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

COMMISSION B

SUMMARY RECORD

Eleventh Meeting held on Tuesday, 17 June 1947, at  
2.30 p.m. in the Palais des Nations, Geneva.

Chairman: The Hon. L.D. WILGROSS (Canada)

ARTICLE 30.

Suggested Paragraph 2 A

(Continuation of discussion from 10th Meeting)

M. DESCLEE DE MAREDSOUS (Belgium) considered Article 30 to be logical in that it was opposed to all subsidies hampering international trade. Undeveloped countries could find required facilities under Article 13. Members affected by subsidies granted to other Members could apply to the Organization, but would have to supply evidence. As prejudice would be indirect and only appear through world trade, it seemed to be desirable to extend the prohibition of subsidies and reverse the burden of proof.

M. LECUYER (France) thought the proposal was dangerous, because it amounted to a special tax on foreign products, which could cancel out agreed concessions. It was also unnecessary, because under the circumstances it would be possible to resort to some form of subsidy. The Cuban amendment should rightly be discussed in connection with Article 15.

Mr. R. B. SCHWENGER (United States) and H. E. Erik COLBAN (Norway) also thought the right place for this amendment was in connection with Article 15.

It was agreed to refer the proposal to the Sub-Committee dealing with Article 15.

Paragraph 2 (a).

Mr. G.D.L. WHITE (New Zealand) pointed out that there were doubts in regard to whether, in the fourth line of sub-paragraph (a) the sentence beginning "which results in the sale of such product....." only referred to the preceding word "system" or also to the word "subsidy" earlier in the sentence.

Mr. R. J. SHACKLE (United Kingdom) explained that the intention was to relate these words to both "subsidy" and "system" and thought that this was clear. He thought that in view of the possibility of typographical errors, however, a safer drafting would be desirable.

Appointment of Sub-Committee:

The CHAIRMAN proposed for membership on the Sub-Committee on Article 30 the delegates of Australia, Lebanon-Syria, the Netherlands, New Zealand, the United Kingdom and the United States. This was agreed.

Paragraph 3.

Australian Amendment.

This paragraph was discussed largely on the basis of the Australian Amendment (W/188). (Verbatim of Report of speeches is in PV/11, but the following summarises the points raised).

Mr. E. McCARTHY (Australia) explained that the present paragraph 3 had been inserted to distinguish between subsidies stimulating production, perhaps artificially or uneconomically, and subsidies relating to primary products, which were intended to stabilise domestic prices or returns to domestic producers. On examination of the present draft, the Australian Delegation felt that it was not complete, because it did not provide for stabilisation schemes that might be instituted at the stage when the export price was higher than the domestic price. The amendment proposed would fill this gap.

"The return to domestic producers"

Mr. G.D.L. WHITE (New Zealand) stated that the purpose of the New Zealand Reservation in London and New York was to allow comparison between export price and the returns to the domestic producers. Schemes in New Zealand aimed at the stabilisation not only of price for domestic consumers, but also of returns for producers. He was prepared to accept a wording similar to the present draft, but had some suggestions to make.

Mr. R.J. SHACKLE (United Kingdom) felt it necessary to eliminate the reference to domestic producers as this would raise doubts as to interpretation in respect of paragraph 2 (a). The comparison should be with the price to buyers in the home market.

M. LECUYER (France) thought it desirable to retain a link between external prices and domestic prices.

Proposed Deletion of Statement "which results over a period  
.....to buyers in the  
domestic market,"

Mr. E. McCARTHY (Australia) stated his proposal involved the deletion of these words which were quoted in paragraph 2, to which reference is made and the insertion of the objective of the scheme.

Mr. G.D.L. WHITE (New Zealand) agreed that the phrase was cumbersome but thought the idea should be retained, because without it the stabilisation scheme might be determined not to involve an export subsidy, whether or not it actually resulted in the export price being lower.

Mr. A.P. van der POST (South Africa), Mr. B.N. ADARKAR (India) and M. LECUYER (France) also opposed the deletion.

Mr. E. McCARTHY (Australia) stated these words had been considered superfluous as there was a reference to paragraph 2 where they were used. The deletion had been considered a mere drafting change and he agreed that it should go to the Drafting Committee.

Substitution of "shall" for "may".

Mr. G.D.L. WHITE (New Zealand) supported the suggested change which would prevent the Organization from determining, except for the specific reasons stipulated, that the stabilization scheme did not involve a subsidy.

M. DESCLEE DE MAREDSOUS (Belgium) was opposed to the change, because he considered it a matter of the greatest importance that it should be the task of the Organization to examine the work of the scheme in detail.

Mr. E. McCARTHY (Australia), replying to the point made by the South African Delegate, stated that by keeping domestic prices higher than export prices, home consumers were, in effect, being taxed. It would be wrong to allow domestic prices to follow export prices when these went very high. Producers received lower prices for supplies to the home market than for export when export prices were high, because they would get a higher price when the world price was low.

Insertion of "or may result".

Mr. E. McCARTHY (Australia) explained that this insertion was designed to provide for the introduction of new stabilisation schemes where past compliance with the requirements of this paragraph could not be proved.

Mr. G.D.L. WHITE (New Zealand) supported the amendment.

Mr. R.B. SCHWENGER (United States) stated that the present amendment was liable to be used for exempting certain types of subsidies from the Charter and he could not agree with changes that would extend the Article to a larger sphere. Under the amendment the system would be exempt if it might, at some time, result in the export price being higher than the domestic price. But schemes established when world prices were low might not be adhered to when world prices were high, and it would be dangerous to extend the principle to schemes which had not in the past proved to work on those lines which it was intended to exempt. The provision might be resorted to at a time when world prices were low without being continued when the price situation changed.

Mr. E. McCARTHY (Australia) replied that if the principle underlying this paragraph was accepted, and it had been accepted, then there should be a provision allowing to start new schemes of this sort to commence even at times when world prices are low. The Australian schemes have stood the test of varying conditions and he could not agree that they should be ruled out because at the beginning it could not be shown that they would be maintained even when world prices were high.

Deletion of the word "also" before "resulted".

Mr. A.P. van der POST (South Africa) thought it was essential to retain this word because it helped to show the contrast between the prices on the overseas and domestic markets. Possibility of Substituting "or" for "and" relating to the to the operation of the Scheme.

The Australian amendment retained the word "and" from the New York text, but Mr. G.D.L. WHITE (New Zealand) would have preferred to use the word "or" which, in his view, was more appropriate, but if the reference to the effective limitation of production and to not unduly stimulating exports were deleted, he would be able to agree to the retention of the word "and".

Mr. E. de VRIES (Netherlands) thought the word "and" very important because otherwise, once a product had been sold for a higher than the domestic price, there would be complete freedom to do as one liked indefinitely afterwards. In that instance the case would not come under the determinations of the interested Members any more.

"Because of the effective limitation of production."

Mr. G.D.L. WHITE (New Zealand) doubted whether this concept should be introduced here. It would apply to all types of stabilization schemes under this paragraph but there were instances where stabilization schemes were merely designed to assure primary producers of adequate returns for their programme of production.

Insertion of "the export price is held below ... current export prices."

Mr. E. McCARTHY (Australia) proposed to withdraw this amendment which was intended to cover a special contingency, but which had given rise to some misunderstanding.

"Not to stimulate exports unduly".

Mr. G.D.L. WHITE (New Zealand) suggested to omit this reference as well as that to the limitation of production, because they might be interpreted as being against the interests of other Members. The word "unduly" was not a sufficient qualification. He would prefer to restrict this sentence by only leaving as a condition that the interests of Members would not be prejudiced.

Mr. B.N. ADARKAR (India) supported this view, adding that he would also suggest the deletion of the words referring to the prejudice to the interests of other Members.

Dr. E. de VRIES (Netherlands), Mr. J.J. DEUTSCH (Canada), Mr. R.B. SCHWENGER (United States) and M. LEGUYER (France) thought the words should be retained. It was considered important that stabilization schemes should not hinder world trade.

Mr. B.N. ADARKAR (India) suggested deletion of this phrase "Otherwise seriously prejudice the interests of other Members".

It was agreed that the Sub-Committee should be asked to examine the New York text to see to what extent it would be possible to introduce the amendment presented by the Australian delegate.

PARAGRAPH 4.

Sub-paragraph (a)

The United States Amendment

Mr. R.B. SCHWENGER (United States) stated that the amendment was intended to avoid the duplication of procedure.

Dr. E. de VRIES (Netherlands) supported the amendment.

Mr. R.J. SHACKLE (United Kingdom) thought that the existing draft served a useful purpose, because it provided for a preliminary screening which would leave only cases of real importance to be dealt with under Chapter VII.

Mr. G.D.L. WHITE (New Zealand) shared this view.

The amendment was referred to the Sub-Committee.

Sub-paragraph (b)

The Canadian and New Zealand delegations had suggested (New York Report, page 27) deletion of this sub-paragraph.

Mr. J.J. DEUTSCH (Canada) explained that it was not clear whether this provision should apply when the attempt to form a commodity agreement had failed or when the agreement had been formed but its operation had failed. In the first case, the possibility of some countries using export subsidies if the negotiations failed, would disturb the prospect of the negotiations. Even if an agreement failed, the resorting to export subsidies would not make the situation any better. If the rule was sound to have no export subsidies, then it was sound in all circumstances and should not be suspended during the negotiations. For these reasons he suggested the deletion of this sub-paragraph.

M. DESCLEE de MARESCOUS (Belgium) and Mr. G.D.L. WHITE (New Zealand) supported this proposal.

Dr. T.T. CHANG (China) thought deletion was insufficient unless a constructive provision could be inserted instead.

Mr. R.B. SCHWENGER (United States) opposed the suggestion. Paragraph 4 dealt with cases of special difficulty, which were dealt with under the provisions of Chapter VII because they called for different treatment than was provided for in the rest of Chapter V. If in cases of special difficulty this procedure failed, then subsidies ought to be permitted.

Mr. de VRIES (Netherlands) thought that sub-paragraph (b) was justified as an escape clause for the extreme case for which it was provided. Article 30 provided for the termination of subsidies but not for their re-institution. This possibility ought to be covered, but it should be made clear in the drafting that it applied only to the extreme case.

Mr. J.J. DEUTSCH (Canada) declared that if the majority would favour the London text, he would accept it, but in that case it would have to be greatly clarified. The determination under sub-paragraph 4 (b) was not a real determination, because it concerned the plain fact whether or not an agreement had failed. If the right to re-impose subsidies depended on whether the situation was unduly burdensome to a Member, he would not object to it.

It was decided to refer the proposal to the Sub-Committee with the request to take note of the discussion.

PARAGRAPH 6:

The United States amendment was referred to the Sub-Committee, whose attention was drawn to the solution made regarding Article 52 in the hope that a similar one might be found.