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

VERBATIM REPORT.

TWENTY-EIGHTH MEETING OF COMMISSION A.

HELD ON TUESDAY, 8TH JULY, 1947, AT 2.30 P.M. IN THE

PALAIS DES NATIONS, GENEVA.

MR. MAX SUETENS

(Chairman)

(BELGIUM)

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CHAIRMAN: (Interpretation): The Meeting is called to order.

We shall resume the discussion of Article 26, and I invite Delegates, if they wish to do so, to express their views on Paragraph 1 of Article 26.

If nobody wishes to speak, we will pass on to Paragraph 2. This paragraph contains several sub-paragraphs. With regard to sub-paragraph (a), there is an amendment tabled by the Australian Delegation.

Does the Australian Delegate wish to speak?

Mr. J.G. PHILLIPS (Australia): I do not think it is necessary, Mr. Chairman, to say more than a few words. This was connected with the amendment of ours which I presented yesterday, and I was going to make^{it} quite clear that the possibility of alternative methods of dealing with the balance of payments position would not prevent the imposition of quantitative restrictions under this Article. It is connected with paragraph 1.

CHAIRMAN (Interpretation): Are there any other observations on sub-paragraph (a) of paragraph 2?

M. BARADUC (France) (Interpretation): Our Delegation has also tabled amendments to sub-paragraph (a) of paragraph 2, but I have nothing to add to the observations presented by me yesterday in connection with Article 26 in general.

CHAIRMAN (Interpretation): In the circumstances, we can pass on to the French amendment, which is related to sub-paragraph (b) of paragraph 2 of Article 26. (Remarks to French Delegate not interpreted).

Then we pass on to sub-paragraph (c) of paragraph 2 of Article 26. We have several amendments here. The first amendment is that of the Chinese Delegation, which proposes the deletion of sub-paragraph (c).

Mr. C.Y. HSIEH (China): Mr. Chairman, with regard to Article 26, paragraph 2, sub-paragraph (c), we find it difficult to adhere to the original version on two main grounds: first of all, in principle, and secondly, on technical and administrative grounds.

Now, to take up the first objection that we have: that is, that the original version is not sound in principle. Let us look at what the sub-paragraph intends to do. Well, as it stands it

seeks to enjoin the Member country, if and when it imposes quantitative restrictions on certain classes of commodities, not to push them to the extent of total exclusion or prohibition.

In our view, this injunction tends to defeat the very purpose which the restrictive scheme is intended to serve. Why? Well, we know that the purpose is to safeguard or restore balance-of-payments, and how can this be achieved?—because we must leave it to the Member country contemplating such measures to have full discretion.

As the Delegate of the United States pointed out yesterday, we are facing a situation of disequilibrium or economic malady which it would be to the interest of all Member countries to make a temporary phenomenon and not to allow it to develop into a chronic disease. That being the case, I think it would be only logical to allow the Member country a large measure of discretion, to see whether simply decreased importation or total ban or prohibition would be adequate under the circumstances. I think it would be dangerous to stop at half-measures in that case.

If we pass on to paragraph 4 of this Article, we find that the Charter takes account of the need to leave discretion in the hands of the Member. I am aware that there is a certain amount of uncertainty as to the precise implication of this Article; but taking it as it is, it is difficult to avoid the implication that with limited, or even precariously limited, exchange resources at the disposal of the Member country, total prohibition of certain commodities cannot be avoided if the purpose of the restrictions is to be achieved and achieved quickly. I think the case is especially clear in the matter of luxuries, — things like perfumes or fineries like silk stockings. Heaven knows that the Member country contemplating restrictive measures under those circumstances has difficulties enough, from the consumers,

without having to cope with interference on the part of the Organization; and so I think, taking all these considerations into account, that we have to face the problem as to whether we intend to rectify a serious situation or threat of disequilibrium in the matter of balance-of-payments, or to allow this situation to develop into a chronic disease.

That is on the grounds of principle.

Now I come to the matter of technical or administrative difficulties. Here it is largely an objection to the phrase "class of goods" used in the paragraph.

I do not think we have any generally accepted scope for this phrase and the Charter does not seem to throw any further light on the matter, so it is difficult to draw a line or to draw an exact definition of this phrase. We are aware that a substitute formula has been put forward in the Amendment of the United Kingdom that takes the form of a description of goods in minimum commercial quantities; but we are not at all sure that this substitute formula would enable us to get over the difficulties I have pointed out.

Now if we accept this condition it would surely impose an added burden and many difficulties in the matter of administration. Now if these difficulties and added burdens can be said to advance the purpose for which this Article was framed, well and good. Unfortunately they do not; they tend, on the contrary, to defeat the purpose for which the restrictive scheme we had in view is intended.

Thank you very much, Mr. Chairman.

CHAIRMAN: (Interpretation): We have a second Amendment tabled by the United Kingdom Delegation.

Mr. HELMORE (United Kingdom): I am glad of an opportunity in the Commission to discuss the general subject raised by this sub-paragraph, since I think it would be fair to say that as there were a few accidents to our programme in London, very little attention was paid to it and it appeared in the London Draft without there being an opportunity to hear the views of the

Members of the Preparatory Committee on the principle involved. If, therefore, I take a few minutes to talk about the principle, I think I may be excused.

This sub-paragraph, Mr. Chairman, however it is drafted, is intended to write into the Charter a principle which the United Kingdom likes to think it invented as an effort to do away with some of the worst incidental effects of payments restrictions, and we have been applying such a principle now in many cases for over a year. The restrictions on balance of payments grounds contemplated in this Article of the Charter are, as the Article says, to defend Members' monetary reserves and balance of payments against excessive pressure, and they are not for protective purposes. None the less, it is quite clear that if a restriction of a quantitative nature on imports is imposed, there is an incidental protective effect, and the degree of that protection varies according to the severity of the restriction on the particular class of goods concerned.

Obviously, if the restriction only limits countries to 100 per cent of a previous period, or 75 per cent, the protective effect is not very bad, but if, as very often happens, a particular class of goods is selected for complete exclusion, the protective effect is infinitely higher. That, it seems to us, is a danger which should be guarded against, not merely in the interests of the country which may have been supplying the goods but in the interests of the country which is imposing the restriction. It cannot be good for any manufacturing industry to be completely isolated from all outside competition. To take a simple example: we firmly hold that for a United Kingdom manufacturer of fountain pens to have the whole of the United Kingdom market reserved for him without the United Kingdom consumer having the chance of seeing in the shops, shall I say, the fountain pens of the United States - so that there is some incentive for him to improve his efficiency and improve his design - is a very bad thing and does, one might almost say, more harm to the country imposing the restriction than the country which suffers the restriction. Therefore we say that complete exclusion is wrong in principle.

On the other hand, as the Chinese Delegate has reminded us, there are some serious difficulties in applying such restrictions, difficulties of a policy nature - I will come to the administrative ones later - and one might perhaps summarize them like this: it seems illogical to say that when one has so little foreign exchange that even imports of essentials have to be limited, it is wrong to spend foreign exchange on things that are less essential, and that by so doing one casts doubt on the seriousness of the attempt the country concerned is making to put its balance of payments right. Of course, as one goes on, from the less essential to the luxury type of goods, the objection becomes

stronger and one which it is easier and easier to put in a political atmosphere.

There is a further argument against this which we in the United Kingdom hear very often, that is, that when we are forcing our own manufacturers to export a far higher proportion of their goods than is normal, or than they wish, it is particularly galling for them to see additional quantities of foreign goods taking the home market, or that part of the home market which they have always had and would always wish to retain.

Some of those objections, Mr. Chairman, we have tried to answer in our amendment, in particular by introducing the proviso, where we say that during a transitional period, to be determined, Members should not be required to admit minimum commercial quantities of a description of goods in respect of which domestic production to meet domestic demand is, for the time being, severely restricted. If I might apply that to the particular case of perfume, mentioned by the Chinese Delegate - I hope he will forgive me for appearing to comment on Chinese internal policy, but it is difficult to explain this without taking an example - I think it would work in this way: if the Chinese balance of payments is in a bad state and if they therefore decide that they do not wish to spend any of their foreign resources on imports of perfume, then the economies of the argument require that likewise they should not spend their internal resources on perfumes and if they are manufacturing any perfume they should be endeavouring to use it to put right their external balance of payments by exporting it, and, in order to do that, they would have to restrict severely the production to meet domestic demand, in which case the proviso would operate and the reservation would not apply to this particular kind of luxury.

I have described this, Mr. Chairman, at some length from the point of view of both the country applying the restriction -- because I think it is important to make it clear that we recognize this is a difficult thing to do but, none-the-less, we think it is well worth while from the point of view of the country which is actually applying it - and the country suffering the restriction.

Now if I could turn to the position of the exporting country, there is nothing that is so damaging to international trade as the complete cutting off of connections. We have had in two world wars one of the largest-scale examples of that which we could possibly want, the actual physical and commercial difficulty of re-establishing contacts once they have been broken and the consequences which that has in slowing down the resumption of trade are much greater than is generally realised. The object, therefore, from the point of view of the exporting country, is to keep open, as we say, the channels of trade, to make it just worth while for the exporter to keep his sales organization together in the overseas market. That is why we have chosen the phrase "minimum commercial quantities.". That phrase is open to a wide interpretation, but it is a matter of common sense on which Members in good faith ought not to disagree very seriously.

The other objection to this general principle which has been raised is, I think, one to which we have to pay attention, and that is the administrative difficulty. It is undoubtedly true that to administer import licences for minimum commercial quantities takes more staff than to administer import licences when you have made up your mind beforehand that you are going to say "No" to every application. That does not take a highly intelligent staff, nor very many, and I take it that it is for that kind of reason that the Australian and Indian Delegates have put down the amendments which immediately follow ours on the paper.

I do not think, Mr. Chairman, that we would be very well disposed towards this amendment, if that is their intention, because I know quite well what would happen. Countries which are not already doing this would say: "We simply cannot get the extra staff together to do this, so it isn't reasonably practicable for us to do it", that means it is not at all possible, and therefore countries which are already working such a system would be left in the position where they were operating total import schemes, as we call it, while other countries would not. Now, that is not a position which it would be possible for us to maintain. The objections which I have mentioned and which are seriously put forward by the United Kingdom would become, I am quite certain, overwhelming, unless the principle would generally be carried out by all Members of the Organization. Therefore, I apologise to my Indian and Australian colleagues for opposing their amendments before I have heard what they have to say about them, but, if that is the intention in those amendments, ^{and} I feel pretty certain that could be the interpretation of them, then I would say that we would oppose them rather strongly. In other words, Mr. Chairman, we feel that, by our amendment, we have gone as far as possible to meet the legitimate objections to the so-called total import policy. We firmly believe that it is everybody's advantage that this principle should be generally followed on the lines that we suggest, but we certainly could not follow it unless everybody else were going to.

CHAIRMAN (Interpretation): Gentlemen, we have before us the two following amendments, one presented by the Delegate for Australia, the other by the Delegate for India. Both are aimed at alleviating the intent of this paragraph by adding the words "as far as possible". I will ask both Delegates whether they have anything to add to the amendments.

MR. J.G. PHILLIPS (Australia): Mr. Chairman, as you say, the prime reason for our amendment was to alleviate the rigidity of the existing text. We felt that it is too rigid to be applied successfully as it stands. We did not have in mind to oppose the whole principle of the thing. On that point, we quite appreciate the force of the argument put by the Delegate of the United Kingdom. We also appreciate the difficulties which the Chinese Delegate referred to.

I think there are still a number of points which are not clear and which are not covered absolutely in the United Kingdom amendment. There is the question of importation of goods where no importation has taken place before, where there are no established channels of trade. I am not sure whether it is intended to require imports of such goods in minimum quantities. It does seem to me that at least the same arguments apply there.

The second point is, just what meaning does one give to the words "any description of goods", about which I am not clear myself? However, I do not suggest that our amendment is any clearer on that point, but taking the example which the United Kingdom Delegate used, if you allow the import of fountain pens, does that mean you must allow the import of every brand of fountain pens? How far do you take those words "any description of goods"?

I think that is all I have got to say, except that we do not oppose the principle of ~~resolving~~ imports, but we feel the

actual wording of the clause should be carefully examined by the sub-committee.

CHAIRMAN (Interpretation): The Delegate of India.

MR. B.N. ADAKAR (India): Mr. Chairman, the Indian Delegation accepts the principle underlying this sub-paragraph, and have therefore not suggested the complete deletion of it. It has never been our intention that quantitative restrictions imposed for balance-of-payments reasons should be utilised for protective purposes.

At the same time, we feel that if such restrictions are to be administered, with due regard to the relative essentiality of imports, the Governments concerned should be allowed some measure of freedom and some discretion in administering these restrictions.

We do not think that the proviso suggested by the United Kingdom Delegation would cover our point completely. It would be necessary, even if that proviso were adopted, to insert some such words as "as far as possible" because relative essentiality of goods has a different meaning when foreign exchange which is scarce has to be used to obtain the goods, than when no expenditure of foreign exchange is involved.

We would therefore suggest that we should liberalise the provision to some extent by inserting the words "as far as possible" even if the proviso suggested by the United Kingdom is adopted.

CHAIRMAN (Interpretation): Mr. Deutsch.

MR. J.J. DEUTSCH (Canada): Mr. Chairman, like the Delegations of the United Kingdom and Australia and India, we consider it important that we should maintain the principle involved in this sub-paragraph. Whenever quantitative restrictions are imposed for

balance-of-payments reasons we feel that the incidental protection that is involved should be reduced as far as possible, and that the commercial connections that have existed before should not be broken any more than is absolutely necessary. For that reason, we think it important that total imports arrangements should be worked out.

However, we are not happy about the language of the present sub-paragraph. The wording excluded completely imports of any class of goods and is extremely vague and it is very hard to determine what it means. Therefore, we would like a more precise expression of the meaning that is intended in the sub-paragraph.

The British amendment, I think, offers some useful suggestions. Even there, however, I am not altogether clear as to what certain of the phrases mean or are intended to mean.

I appreciate it is a very difficult thing, and I appreciate, too, the attempt that has been made by the United Kingdom to define the meaning; but I feel some of the words are still not very clear, particularly "any description of goods". What does that mean? Does it mean "description" in the sense of the tariff item, or "description" in the sense of a dictionary definition of a product? These are all difficulties which we would have to try and overcome. I think the proper place to do that, probably, is in the ^{sub-}Committee - it is a drafting matter, and we would like to see the sub-Committee attempt a more precise formulation of the principle. The sub-Committee might also consider whether the paragraph is in the right place. There is another paragraph later on in Article 26,-- paragraph 4 --which says: "In so doing the Member shall avoid all unnecessary damage to the commercial interests of other Members". Well, that idea is somewhat analagous to the idea expressed in sub-paragraph (c), and perhaps these ideas can be amalgamated to some extent, and maybe the whole Article can be placed in a more logical position in these balance-of-payments Articles. I would like the sub-Committee to consider that question.

CHAIRMAN: The Delegate of Norway.

Mr. Erik COLBAN (Norway): Mr. Chairman, the Norwegian Delegation originally was not very happy about this sub-paragraph (c), more or less for the same reasons as those given by the Delegate of China. We found that paragraph 4 of this Article contains the necessary ruling; but we do not feel very strongly about it, and in particular, after the declaration of the United Kingdom Delegate, we feel that some reasonable compromise ought to be possible. I would also like to support the suggestion

of the Canadian Delegate that perhaps the idea of sub-paragraph (c) should be worked into paragraph 4.

CHAIRMAN: The Delegate of New Zealand.

Mr. I.C. WEBB (New Zealand): Mr. Chairman, like the Delegation of Norway, we have no strong feelings about Article 26(2)(c) as to the general principle of it; but we do feel that it involves two difficulties. The first one is the difficulty mentioned by the Delegate of China, that there is, in a sense, a conflict with paragraph 4 or Article 26. The second difficulty we see is an administrative difficulty. For that reason, we feel that if Article 26(2)(c) were left in its present form, it would really break down for that administrative reason.

I do not think that Mr. Helmore has dealt quite adequately with the administrative problem when he says that a staff dealing with a question like this finds it much easier to totally prohibit an import than to make a rather messy administrative arrangement for bringing in a minimum commercial quantity. I am afraid that is a true generalisation about public administration; but I think there is, nevertheless, another difficulty involved, and that is, that with the best will in the world on the part of the Administration, it may be extraordinarily difficult, in certain cases, to make any sort of arrangement for the admission of minimum commercial quantities where you have a very small market overall, or perhaps a very small market for some particular product.

As I say, if this goes into the Charter, we would, of course, do our best to administer it in good faith; but we feel that in the absolute form in which it is at present, it would really defeat even the most honest attempts to administer it.

CHAIRMAN: The Delegate of the United States.

Mr. BRONZ (United States): Mr. Chairman, in the Draft Charter that was presented to the London Session of this Committee, we had a considerably longer provision on the subject than emerged from the London Meeting.

After discussion in London it was agreed that a simple formulation appeared to meet the situation. We felt that the language in the London Draft imposed the smallest measure of obligation in this field that could be imposed, subject, however, to the fact that it is a definite obligation covering the entire field of the Articles of Trade; but there is no obligation about the quantity of goods, as long as there is no complete exclusion.

I am sure that to go a step further and give a country the discretion to find that it is impractical to admit even the smallest quantity of any kind of product would destroy the effectiveness of the provision entirely, and for that reason the first portion of the Australian Amendment and the proposal of the Indian Delegation, I feel, would be undesirable.

As to the general philosophy underlying this proposal, I think the Statement made by Mr. Helmore in this discussion set forth the considerations so well that I really have nothing to add on that score. The Chinese Delegate raised a policy question when he asked whether a country in balance of payments difficulties should be expected to use part of its short supply of foreign exchange in order to import total-luxury articles among other things.

It is true that on the face of it there is considerable

force in the observation of the Delegate of China, but there is another side to the picture, and that is that restrictions imposed while a country is in balance of payments difficulties necessarily have their effect in the years afterwards when the country is no longer in balance of payments difficulties, and the complete exclusion of goods over a period of several years, during which time the country has financial difficulties, would probably have considerable protective effect for a number of years afterwards, when the country does not need financial protection, and it is in an effort to minimise the future protective effect of present balance of payments quantitative restrictions that we feel strongly that a token import provision in the Charter is necessary. Commercial channels are, of course, difficult to set up. The Australian Delegate mentioned the possibility of new products arising which never come into the market at all - consumers in the country may either not know about such products, or know only by seeing them, and it may take many years after a country's financial difficulties are entirely over before any effective commercial competition can enter into that market, simply because of the slowness of trade. Therefore, it seems to me that even though there would be some loss in the foreign exchange to a country which is in foreign exchange difficulties, that much ought to be yielded in favour of the future fair international competition. It is not an unusual type of provision. We found during the war that at a time when we were severely restricting a great many industries in an effort to expand war production, that we did permit a small production in a great many fields which would normally be considered luxuries, in order to keep certain channels of trade going, and

I am sure that most of the other countries in the war did the same, and undoubtedly a great many countries imposing restrictions on imports for balance of payments reasons to-day are permitting the import of some quantities of luxury goods, and I do not believe it was intended to preclude that possibility.

As to the precise wording of the New York Draft, we are, of course, not wedded to it any more than anyone else who has commented on it to-day is. The words "class of goods" as in the New York Draft, or the word "product" as in the Australian Draft, were a description of goods as in the British Draft - all phrasing which could well be worked over in the Sub-Committee, in an effort to get the clearest possible wording.

I think one thing is perfectly clear, whether you mean fountain pens as a class, or each brand of fountain pen. You certainly do not mean the importation of one particular kind. It is a matter which I think the Sub-Committee can work out. I may say, incidentally, I am entirely in agreement with the observations of the Delegate of Canada, including his suggestion that perhaps this clause would be better put into paragraph 4 than paragraph 2.

Mr. Chairman, may I add that I would favour the proviso of the United Kingdom Delegation. The United Kingdom Delegation proposes an exception in favour of goods where either domestic production is severely restricted entirely, or so much of the domestic production is forced into that condition that domestic production for the domestic market is severely hampered. In those two cases the United Kingdom Delegation would make an exception from the token import rule. There is a provision in Article 25 which while not precisely parallel has some similarity

to this. I am referring to Article 25 2 (e), where a country finds it necessary because of a surplus of a commercial product to restrict domestic production. The rule established there is that imports must be permitted to come in and the goods in production and imports must be in the same proportion.

Now, if a country finds that it must cut down its own production for the domestic market, it hardly seems fair to exclude completely imports. The present Draft only requires a token import - that there should be no complete exclusion - the rule is much less rigid than the rule of Article 25 2 (e); but the proviso submitted by the U.K. Delegation would require that in a situation where domestic production is not being met because of short production at home, imports likewise be excluded, and that during this period, while the importing country, or importing and exporting country, is restricting its domestic production or sales, imported goods be kept out of the market completely; and I submit that that would have precisely the same effect as the exclusion of token imports from any other market. But the lines of commercial communication would be broken. At the time when the need for quantitative restrictions for balance of payments reasons had disappeared, it might take a very considerable time for commercial quantities of imported goods to come in, not for price reasons, but possibly because of the absence of commercial connections. The consumers' psychology of being familiar with the product should be kept alive, and it is because that is what commercial contingencies are for that we feel strongly import restrictions should be included without exceptions.

Mr. L. GOTZEN (Netherlands): Mr. Chairman, after the very clear explanation given by Mr. Helmore, I think we can agree with the principle underlying the amendment of the United Kingdom.

There are only two difficulties which have not yet been solved, in my opinion. The first one was already raised by the Delegate of Australia, and even after the words said about this subject by the Delegate of the United States, I feel we are not yet clear and not quite certain about the meaning of the words "of any description of goods". Does that really include all new goods in the future, or only goods we were used to buying from one another?

The second one is the inclusion of the words "by governmental action" at the end of the amendment. I feel that perhaps it might be better to put a full stop after the word "restricted", and not include the words "by governmental action".

M. P. BARADUC (France) (Interpretation): Mr. Chairman, I should only like to add a few words to what was said here. I think that France is one of the great trading countries which experiences now the greatest difficulties with regard to balance-of-payments. Nevertheless, we think that the principle of token imports should be maintained, and this for the following reasons.

In the first place, we think that any restrictions which may be necessary now in order to protect the balance-of-payments should be devised in such a manner as to cause the smallest possible damage to international exchanges and to the resumption of international trade, when this would be possible. In this respect, the Delegate of the United Kingdom made observations which I am prepared to share.

In the second place, it is our intention not to give to our domestic producers the impression that restrictions which are being now applied in order to safeguard the balance-of-payments, are intended to afford them protection. I agree, in particular, with

the suggestion made by the Delegate of Canada that this point should be considered in connection with paragraph 4 of Article 26, and I hope that, if this question is referred to a Sub-Committee, we shall be able to reach a satisfactory solution.

Mr. B.J. BAYER (Czechoslovakia): Mr. Chairman, as it is noted in the document we have here before us, the Czechoslovak Delegation expressed to the Drafting Committee in New York their preference for the London Draft. Now, in the light of so many amendments submitted and suggestions made by other delegates, out of which, as we think, a new Draft would undoubtedly emerge which might be less rigid than the one we have at present, I think, Mr. Chairman, we need not keep our preference for the London Draft.

Mr. F. GARCIA OLDINI (Chile) (Interpretation): Mr. Chairman, during the discussions in New York, our Delegation took the same position as the Delegation of Czechoslovakia, and we consider now that the London text, together with all the amendments submitted, should go to the Sub-Committee, which should be instructed to study carefully that problem.

Mr. C.Y. HSIEH (China): Mr. Chairman, after listening to the statements made by various delegations on the amendments we have so far put forward, we seem to come to the conclusion that the United Kingdom amendment embodies the main principles that we had to consider in order to arrive at a just and workable arrangement.

Now, I agree as well, that the two sides of the question should be carefully studied so that the requirements of the exporting as well as of the importing countries should be given due weight. I also subscribed to the idea that it would be bad to leave any door open for possible misuse of the quantitative restrictions allowed for purposes of balance-of-payments. I find still, on careful

study of the content and spirit of the amendment, that it is difficult to avoid the impression that the United Kingdom amendment seems to be less concerned with seeing that the remedy is adequate for curing the economic ill-health, than with making sure that the remedy is not being abused for other purposes than the safeguarding and restoration of the balance-of-payments. I think this impression is becoming still stronger when I come to the final part of the amendment - to the part where exception is made for the general application of this obligation.

It is not difficult to conceive certain categories of goods which would come under the sphere of this sub-paragraph, and of which there is no domestic production, so the exception here seems to serve no useful purpose for the simple reason that, more likely than not, the commodity in question, especially if it is a luxury, is one of which we have no domestic production, even though there is a domestic demand. Therefore, for these reasons I still feel that every careful consideration should be given to the question of the due balance between the interests of importing and exporting countries.

CHAIRMAN (Interpretation): Mr. Helmore.

MR. J.R.C. HELMORE (United Kingdom): Mr. Chairman, I would like to have your permission just to reply to one or two points that have been made.

As far as drafting is concerned, I would very much support the suggestion, first made by the Canadian Delegate and seconded by others, that we should see if this paragraph cannot be fitted into paragraph 4, ^{with} which, it seems to me, to have a good deal of relationship. As far as the vaguenesses of drafting which have beset us all in discussing this are concerned, I would be delighted to see what could be done to make the paragraph less open to different interpretations by different countries. I take no pride in the phrase "any description of goods", and I do not suppose the authors of the other phrases that have been used - "product" or "class of goods" - would be any more proud of them. It is a matter which the sub-committee will have to turn its attention to very seriously. At the same time, I would say that it is possible for an interpretation of such words to be worked out which is likely to be observed generally by all countries, whereas the insertion of a phrase "as far as possible" leaves it to anybody to say for himself what is possible, and I do not think that that is a situation in which the Preparatory Committee ought to leave this paragraph.

I mentioned the subject of administration in this connection when I spoke first, and I do not think I could have made myself very clear. I am very well aware of the difficulties of administering a non-complete exclusion or the administration of minimum commercial quantities, and it is just the knowledge of that administration difficulty, which some countries have solved and others may not solve, that makes me so nervous of the words

"as far as practicable" or "as far as possible".

In the second part of his remarks, I found the Delegate of the United States objecting to the proviso which we have inserted, and I am afraid I must defend myself a little against this. In particular, he compared this principle to Article 25, paragraph 2(c), and said that if the United Kingdom amendment were passed substantially in its present form it would require the complete exclusion of any description of goods if domestic demand were seriously restricted. Of course, it would not do any such thing. This paragraph does not require anybody to exclude anything. It only permits him to exclude it if he wishes. But there is a more serious difficulty than that in admitting any comparison between Article 25, paragraph 2(c) and Article 26. Article 25, paragraph 2(c) relates to the use of quantitative restrictions to enforce a scheme for the control of what one might call briefly home agriculture, and Article 25, paragraph 2(c) is put in in order to see that the scheme for the control of home agriculture is not mis-used. Therefore, it is perfectly right and fair, it seems to us, that parallel treatment for imported and home produced goods should be required. Now, in Article 26, we say that a country may limit its total imports in order to defend its balance-of-payments, and in paragraph 4 we say that Members may give priority to the importation of particular products according to their relative essentiality. This paragraph on token imports, about which we are now talking, takes us a little way from that absolutely complete freedom to determine priority. It says that while you may still determine priority, do not determine it down to nothing in any particular class of goods. The circumstances are therefore altogether different.

We then go on in our proviso to say that you may determine it down to nothing if the home production of the goods is severely restricted.

Now, Mr. Chairman, we are trying to bring two main objections to quantitative restrictions for balance-of-payments reasons in this sub-paragraph. One is their incidental protective effect, and the other is the cutting off of channels of trade, and to our minds, the incidental protective effect is considerably more serious than the cutting off of channels of trade.

I imagine it is rather difficult for a country which is not in balance-of-payments difficulties to understand entirely the circumstances in a country which is, but it must be taken as a fact that being in balance-of-payments difficulties and imposing quantitative regulations, thereby limiting supplies to consumers, is not an enjoyable situation, and it is not a situation which consumers accept very happily.

Those who look at it solely from the point of view of exporting to a country which is in balance-of-payments difficulties sometimes seem to assume that it is "original sin" that gets one into balance-of-payments difficulties, and "original sin" which keeps one there, and that one thoroughly enjoys exercising the restrictions which are necessary in order to prevent further damage. That is not so at all, and I think the United Kingdom is entitled to speak, as representing both the classes into which the Chinese Delegate divided those who are considering this point - that is, importers and exporters.

Now, there is a limit beyond which people at home cannot be pushed, and I ask the United States Delegate to take it from me that if one pushes this principle to a point at which one tries to preserve both objectives, that is, preventing protective effects and keeping the channels of trade open in a class of goods which is already severely restricted at home, then the whole thing is likely to break down, because it simply will not be accepted by public opinion.

We have, therefore, come to the conclusion that it is necessary, in cases where the protective effect is severely limited because of the severe limitation on home production, to give up, for the time being, keeping the channels of trade open, and to concentrate our attention on those cases in which the protective effect is really serious.

In that connection, Mr. Chairman, I would say that the point raised by two Delegates - the Chinese Delegate and another (I forget which) - that it is not necessary to provide for token imports in a case where there is no/^{home}production because there never has been any, seems to us one which might well be considered.

To sum up, Mr. Chairman, I think I must say that it would be

undesirable to push this to a point at which it cannot be explained to the people. One can explain to public opinion that balance-of-payments reasons mean a restriction of consumption. One can explain, up to a point - up to the point of minimum commercial quantities - that even in balance-of-payments difficulties it is worth while to have token imports. When you add to that a severe restriction on home production, you just tip the scale to the point at which the thing is not explainable to public opinion.

CHAIRMAN (Interpretation): It seems to me, gentlemen, that we could now conclude the discussion on sub-paragraph (c) and pass on to the next paragraph.

Paragraph 3, sub-paragraph (a) is now under discussion. We have two amendments to that sub-paragraph. The first, the United States amendment, seems to me to be of a purely drafting character, and I hope the United States representative will have no objection if we send that question, without discussion, to the sub-Committee.

Mr. George BRONZ (United States): I am entirely agreeable.

M. C. IGONET (France) (Interpretation): Mr. Chairman, I would like to state a concrete example in order to make quite clear what we had in mind when we made that reservation last week, in support of the caution which was advocated by my colleague from Czechoslovakia. Well, this is the example which I would choose in order to make our position quite clear, and it is drawn from our experience in France. At present we have, in France, groups which are called Groupements d'Importation et de Repartition, otherwise groups for import and distribution. They are not state institutions but groups representing different branches of our trade and industry, and they benefit from importing monopolies for certain categories of products. They were instituted at the beginning of the war in order to meet the difficulties which prevailed at that time in procuring some necessary supplies, and they are still maintained because these difficulties have not been completely overcome yet. Therefore, these groups are empowered to make purchases both in foreign and, in some instances in domestic, markets, and they are not entitled to any benefits under our present legislation. Therefore, the re-sale price to the consumer on the French market is approximately equal to the average purchasing price of the same goods. We have, for instance, one specific Groupement for nickel which makes its purchases abroad and also in some cases in France. Now, we have one nickel plant which cannot function over a certain capacity for reasons which are not technical and which are not connected with any currency problems either. The only reason is that this plant needs a particular kind of nickel which is imported from New Caledonia, and New Caledonia at present cannot produce this nickel type of goods, because it does not receive a sufficient quantity of coke from Australia. These, of course, are exceptional circumstances because even if the currency was available the coke still could not be procured. Therefore, this nickel producing plant has to work

too many grave risks to the interests of the Member Government initiating it to be able to serve the purpose of safeguarding or restoring balance of payments.

For these reasons we propose in respect of this sub-paragraph that the first sentence should be amended as follows:-

"Any Member which is not applying restrictions under Paragraphs 1 and 2 of this Article but finds itself in need of instituting such restrictions shall, immediately following upon their institution, consult with the Organisation...etc., etc." The original wording should be followed; and we also propose to delete the final sentence of this sub-paragraph.

CHAIRMAN: The Delegate of the United States.

Mr. BRONZ (United States): Mr. Chairman, the language in the New York Draft on which the Chinese Delegate has proposed an Amendment bears on its face the signs of compromise, and of course that is what happened at London. We would have preferred to require prior consultation in every case. Other Delegations began by preferring to have post consultation in every case, and we split the differences by a compromise, whereby there would be prior consultation when that is practicable, and consultation immediately thereafter when it is not practicable.

The proposal of the Chinese Delegate now in effect means that in cases where prior consultation would be entirely practicable, the country would nevertheless not be required to do so.

Prior consultation is of crucial importance in connection with the later language in this same sub-paragraph, but the sub-paragraph calls for consultation with the Organisation as to the nature of the balance of payments difficulties, the

various corrective measures available and the possible effects of such measures on the economies of other Members.

When a country has already committed itself and announced and put into effect quantitative restrictions, it would obviously be extremely difficult to consult with that country with any hope of having any effect by suggesting the possibility of other measures short of quantitative restrictions.

Once the restrictions are put in it is very difficult to get a country to retract at that stage of the game. If there could be consultation with the international organisations before the final decision is made, and publicised, there is much more likelihood that an arrangement could be worked out with the country to save the necessity of having restrictions.

As to the secrecy point, I believe the Australian Delegation has proposed an amendment a little later in this Article which will deal with the subject of these consultations and avoid one of the difficulties suggested by the Chinese Delegate.

CHAIRMAN: M. Oldini.

Mr. F. Garcia OLDINI (Chile) (Interpretation): It is correct, Mr. Chairman, that the text before us is a compromise, but nevertheless it may be considered that this compromise is not entirely satisfactory. In fact, there is an important principle involved, namely, that each Member State concerned should be free to decide on the action which it will resort to in order to safeguard its balance of payments, and this principle is actually better safeguarded in Paragraph 4 of Article 26 and in Paragraph 2 (b) of the same Article, on the elimination of restrictions. But in Paragraph 3(a) now before us it may be said that this spirit of necessary freedom of action for the Member States has been somewhat obscured, if not abandoned. If we look at these provisions in the light of that general principle of freedom to act for the Member States, we come to the conclusion that the consultations provided for with the Trade Organization and with the Monetary Fund should be exclusively of a technical nature. They should bear on the best means to achieve the necessary results in order to protect the interests involved, but from this point of view the text appears to be too vague. The text speaks of consultations, but what character will they have and to what extent; how far will they go? All these questions remain open to various interpretations and the two statements just made here on that question confirm that there is a possibility of different interpretations of these provisions. Therefore we come to the

conclusion that if all the Member States apply the provisions of this paragraph in the right spirit the results may be satisfactory, but if they try to apply the letter of this paragraph they may come into considerable difficulties. Therefore we support in principle the proposal made by the Delegate of China. We think that it should have the effect of making these provisions clearer and easier to apply.

We agree with the principle as it was stated by the Delegate of the United States, that consultations should take place when and if they are possible, but the text says something different. The text says that "Any Member shall, before instituting such restrictions consult with the Organization" It is true that the text also provides for an exemption. It is said, in brackets, that "in circumstances in which prior consultation is impracticable, immediately following upon the institution of such restrictions", but this again leaves a certain field for various interpretations. Therefore, we think that the Chinese proposal has considerable advantages, and in any case the Sub-Committee should study that problem carefully.

On the other hand, the Chinese Delegation proposes to delete the last sentence. Obviously, as I understand it, if the text of the previous sentences of the paragraph were entirely satisfactory, the last sentence would be unnecessary, but in the whole of this text, precisely the last sentence, in our opinion, should be maintained because it is the only one which was drafted in the practical spirit. The last sentence says that "No Member shall be required during such discussions to indicate in advance the choice of timing of any particular measures which it may ultimately determine to adopt", and pending the final drafting of this paragraph, we think that this last sentence is useful and should be maintained. However, we agree that it should be possible for the Sub-Committee to work out a better wording for these provisions. It should be possible to maintain what was useful and good in the London compromise, and to improve on what was not entirely satisfactory.

CHAIRMAN (Interpretation): Does anybody else wish to speak on this paragraph? In these circumstances, the paragraph will be submitted to the Sub-Committee. There is no amendment to sub-

paragraph (b). In sub-paragraph (c) there is an amendment presented by the Australian Delegation. I call upon the Delegate of Australia.

Mr. J.G. PHILLIPS (Australia): Mr. Chairman, this is a small point, I think, but we have suggested that, when a Member obtains prior approval from the Organization for restrictions under paragraph 3(c), it seems unnecessary to require that he should then still be compelled to consult again the Organization under sub-paragraph 3(a), as well as consult it before he introduces the restrictions. We therefore suggested that, in a case where the Organization had already given its approval to restrictions under 3(c), the provisions in 3(a) should be overlooked, and the prior consultation should be sufficient. It may be that the wording we have suggested might possibly be approved, but we think the point is perhaps worth covering.

CHAIRMAN (Interpretation): I take it that this question can be submitted to the Sub-Committee. We pass on to sub-paragraph (d). There is an amendment presented by the United States Delegation. I presume that the United States Delegate would wish to take the floor.

Mr. GEORGE BRONZ (United States): Mr. Chairman, I really have no observations to make beyond those contained in the comment which appears in the United States agenda.

Mr. J.E. MEADE (United Kingdom): Mr. Chairman, on this amendment there are two points of possible importance. One is the suggestion that, when the Organization finds that a Member has opposed their restrictions against the rules as it were, it shall be obliged to recommend the withdrawal or the modification of those restrictions.

I think the United Kingdom Delegation would be in complete agreement with this proposal, but there is, however, another proposal of some substance here, and that is that the sanctions, as it were, of the sub-paragraph 3(d) should apply to restrictions which are proposed, not only against the substantial rules of paragraph 2, but also if they are inconsistent with any other part of the Article, that would be, presumably, with paragraph 3, sub-paragraphs (a) and (b), namely, rules for consultation. We should like to see that change made, and we believe that, for these sub-paragraphs as well as for the other sub-paragraphs of the Charter, there is the procedure of Article 35, and it means special sanctions should only be preserved for imposing import restrictions against the substance of the rules of paragraph 2 of this Article.

MR. H. DORN (Cuba): Mr. Chairman, may I only call the attention of the Commission to the fact that the sub-committee on Chapter VIII, at this moment and next week I think, will discuss the general question as to whether there is a possibility of unifying the procedures in the Charter, especially on the basis of Article 35 and Articles 85 and 86, and I think that the question raised by the Delegate of the United Kingdom could be discussed in this connection in order to avoid as far as possible, procedures which are only slightly different, one from the other, without giving special advantages based upon these differences.

CHAIRMAN: Monsieur Oldini.

M. F. Garcia OLDINI (Chile) (Interpretation): It was in accordance with the spirit of our London discussions, Mr. Chairman, that any complaint presented by Member States should be considered by the Organization, provided that it is sufficiently established that there are definite presumptions in favour of the point made by the claimant State. It seems to me, however, that the United States proposal now before us does not take this spirit fully into account: in fact, we read in the United States proposal that "If the Organization is satisfied that there is a prima facie case" etc. Now, what exact meaning must be attributed to this expression? It seems to me that "prima facie" may be interpreted as a partial proof. Well, this is obviously more than was expected in the London arrangements. In other words, the United States text provides for more severe conditions to be fulfilled by the claimant State before the Organization takes the complaint into consideration.

Further we read in the United States text that the Organisation shall afford the Member applying the restrictions full opportunity to justify its action and shall consult etc.

I do not like very much that expression "to justify", although I would be in a difficulty to suggest any better one; but it seems to me that this wording implies the idea that the Member State must bring in advance justification of its actions and this idea was not included in the previous text.

Furthermore, the United States proposal says that the Organisation shall recommend (and this is to replace the original wording) that the Organisation may make recommendations.

The intention of this provision was that if the Organisation finds that the provisions of the Charter have been misused, the Organisation should apply the necessary sanctions; but the question arises if the Organisation finds that there was no misuse of the provisions that in that case we think that the Organisation should say so and act accordingly. Failing that the Organisation will not be fulfilling its task.

It may be said that this paragraph should be in conjunction with the previous paragraphs, and in particular with paragraph 1, but I submit that this does not entirely settle the question.

In conclusion I hope and think that the Sub-Committee in studying this question will take into account the observation presented by me.

CHAIRMAN: The Delegate of New Zealand.

Mr. WEBB (New Zealand): Mr. President, I just wanted to say that we agree with the contention of the United Kingdom Delegate, that in the first sentence of the U.S. Amendment the substitution of this Article for those paragraphs is not an improvement. We also find difficulty with this sentence, as in the U.S. Amendment: "If no such settlement is reached, the Organisation shall recommend the withdrawal".

It seems to us that "shall" should be "may", and we have one reason in mind in particular for taking that view, and that is that in Article 26 3 (e) it is provided that the Organisation in reaching its determination on sub-paragraph (d) shall not recommend the withdrawal or general relaxation of the restrictions on the ground that this can be avoided by a change in the Member's reconstruction, development or social policies. In view of that provision, it seems to us clear that the word in (d) should be "may" and not "shall".

CHAIRMAN: (Interpretation): Does anybody else wish to speak on this paragraph?

The question is referred to the sub-committee.

In connection with Paragraph 3 (d), a reservation has been made by the Belgian Delegation.

The Delegate for Belgium.

M. F. de LIEDEKERKE (Belgium) (Interpretation): During the discussions in New York the Belgian Delegation proposed the addition of the text which will be found on Page 22 of the English text of the Report of the Drafting Committee. It says: "One Delegate, who was the Delegate of Belgium, supported by the Delegates of Canada and the United States, suggested the following addition: 'The organization may initiate proceedings analogous to the foregoing, if it considers that any Member is applying import restrictions under paragraphs 1 and 2 of this Article in a manner inconsistent with the provisions of paragraph 1 and 2 of this Article, or of Article 27.'"

It was not possible to get unanimous support for this proposal during the discussions in New York, but considerable support was indicated and in particular by the Delegations just named. Therefore the Belgian Delegation hopes that the sub-committee, in studying this proposal, will be able to achieve a satisfactory result in inserting that into the text of the paragraph.

CHAIRMAN: The Delegate of Canada.

Mr. J.J. DEUTSCH (Canada): Mr. Chairman, the Canadian Delegation supported the Belgian Delegation at the New York meeting and we feel that it may be useful to give the Organization power to initiate proceedings where there is a breach of some obligation in this Article, even though no Member complains or

no Member can establish that he is being adversely affected. It may be thought desirable for the Organization, as a matter of policy, to be able to intervene when there is a breach. We do not suggest it should be compulsory, or anything like that, but it should be open to the Organization to act when there is a breach of the agreement.

We would like, Mr. Chairman, that this should be considered in the sub-committee and, if there is any merit in the proposal, it might be incorporated into the paragraph.

Mr. GEORGE BRONZ (United States): Mr. Chairman, we would like to indicate our agreement with the observations made by the Delegates of Belgium and Canada.

Mr. J.R.C. HELMORE (United Kingdom): Mr. Chairman, I think there is a real intellectual difficulty in this amendment. The Organization is not a super-state or something separate from the Members. It is, as far as I can understand it, when it takes action, the majority of the Members, so that, if no Member is found complaining I do not see how this could ever happen, and certainly I would not like to see the thing read "The staff of the Organization may complain on the shape of the proceedings". That would be quite improper, it seems to me. On the other hand, I admit there is the problem that it may be rather difficult to establish that one particular Member has suffered injury noticeably enough for him to wish to take the onus on himself of starting the proceedings, whereas, if the matter could be brought up in the Organization as a matter which could be looked at and then various consequences might follow, perhaps we should be doing better.

I also see some danger to the Organization in putting it in the position where it will initiate a complaint on which it would be the judge. That is a difficulty which one meets over and over again in these various International Organizations. In effect, one sometimes wants the International Organization to act as a policeman, and then one wants it to act as a jury, and I think it is undesirable to insert in the Charter words which make that dual capacity quite as blatant as these do. I presume the Sub-Committee could deal with the problem.

Mr. J.G. PHILLIPS (Australia): Mr. Chairman, I should like to support the comments of the Delegate of the United Kingdom on this subject and to add the observation that, as far as I know, this

would be the only place in the Charter to give the Organization the right to intervene in this way. Article 35, for example, which is in favour of this general procedure, gives no similar power to the Organization itself to initiate the complaint. We take it to be undesirable, particularly from the point of view of the prestige of the Organization itself, that it should have this power, and we find it hard to foresee a case where damage is being done by restrictions which are not in accordance with the terms of Article 26, when no Member can be found to complain, but I expect there would be no difficulty in finding complaints.

MR. L. C. WEBB (New Zealand): Mr. Chairman, for reasons which have been better expressed than I could express them, we also oppose the proposal which has been put forward by the Delegations of Belgium, Canada and the United States.

CHAIRMAN: Monsieur Kojeve.

M. KOJEVE (France) (Interpretation): I cannot agree with the Delegate of the United Kingdom when he says that the Organization will have no distinct moral or juridical personality beyond that of its Members, but it is not my intention now to pursue that philosophical discussion with my distinguished United Kingdom colleague. I shall simply indicate that I share his doubts as to the usefulness of the proposal before us. In fact, if it is possible for the Organization to intervene or to initiate certain procedures without any complaints being presented by the Member States and without any Member States considering themselves as being prejudiced, this will only be possible for reasons of doctrine if, so to speak, the Organization disagrees with certain economic theories etc., and I do not think that it would be a desirable thing to transform in such a way the Organization, which should remain strictly technical in a sort of academic form. Therefore, I think that this proposal is not only superfluous, but perhaps also dangerous.

CHAIRMAN: The Delegate of Brazil.

Mr. J.G. TORRES (Brazil): I would just like to say, Mr. Chairman, with due regard for the Delegations who put forward this amendment, that I also agree with the United Kingdom's views. I think the amendment would not serve any great purpose for the reasons he has pointed out, and it might even not be very wise from a psychological point of view.

CHAIRMAN: The Delegate of Chile.

M. F. Garcia OLDINI (Chile) (Interpretation): I wish to support the observations made by the Delegate of the United Kingdom. As I have indicated previously, we are of the opinion that the Organization should leave the greatest possible measure of freedom to the Member States, and act rather in its technical capacity. The role of the Organization is essentially to act in response to requests for consultations which may be made by the Member States. In other circumstances, it may also be called upon to act as a judge; but, as I have mentioned previously, even when there is a complaint, it is laid down that the Organization must be of the opinion that sufficient presumptions for the complaint have been established. These presumptions are required if a complaint is presented by a Member State. In these circumstances, it is difficult to see how we can afford the Organization the right to initiate proceedings when no complaints have been presented and when no Members consider that they have suffered damage.

CHAIRMAN: The Delegate of Czechoslovakia.

Mr. BAYER (Czechoslovakia): We also wish to associate ourselves with the opinion of the Delegate of the United Kingdom. We think that the instance in which no complaint will be made will show that no serious damage has been done to a Member country. Thank you.

CHAIRMAN : The Representative of the International Bank.

Mr. HEXNER (International Bank): Mr. Chairman, I would like to restrict myself to one point raised by the Australian Delegate, that in the Charter this would be the only provision in which the sanctions would not be concentrated on the satisfactory settlement of the issue on the one hand, and on the other hand where the Organisation would have the initiative to proceed.

I would like to call your attention to Article 28 para. 2 where the Organisation has the initiative, and where the action is concentrated on the breach of the provisions and not on the satisfactory settlement of the interests of one Member.

CHAIRMAN (Interpretation): I am obliged to state that there is apparently strong opposition to the amendment presented by the Delegation of my country, and this is in spite of the precious thought given to us by the Canadian and United States Delegations. In these circumstances, I must ask the representative of Belgium whether they insist on the adoption of this amendment.

M. de LIEDEKERKE (Belgium) (Interpretation): We ask that this question should nevertheless be referred to the sub-committee.

CHAIRMAN (Interpretation): I would be agreeable, but it seems to me that we are expecting great virtues on the part of the Sub-committee and in particular we expect the Sub-committee to resolve difficulties which we have been unable to resolve ourselves.

Mr. Helmore.

Mr. J.R. C. HELMORE (United Kingdom): Mr. Chairman, I think it would be fair, as several Delegates said they agreed with the views expressed, to explain that I ended my speech by saying, "subject to the comments I have made, I would like the problem to be examined by the Sub-committee." Those are the only views I have.

CHAIRMAN: Mr. Deutsch.

Mr. J.J. DEUTSCH (Canada): Mr. Chairman, my position is exactly the same as that of Mr. Helmore.

Mr. de LIEDEKERKE (Belgium) (Interpretation): I thank the representative of the United Kingdom.

CHAIRMAN (Interpretation): The question will accordingly be referred to the sub-committee.

Gentlemen, since we trust the wisdom of the Sub-committee, I think that we can refer, without further discussion, to that Sub-committee two amendments which have been presented to subparagraph (e) of this paragraph and which do not raise any considerable points of substance. On the other hand, I propose that we should discuss here a new proposal submitted by the Australian Delegation, contained in Document W.231 dated July 2, and which intends to insert in this Article a new paragraph 3(f).

I call upon the Delegate of Australia.

Mr. J.G. PHILLIPS (Australia): Mr. Chairman, the purpose of this amendment is to stress the importance of secrecy in the consultations which are required under Article 26. I think the point has already been raised by the Chinese Delegate in relation to Paragraph 3(a) and we feel very strongly that unless adequate secrecy is maintained in any consultations between a Member and the Organization the consultations will be of very little value, because the circumstances of the case will be such that the Member will not be able to be frank about his position unless he is sure that his frankness will not result in knowledge of his possible actions beforehand. I think that is particularly clear when you are discussing the possibility of bringing in import restrictions. If it becomes known beforehand that you are likely to impose them, and particularly if the character of the restrictions you are likely to impose becomes known, then the difficulties of your position are likely to be greatly increased. In the same way, if you are discussing with the Organization possible alternative actions which might include the possibility of a change in your exchange rate, it would clearly be embarrassing if there were any possibility of the fact that you were considering that alternative leaking out.

I do not wish to say much more than that about it, except to ask that the matter be sent to the Sub-committee for consideration.

I might perhaps add that although we have made an attempt to spell out the secrecy provisions in our amendment, we are quite aware of the difficulties in the wording we have suggested and we think it very possible that the Sub-committee may be able to find considerable improvements there.

CHAIRMAN (Interpretation): Does anybody wish to speak on this proposal?

Mr. F. GARCIA OLDINI (Chile) (Interpretation): There is one question, Mr. Chairman, in connection with the following passage of the Australian amendment, which I should like to ask. We read, under (f) (iii), "provided that a Member can not unreasonably withhold consent to such disclosure if the Organization considers that disclosure is desirable".

My question is, in what circumstances is it contemplated by the Delegate of Australia that the Organization may decide that such disclosure is desirable before information has been submitted?

Mr. J.G. PHILLIPS (Australia): Mr. Chairman, it only means that, in some cases, particularly perhaps where the Member, after consultation, has decided not to take action, the Organization might feel it desirable that the fact that the Member had consulted should be published or should be kept in complete secret. At least, it seems to me unnecessary to provide that in those circumstances, the Organization should be debarred from making public or making more public than we would otherwise allow, the fact that consultation had taken place, and I think there might be other cases where the Organization would consider it desirable, or at least would consider it not undesirable, that disclosure should take place where a Member might perhaps unreasonably withhold his consent.

Mr. HERBERT DORN (Cuba): Mr. Chairman, I agree completely with the tendency of this amendment, that details of this should be discussed in the Sub-Committee. I only want to raise the question that it would not be desirable to suggest to the competent Committee to examine the more general question ^{whether} of corresponding provisions should be inserted for the treatment of complaints.

CHAIRMAN: Mr. Gotzen.

MR. L. GOTZEN (Netherlands): Mr. Chairman, I think my remarks are going in the same direction as those made by the Delegate of Cuba, because I was wondering if we are not going into too many details if we introduce all of what is said here into the Charter. Would it not be better to delete the words beginning with "In particular" to the end.

(The CHAIRMAN made a remark in French which was not interpreted).

MR. L. GOTZEN (Netherlands): "In particular" after the first sentence - "In particular in relation to any such consultation....", and so on. I should like to state the principle only and not the technical details.

CHAIRMAN: The Delegate of Cuba.

MR. H. DORN (Cuba): Mr. Chairman, I think that the idea of the Delegate of the Netherlands coincides with my idea, because I think that we will make the procedures throughout the Charter very difficult to handle if we give too many details in different parts of the Charter instead of having a unified procedure in the right place, that is, in Chapter VIII.

That was the basic idea which I wanted to express, and I am thankful for the observation made by the Delegate of the Netherlands which stressed just this point which I wanted to raise. Therefore, I think it would be very useful to put the principle in here, and to take the necessary steps in order that the competent Committee may deal with the question as to how this principle should be applied in detail and consider whether it is not indispensable to extend its application to other procedures.

CHAIRMAN (Interpretation): Does anybody else wish to speak on this question? Then we can refer the matter to the sub-Committee.

Gentlemen, we have still to consider paragraphs 4 and 5 of this Article. With regard to paragraph 4, in the first place four Delegates felt that the text should be clarified. Those are the Delegations of Brazil, Chile, Czechoslovakia and France. On the other hand, we have two amendments to the same paragraph 4, and the amendment presented by the Australian Delegation seems to be more important. Therefore, I invite the Delegate of Australia to explain that proposal.

Mr. J.G. PHILLIPS (Australia): Mr. Chairman, in putting forward our amendment, I think we were mainly trying to carry out the wishes of the four Delegates who felt that the text should be clarified. Our purpose was mainly one of clarification. We thought the previous wording was obscure, and we thought that this wording was less obscure.

We have also altered the sense a little, perhaps, in the last sentence of our amendment, although I do not think there is really great alteration. The previous sentence read: "In so doing the Member shall avoid all unnecessary damage to the commercial interests of other Members". We suggest that that should read "the Member shall take account of the effects of its restrictions on the economies of other Members, and shall seek to avoid unnecessary damage".

I think the only remark I want to add to that is, I agree that whatever text is finally decided, the existing paragraph 2(c) on token imports could fit very appropriately into this paragraph.

CHAIRMAN (Interpretation): Does anybody else wish to speak on this question?

The Delegate of Brazil.

Mr. TORRES (Brazil): Mr. Chairman, we also think that the Australian Amendment clarifies the question a great deal; although we have not participated in the Debate referring to the question of total imports we think that it might very well be covered in the last sentence of this paragraph as amended by the Delegate of Australia.

I would like to suggest that the Sub-Committee when considering the matter look carefully into the wording of the United Kingdom Amendment to find out the exact implications of the expression domestic demand and production, in the second paragraph (c), because we do not quite clearly know what that means, in view of the peculiar monetary schemes of Great Britain and her Empire.

That is all we have to say, Mr. Chairman.

CHAIRMAN: Does anybody else wish to speak?

Then we pass on to the last Amendment referring to Article 26, which is an Amendment presented by the Cuban Delegate and intends to introduce a new paragraph 5. I call upon the Delegate of Cuba.

Mr. DORN (Cuba): Mr. Chairman, the Cuban Amendment is intended to coordinate the remedies of Articles 6 and 26, which serve the same purpose, activating thereby one of the basic general ideas of the Charter that restrictive measures should be avoided as far as possible. Therefore the Amendment provides that the remedy of Article 6 should be tried out first.

The Member who suffers from persistent balance of payments difficulties shall try to co-ordinate with the country with persistent maladjustment within its balance of payments, which has caused its difficulties, before using restrictions to safeguard its balance of payments.

In the meantime, as the Secretariat has pointed out in its comment, Article 6 has received a formulation which mentions the resort to trade restrictions, and possibly the idea of the insertion of the words "without resort to trade restrictions," which is to be found on Page 22 of Document W.223, tries to make the same necessary co-ordination, but I think it will be necessary to examine carefully if this aim has really been realised. Therefore I think it would be useful to discuss this question in the sub-committee.

CHAIRMAN: Mr. Helmore.

Mr. J.R.C.HELMORE (United Kingdom): Mr. Chairman, I appreciate the spirit in which the Delegate of Cuba has put this forward, but I feel bound to say that an excess of cross references in the Charter is apt to be extremely dangerous in interpretation and I hope that on reflection, and after study in the sub-committee, we shall not include this reference here to Article 6.

It seems to me that Article 6 is looking at the matter primarily from the point of view of the country with the persistently favourable balance of payments and refers incidentally to the position of other countries which are thereby involved in an unfavourable balance, whereas the Article we are now discussing is looking at the matter almost absolutely from the point of view of correcting the balance of payments of the country which is in difficulties, and therefore the cross

reference might involve some difficulty in fitting the two together.

There is a further point of a practical kind which ought to be considered and that is that as this amendment stands it would remove from a Member which considered that its balance of payments difficulties were based on a disequilibrium in the balance of payments of another Member the possibility of acting before consulting the Organization. It might well be consultation with the Organization would be right, and our present draft of Article 26 indeed encourages Members to consult beforehand, but we have not gone so far as to take action first and consultation afterwards away from them and I suggest it might not be right to do so.

Mr. HERBERT DORN (Cuba): Mr. Chairman, I will not go into details at this moment because I think you will have the opportunity of talking things over in the Sub-Committee. I would only like to say that the words inserted in Article 26, expressly state "without resort to trade restrictions". I have the impression that the idea of co-ordinating both these Articles was also the sense of this new insertion, because I think it is better to leave out the details for the moment.

CHAIRMAN (Interpretation): Does anybody else wish to speak? In these circumstances, the discussion on Article 26 is closed. There only remains the establishing^{of} the Sub-Committee from which we expect considerable work done. I propose that the Sub-Committee should be composed of the representatives of the following Members: France, United Kingdom, United States, Canada, Australia, Cuba and Czechoslovakia. It will be on the condition that this Sub-Committee, necessarily restricted in its composition, consult in every case all the delegations directly concerned. It will also keep in contact with the representatives of the International Monetary Fund and of the International Bank.

The meeting is adjourned.

The meeting rose at 6.15 p.m.
