FIFTH COMMITTEE: INTER-GOVERNMENTAL COMMODITY AGREEMENTS

SUMMARY RECORD OF THE THIRTEENTH MEETING

Held at Havana, Cuba on Monday, 5 January 1948, at 5.45 p.m.

Chairman: Mr. George HAKIM (Lebanon)

CONTINUATION OF SECOND READING OF CHAPTER VI (document E/CONF.2/C.5/9)

Article 65

The Article, as amended by the Sub-Committee, was approved by the Committee without comment.

Article 66

The Article was approved without comment.

Article 67

(i) Addition relating to conservation proposed by delegation of Norway

The additional sub-paragraph 1 (d), proposed by the Sub-Committee, was approved as was also its recommendation that the question of the inclusion of a comparable exemption in Chapter IV be referred to the Third Committee.

(ii) Addition relating to national security proposed by the delegation of United States of America

In connection with the United States of America amendment concerning national security, the CHAIRMAN said that the Sixth Committee had already established a Sub-Committee on Article 94 and if this Committee so desired, would be prepared to create a Joint Sub-Committee to consider this amendment to Article 67 in connection with the relevant portion of Article 94 as recommended by the Sub-Committee.

After a short discussion, it was agreed that the procedure outlined by the Chairman should be followed.

Mr. CAPLAN (United Kingdom), supported by the representatives of CYLON and BELGIUM wished it to be clearly understood that the Joint Sub-Committee should submit its recommendation on this question to the Fifth Committee. At the same time Mr. Caplan stated that his government had doubts of the wisdom of expanding Article 94 to cover a primary commodity situation.

At the CHAIRMAN's suggestion, it was agreed that the representatives of the Netherlands, Chile, New Zealand, Denmark and the Philippines should be added.
added to the present membership of the Sub-Committee of the Sixth Committee on Article 9, to form a Joint Sub-Committee.

It was also agreed that the terms of reference of the Joint Sub-Committee would be:

(i) to draft an exception for national security in relation to inter-governmental commodity agreements on the basis of the recommendations contained in paragraphs (ii) (a) and (b) on page 9 of the Report of Sub-Committee 'A' (document C.5/9) and

(ii) to recommend regarding the location in the Charter of such an exception.

Mr. CAPLAN (United Kingdom) wished it to be recorded that the understanding of the Sub-Committee was that the narrow drafting mentioned in its recommendation (b) might include the provision of safeguards.

The adoption of Article 67 in second reading was postponed until the report of the Joint Sub-Committee could be considered.

Additional Article Proposed by the Colombian Delegation

Note: This proposal was considered by the Sub-Committee, but acceptance was not recommended. The representative of Colombia had reserved his right to re-open the question in full Committee.

Mr. PARGA (Colombia) was unable to accept the view of the Netherlands representative, expressed in Sub-Committee, that the principle of his amendment was already covered in Article 27. To be more in accordance with the Charter, he had substituted the phrase "pronounced short-term fluctuations" for the word "speculation" in his original amendment.

The amendment was of particular importance to producers of primary commodities, and especially to coffee-producing countries. The United States was the only great coffee-consuming country, and as there thus existed only one market which mattered, there was a great risk of pronounced short-term fluctuations and it was reasonable to ask for the inclusion of safeguards in the Charter. The position of consuming countries was safeguarded as, when necessary, they could request the intervention of the Organization.

Mr. KENNEDY (United States of America) drew attention to the Inter-American Coffee Board and to the good record of his country as far as coffee consultations were concerned. The problem raised by the Colombian representative was adequately covered by the terms of Article 84 and Articles 55 and 56. If the amendment were to be accepted, Chapter VI would become meaningless. There existed no primary commodity to which the argument of short-term fluctuations could not be applied.

Mr. CORÉA (Ceylon) appreciated that the Colombian amendment would to some extent weaken the provisions of Chapter VI. Producing countries,
however, would by accepting Chapter VI surrender the valuable right to conclude agreements among themselves and therefore some attention should be paid to the question of their short-term difficulties. As the Colombian representative had pointed out, the position of consuming countries would be adequately protected and there would be no danger of irresponsible action on the part of producing countries.

Mr. de VRIES (Netherlands) was convinced that Article 27 provided an adequate procedure for price stabilization schemes in connection with short-term fluctuations in a given export product. It was basic in this Article, however, that such schemes do not try to influence the general price level but stabilize domestic prices irrespective of fluctuations in the world price. If commodity-control agreements embodying both floor and ceiling prices were reached between producing and consuming countries under Chapter VI, it would be easier to handle such national price stabilization schemes. The provisions of Chapter IV afforded an opportunity for other nations to appeal to the Organization if they considered such schemes prejudicial to their interests, in which case it was provided that the procedures of Chapter VI would be applied.

He pointed out, however, that if an informal general agreement were reached in regard to coffee between certain Latin-American countries, such a price stabilization scheme might equally be considered as a commodity agreement. He asked whether Colombia intended to introduce more than the well-founded defense of domestic production against fluctuating world prices.

Mr. BLOMEYER (Brazil) supported the Colombian proposal. The charter contained no specific provision to prevent short-term price fluctuations, which were often more harmful than the long-term fluctuations dealt with in Chapter VI. He referred to the measures taken both by Brazil and Colombia to counteract price speculation in coffee. Those different measures required joint action and prior agreement between the producer countries.

Mr. McCARTHY (Australia) stated that Australia could not support the amendment because it conflicted with one of the essential principles of the Chapter, namely equal representation of importer and exporter countries. Short-term action by exporter countries acting either individually or independently of importer countries would be unprofitable in the long-run and contrary to the general principles of agreements directed to the long-term problems of a given industry. Prices might be maintained for too long a period, and a union of producers could not always be relied upon to act in a way which was not contrary to the interests of consumers or their own long-term interests. The production of substitutable products might be stimulated. The union of importers and exporters in reaching agreements was
an essential feature which, if weakened, would destroy the whole purpose of the Chapter.

Mr. CAPLAN (United Kingdom) strongly supported Australia about the fallacy of thinking in terms of short or long-term fluctuations. His delegation could not accept the amendment because it would destroy the whole balance of the Chapter. Producer agreements participated in by the United Kingdom in pre-war years could not always be said to have been fully successful to the producer countries. A short-term advantage could sometimes be gained but long-term problems were usually aggravated because consumers would be stimulated to take alternative measures. There had been a balance of sacrifice in the freedom of action renounced under the Charter as consumers had also renounced rights under Chapter IV. The proposal would only result in more violent fluctuations, retaliatory action, and encourage the production of substitute materials and expanded production in countries not within the scope of the producers agreements.

Mr. ROBLES (Guatemala) stressed that the Colombian proposal referred to those countries whose economy depended essentially upon the export of a single product, and where price fluctuations dislocated the entire national economy. He pointed out the recent agreement between coffee-producing countries aimed at avoiding short-term fluctuations caused by speculative maneuvers in foreign markets which constituted a threat to weak economies.

Mr. VILLAC (El Salvador) supported the amendment because it was a legitimate defense against short-term depression caused by speculative maneuvers. He merely wished to avoid an unjustifiable decline in prices.

Mr. RICHARDS (Canada) felt that the aim could best be reached by commodity agreements maintaining a balance between export supplies and import demands. Canada could not support the proposed amendment.

Mr. OTANIEZ (Venezuela) spoke in favour of the Colombian amendment which his delegation would support because it provided a rapidly working machinery against short-term fluctuations of prices without doing any harm to consumer countries whose interests remained protected.

Mr. TINOCO (Costa Rica) also endorsed the Colombian amendment which stated expressly that aggrieved nations could take action, without violating any other Article of the Charter. It might be possible, however, to enlarge the scope of Article 27 to the same extent, if that should be more practical, so as to authorize countries threatened by speculative moves to defend themselves.

Mr. HAUSWIRTH (Switzerland) upheld the interests of the consumer countries and declared himself against the Colombian amendment, which was lacking in the primary principle of equality. It allowed producer countries
to take unilateral action while consumer countries would have to appeal against such action before the Organization and would have to wait a long time for redress. Both producer and consumer countries should either be allowed to take unilateral action, or both should have to go to the Organization before taking action. He concurred with the statements made by the representatives of Australia, Canada, the United Kingdom and the United States of America.

Mr. KENNEDY (United States of America) remarked that the basis of the Charter was world-wide co-operation. Chapter VI provided exceptions to the Charter but still upheld its guiding principle of co-operation; if the amendment were adopted, it would negate the very spirit of collaboration between producer and consuming countries. He urged the Committee to consider the implications very carefully. He was certain that in the long run the countries now supporting the amendment would be prejudicing their own best interests.

Mr. PARGA (Colombia) stated, in reply to other speakers, that there was no intention, behind his delegation's amendment, to raise prices of primary commodities; its only object was to provide the means of defense in the event of a temporary slump produced by speculation or other unjustifiable means. If a country attempted to abuse the provision, the second part of the amendment would provide sufficient guarantees to the aggrieved countries to deter the first country from taking such action.

He had no objection to inserting his amendment in Article 27, as the Netherlands representative had suggested, but he agreed with the Australian representative that Article 27 was mainly concerned with commodities, a large amount of which were consumed in the country producing them. That was not true of his country's chief crop, coffee, of which only a very small part was locally used.

Mr. MUNOZ (Chile) suggested the formation of a small ad-hoc Sub-Committee to study the matter further before taking a vote; Mr. de GAIFFIER (Belgium), however, thought that the matter had been exhaustively discussed by Sub-Committee 'A' and opposed the appointment of a new Sub-Committee.

Mr. CAPLAN (United Kingdom) thought that although something might be done in Section C towards meeting the Colombian intentions, it could not go as far as the amendment in permitting individual action to producer countries.

Mr. McCARTHY (Australia) felt that inasmuch as the Colombian amendment spoke of "individual" action, it was out of order in the context of Chapter VI which dealt only with inter-governmental agreements. Furthermore, he thought that the whole problem could be resolved by producer and consumer countries joining together in friendly co-operation.

/Mr. PARGA (Colombia)
Mr. PARGA (Colombia) thought that there was a difference in kind between short and long-term fluctuations. Last spring, his country had been seriously disturbed by the fluctuations of the New York coffee market, and unless several countries had jointly intervened, coffee prices would have fallen disastrously. It was just such exceptional cases that the amendment was designed to forestall, and he urged the Committee to give further thought to the matter, or, alternatively, to approve the Chilean proposal for an ad-hoc Sub-Committee to study it.

Mr. McCARTHY (Australia) said that the amendment might be acceptable if it could indeed be drafted to apply only in narrowly defined exceptional cases. But that was not the case; it had far-reaching implications, providing loopholes inimical to the spirit of Chapter VI, and endangered agreements already made or contemplated.

Certain agreements for the marketing of primary commodities were already exempt from certain provisions of the Charter and the wide extension of such exemptions would weaken the Charter.

Mr. ZAFRA (Philippines) sympathized with the spirit of the amendment but felt that commodity agreements could be entered into containing adequate protection against short-term fluctuations.

Mr. RICHARDS (Canada) enquired whether producer agreements would be complementary to commodity control agreements, or whether they would supersede them after an interim period.

Mr. PARGA (Colombia) replied that his amendment would come into effect when no commodity agreement existed, or when such a commodity agreement did not contain any provisions for short-term fluctuations. While it might be possible to reach such agreements eventually, the main point aimed at by the amendment was the rapidity with which it could operate. Serious suffering, or at least unnecessary hardship, would otherwise be unavoidable.

Mr. DUNAWAY (Liberia) agreed with the opposition to the amendment although his country lived by the export of primary commodities.

The CHAIRMAN determined the consensus of the Committee was against the proposal to appoint an ad-hoc Sub-Committee to consider the matter further.

Mr. de VRIES (Netherlands) pointed out that, in the instance where a commodity agreement was in existence, the Colombian proposal would result in loss of time, i.e. it would be easier to take the problem to the existing commodity council than to call a new meeting of producers. Second and more important, the complaint procedure in the amendment only applied to the Article itself and it would place the Organization in the anomalous position of having to ignore other provisions of the Chapter.
Mr. PARGA (Colombia) recognized the help given by the United States to the coffee producing countries during the war by sponsoring the Inter-American Coffee Agreement. He disagreed with the Netherlands representative, inasmuch as it would take much more time to get producer and consumer countries together than producers alone, and speed, he repeated, was essential. As no other provision in the Charter afforded adequate relief, he urged the acceptance of the amendment.

The CHAIRMAN determined that the sense of the Committee was to reject the Colombian amendment.

Mr. PARGA (Colombia), Mr. VILLAC (El Salvador) and Mr. ROCLES (Guatemala) reserved their delegations' position.

**Note on Reference in Chapter IV**

The CHAIRMAN drew attention to the change suggested by Sub-Committee 'A' in the wording of Article 43, paragraph 1 (h), namely "terms" instead of "obligations" (document E/CONF.2/C.5/9, page 11).

It was agreed that the Third Committee should be requested to make this change.

**Article 67, paragraph 1 (c)**

Attention was also drawn to the inconsistency in the wording of paragraphs 1 (c) and (d) in Article 67. In paragraph (c) there appears the clause "Provided that such agreements are not used to accomplish results inconsistent with the objectives of Chapter V or Chapter VI" whereas in paragraph 1 (d) the comparable wording is "Provided that such agreements are not used to accomplish results inconsistent with the objectives of this Charter....".

It was agreed to refer this matter to the Central Drafting Committee for decision.

The meeting rose at 8.20 p.m.