effect that a member "shall enter into negotiations" with regard to "the maximum margin by which the price for an imported product exceeds the landed price, after due allowance in either case for internal taxes and for transportation, distribution and other expenses", implies that the actual figures to be put in for the internal taxes and transportation and other expenses would all come into negotiation. I may be wrong about that, though. I should have thought it rather desirable to have something there which made it clear that they are not in the negotiation, and if they are not in, perhaps one may have to say something more to the effect that distribution and other expenses shall be the actual expenses. Shall we just ask the Rapporteur if he would consider that point further?

MR JOHNSEN (New Zealand): I would suggest that the position is covered if you say "by which the price of an imported product charged by the monopoly in the home market may exceed the total cost thereof to the monopoly after due allowance is made for internal taxes" or these other items mentioned here; and you could if you wanted to make some provision for a "reasonable margin of profit". Personally, I am inclined to think it is not necessary, because that is covered in the margin between total cost and selling price. You could make a reference to duty when you were enumerating the other cost factors if you wished to do so. I think that could be spelt out pretty clearly there without much trouble. Perhaps if we get together with the Rapporteur, as in the case of Article 26, we might be able to arrive at something.

THE CHAIRMAN: Perhaps we may leave it in that position. Now, that has taken in paragraph 6, and that brings us to paragraph 7. I think there is a typing

error in the second line, where "working average" should read "moving average". I do not think there is anything more to say on that, is there? It does not affect the text of what we write in here in any case - the text of the Article. Paragraph 8. Is there any further point to discuss on that?

MR TUNG (China): What do we mean by supplies being available? I would like some further explanation there.

THE CHAIRMAN: I think all this rather turns on what is written into the other provisions of the charter. One might assume possibly that there would be provisions elsewhere in the charter sufficient to cover cases, shall we say, of exceptional shortage of supplies which made it impossible for you to export or at least to meet the full external demand. It is a problem which would arise on quantitative restrictions and export restrictions as well as on state trading; so the question perhaps rather is whether we should leave it to be discussed on the Articles on particularly quantitative restrictions or whether we should attempt to cover it separately here.

MR. HAWKINS (US.): I understood the reason for including it was the point made by someone here that you could not make the obligation to supply the full domestic demand absolute, because it might be impossible. Therefore, this phrase was suggested simply to recognise that point in principle. That is about all that is needed. You hardly need to spell it out in detail as long as that obligation to supply the full demand is qualified in that respect. I would be willing to accept that as it is.

THE CHAIRMAN: We would insert the words "supplies being available." We have an alternative to that in sentence (3).

MR. HAWKINS: It is a question of rendering the idea.

MR. JOHNSON: As far as practicable. There might be other reasons. It might not be purely a question of availability. I think the second alternative is preferable.

MR. HAWKINS: That is agreed.

MR. JOHNSON (New Zealand): If I may revert to paragraph 7, the phrase suggested there would require a little modification now. It talks about account being taken of average prices. "Average margins" would probably require to be substituted there.

THE CHAIRMAN: I think what I had in mind in suggesting the moving average was this, that you would have really two averages. You would have the average of landed price of a product as coming from a particular source. You would have the average of the firsthand selling price in the home market, and you would compare those two average figures in order to verify whether the margin negotiated was being observed. That at least was my conception of how it would work.

MR. JOHNSON (New Zealand): You would have to take those factors into consideration in order to arrive at the margins that existed in respect of previous transactions. I think it is the margins you are actually making a comparison of.

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THE CHAIRMAN: The margin where it is negotiated becomes the fixed thing, as an ad valorem percentage or as an actual money amount. I am not sure how averages would apply to the margin itself.

MR. JOHNSON (New Zealand): This is something that would have to be settled in the light of experience really. The position, as I see it, is that if any member wishes to raise the question regarding the margin being taken by a state trading monopoly, it would be considered in relation to the margins that had been taken in respect of previous transactions over a period.

THE CHAIRMAN: That is particularly of such things as distributive costs, you mean?

MR. JOHNSON (New Zealand): The only way in which I could see that they could proceed would be to ask the state trading monopoly to produce some information as to the margins of profit, if you like to call it profit, that had been taken in respect of previous transactions.

THE CHAIRMAN: That does raise again the question of just what one means by the word "margin". As we have used it so far, we have tended to think of it as just the equivalent of what corresponds to the customs duty, the import duty element.

MR. JOHNSON (New Zealand): I had not visualised that at all. I had visualised it as representing the margin between total costs after allowing for all factors, including duty and the selling price. The others are variable factors - distribution costs, for example.

THE CHAIRMAN: That brings us back to what it is one negotiates about, whether about the distributive costs and the rest of it, or whether one confines oneself either to what corresponds to the duty or to what corresponds to the duty and the reasonable profit. If you assumed that the distributive costs, the taxes and so on are not negotiated about, but are covered by some sort of general formula, it then follows that you are left to negotiate about only what corresponds to duty, and possibly the reasonable profit.

MR. JOHNSON (New Zealand): There is always the right to negotiate regarding a tariff at any stage any country might raise that issue. If the other country is prepared to negotiate on the tariff, well and good. The position, as I understand it, is that this particular article is intended to cover the margin between the total cost and the selling price so as to ensure that that should not be too great, or so great as to restrict trade unduly.

MR. HAWKINS (USA): The idea was that the margin should be in state trading enterprises equivalent to what the tariff was when the trade was handled by private traders.

MR. JOHNSON (New Zealand): In most cases, if the goods are for sale, the state trading monopoly pay the same duty as any trade organisation.

MR. HAWKINS (USA): In that case you would negotiate on the duty and the margin would have to be much smaller than it would otherwise be.

MR. JOHNSON (New Zealand): Would the duty be negotiable at that stage in respect of individual transactions? You cannot alter the tariff to fit in with any particular transaction, unless you cover it by a trade agreement. After all, a country might create a monopoly for one year, or even for less than a year, and then go back to state trading or work the two in conjunction at some stage, in which case this article would not apply at all.

THE CHAIRMAN: I think there are perhaps one or two points one has to bear in mind. One is that it is not necessarily to be assumed always that a state purchasing body will pay duty. In some countries it well may not. In that case you have to provide something which takes the place of the tariff that would have been paid had their been private trading. You may not actually in some cases get the tariff paid by the state purchasing enterprise on importations. It may be, as it were, collected through its accounts.

MR. JOHNSON (New Zealand): In other words, it would have to make provision in its selling price to recoup itself for the duty.

which would otherwise be obtained, and in that case you would get back to the fundamental issue, and that is the amount to be charged over and above the total cost.

THE CHAIRMAN: Is it not still a question of dissecting the margin so that some elements in it need not be negotiated about while others need? If one wants to have practical negotiation, it is desirable to simplify it as far as one can, and if there are certain elements which are generally recognised so that it is not necessary to negotiate about them, you greatly simplify the procedure if you exclude them, and that possibly might lead you to exclude the element of distributive costs.

MR. JOHNSON (New Zealand): Personally, in practice I cannot see the question of costs of distribution entering into it as a factor.

THE CHAIRMAN: But one has to cover it in that case by some general principle which says that shall correspond to real costs and not be fancy figures.

MR. JOHNSON (New Zealand): Would not that be a reflection on a state monopoly to suggest that it shall represent the actual?

THE CHAIRMAN: It does in that case come down to a sort of residual part of the margin which you negotiate about. One of those residual parts could be the tariff, and the other might perhaps be the profit, but all the other elements one would have thought it was unnecessary to negotiate about.

MR. JOHNSON (New Zealand): My own opinion is that there is only one factor that could be considered, if the purpose of this article is to be achieved, and that is the margin between total costs, including all the elements that go to make up the total cost. We should spell those out as representing duty, distribution charges, internal taxation or anything else, and the selling price.

THE CHAIRMAN: I do not think that really there is any difference of substance here. I think everybody is really agreed.

MR. HAWKINS: Yes.

THE CHAIRMAN: We have discussed paragraph 8, so that that brings us to the end of the Rapporteur's report. Are there any other points we can usefully discuss before we have the next instalment? We have already covered a number of general points. The last time we discussed satisfaction of demand.

THE RAPPORTEUR (Mr. Armstrong): I might say that in addition to the comments of the Czechoslovak Delegation, we have just received this morning Mr. Tung's observations on Articles 26 and 27, and it will probably be necessary to work in the Czechoslovak and Chinese statements with regard to these matters.

THE CHAIRMAN: Will that involve going back to Article 26 and re-discussing the text of it.

THE RAPPORTEUR (Mr. Armstrong): I do not know that it will involve much discussion. It is primarily a matter of interpretation. A general viewpoint, is it not?

MR. TUNG (China): Yes.

THE CHAIRMAN: There is one matter raised by the Czechoslovak Delegate at the last meeting. I dare say it is covered in his observations to which the Rapporteur has referred. It had to do with the exclusively commercial state trading enterprises. I took him to mean such purely trading monopolies, and he wished to exclude monopolies whose function was, say, that of collecting internal revenue, and so on. I do not think we can profitably pursue that further in the absence of the Czechoslovak Delegate. Perhaps it may come up next time.

THE RAPPORTEUR (Mr. Armstrong): I think we could possibly reformulate and state in the report the points of substance which are raised with regard to Articles 26 and 27.

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MR. SOBOL (Czechoslovakia): I should be glad if this matter could be discussed in the presence of Mr. Augenthaler.

THE CHAIRMAN: I think this brings us to the end of what we can discuss now.

MR. JOHNSON (New Zealand): Shall we be able to have copies of the statements submitted by the Chinese Delegate and the Czechoslovak Delegates?

THE RAPPORTEUR (Mr. Armstrong): Yes.

THE CHAIRMAN: As regards the time of our next meeting, I think we must leave that to the Secretariat to arrange, because there is such a press of business before the Conference that it is a little difficult to fit in the meetings.

(The meeting rose at 12.58 p.m.)

End.

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