FIFTH COMMITTEE: INTER-GOVERNMENTAL COMMODITY AGREEMENTS

SUMMARY RECORD OF THE SEVENTH MEETING

Held at Havana, Thursday, 11 December 1947 at 4.00 p.m.

Chairman: Mr. George HAÍM (Lebanon)

Article 67 - Addition of sub-paragraph (d) proposed by the United States Delegation

Mr. SCHWENGERT (United States), in introducing his delegation's amendment, pointed out that Chapter VI had not been drafted with reference to questions of national security. Agreements relating primarily to national security should not be forced into a mould designed for ordinary commercial commodity agreements. They should, therefore, be excepted from the provisions of Chapter VI. Although Article 94 laid down that nothing in the Charter should be construed to prevent any Member from taking action considered necessary to protect its essential security interests, the United States delegation was not satisfied that it applied to joint or multilateral action. On the other hand, if the United States proposal were placed under the general exceptions of Article 94 it might be construed as applicable to the whole Charter, when it is intended to apply the exception only to that part directly related to joint action. He emphasized that the amendment was meant only to apply to action in the military sphere.

Mr. MUNOZ (Chile) felt that to accept the United States amendment would weaken the whole Chapter. The words "national security" were subject to very wide interpretation. He believed that Article 94 fully covered the point raised.

Mr. COREA (Ceylon), in supporting the representative of Chile, argued that each country was the judge of its own national security. If commodity agreements affecting national security were exempted from the Chapter, any country could claim the right to conclude arrangements on the grounds of national security.

Mr. de GAUFFIER (Belgium) said that he had been reassured by the explanation of the United States delegate. He thought that a formula could be found, the terms of which should, however, be as restrictive as possible.
Mr. PAIVA (Brazil) supported the United States proposal.

Mr. OTANEZ (Venezuela) said that his delegation must reserve its position in the preliminary discussion since the proposed exception was wide in character and its field of application vague. He agreed with the delegate of Belgium that a conciliatory formula should be sought.

Mr. MUÑOZ (Chile) suggested that the proposal be referred to the Sub-Committee for study.

Mr. CAPLAN (United Kingdom) expressed doubts as to the proposal in its present wide terms. Subject to clarification of the intent of the proposed amendment, he thought that the Sub-Committee could devise an acceptable formula.

Mr. REICHART (Argentina) believed that the amendment could be usefully studied by the Sub-Committee with special reference to the just use of the clause in order not to restrict the sovereign right of all countries in regard to national security.

It was decided to refer the proposal of the United States delegation to the Sub-Committee.

Mr. FAWCETT (New Zealand) drew attention to the reference to Section D of Chapter IV contained in Article 67, 1(a) and to the footnote to paragraph 1 of Article 30 of that Section referring to the operation of Marketing Boards, since this had an important bearing on commodity agreements. The New Zealand delegation had submitted a new sub-paragraph to paragraph 1 of Article 30 which embraced the operations of Marketing Boards and other similar organizations. He asked the Secretary to take note of the interest of the Fifth Committee in his amendment to Article 30 and advise the Secretary of the Third Committee accordingly.

Article 67 - Amendment to paragraph 1 (c) proposed by the Delegation of Norway

Mr. OFTEDAL (Norway) pointed out two typographical errors which had occurred in the Norwegian submission, namely the word "Charter" should be substituted for the word "Chapter", and (2) the reference to Article 57 (e) should be Article 57, 1(e). The effect of the amendment was to exclude fisheries and wildlife conservation agreements from Chapter VI and to clarify their status. The present text might lead to the conclusion that fisheries were either excepted under Article 67, 1(c), relating to the protection of animal life or included under Article 67(3) as exhaustible natural resources. Fisheries might be considered rather as renewable than as exhaustible resources. International fisheries and wildlife conservation agreements were not commodity agreements in the usual sense. They were not concerned with prices or distribution but directed towards the efficient management
management of the fishery. Fisheries and wildlife agreements were regional and often bilateral in character, and entered into by the interested nations on the basis of biological and oceanographical evidence that the resources were declining.

Mr. Oftedal added that the interests of all nations would be adequately protected by the provision providing for full publicity on such agreements and by the obligation that they should not be used to achieve results inconsistent with the objectives of the Charter.

Mr. BOGAARDT (Netherlands) was not convinced of the necessity for the Norwegian proposal and wished to reserve the position of his delegation.

Mr. SCHMENGER (United States), in supporting the Norwegian proposal, stated that fisheries were in a special class and should be treated separately as far as conservation was concerned. He drew a distinction between fisheries and fishery products.

Mr. CAPLAN (United Kingdom) was doubtful as to the need for amendment. Its essence could be met by deletion of the word "exhaustible" in paragraph 3 of Article 67; this would retain such agreements within the general framework of Chapter VI without subjecting them to Section C. He said that the term "wildlife" had no exact meaning, while the French equivalent, "la faune et la flore", was even vaguer. The reference had been dropped at Geneva, because it was considered that the conservation of exhaustible resources had been fully covered by the provisions of paragraphs 1 and 3 of Article 67.

Mr. PETER (France) recalled that numerous international conferences had attempted to provide measures for the protection of fisheries, including whaling, which was of special interest to his country. Whaling should be included in the purview of Chapter VI, particularly in view of its bearing on fats. Agreements should be reached through international conferences or studies falling within the framework of Chapter VI.

Mr. McCARTHY (Australia) raised the question of agreements which did not relate solely to conservation. Difficulties would arise by the introduction of other aspects in an agreement which primarily referred to conservation. It would be up to the Organization, under Article 58(3), to decide whether such an agreement should be treated as a control agreement. It was essential that exemption...
of any agreement should not cover important aspects unrelated to conservation. He agreed with the representative of the United Kingdom in regard to the redundancy of the amendment.

It was decided to refer the Norwegian proposal to the Sub-Committee.

New paragraph proposed by the Delegation of Colombia

Mr. PARGA (Colombia) stated that the question of price speculation was a special difficulty which had not been fully covered in the Chapter. Referring to the export of coffee, of vital importance to many Latin-American countries, he explained that owing to the concentration of consumption in the United States, and to the fact that its distribution was in the hands of a limited number of firms with considerable financial resources, speculation was an easy matter. On a recent occasion coffee futures had fallen sharply. If action had not been taken by certain countries, great hardship would have resulted for coffee-producing countries. The Colombian proposal would permit producing countries to reach rapid agreement in order to counteract price speculation and defend their interests in time.

Mr. PETER (France) thought that the proposal would weaken the provisions of Chapter VI. Inter-governmental commodity agreements, by organizing production and trade, offered the best defence against speculation.

Mr. CASTILLO (El Salvador) supported the Colombian proposal. The Latin-American nations were vitally concerned in the coffee market and this was a specific case of general interest to producing countries.

Mr. CAPLAN (United Kingdom) stressed that the problem should not be regarded merely from the point of view of producing countries. Speculation had also been known to exist on the great commodity exchanges in producing countries and speculative movements in commodity prices could also adversely affect consumer countries over a long-term period. The proposal would require careful examination in order to find a means of protecting both producer and consumer countries from the evil of speculation. Some distinction should be drawn between the normal movement of prices on the different commodity exchanges and fluctuations resulting from speculation.

Mr. McCARthy (Australia) pointed out that long-term difficulties caused by the disruption of supply and demand patterns could be adjusted.
adjusted by inter-governmental agreements. It must be recognized that there were short-term difficulties caused by speculation, but it was doubtful if they could be solved by the means proposed in the Colombian amendment. It would, furthermore, give the countries producing basic commodities the power to combine which would be no better than if consuming countries mis-used that power. He thought that the solution was the conclusion of agreements in particular commodities, between producing and consuming countries, embodying both floor and ceiling prices. Such agreements would adequately protect both parties. His delegation would not support the Colombian amendment.

Mr. STEWART (Uruguay) agreed with the objectives of the Colombian amendment but thought that a clause condemning speculation might more fittingly be inserted in Article 54.

Mr. YATES (FAO) referred to the fact that the width between floor and ceiling prices would be different in the case of different commodities. He thought the Chapter as it was contained sufficient basis for machinery to control long-term fluctuation.

Mr. OTANEZ (Venezuela) believed that the Colombian proposal amply safeguarded the interests of consumer countries and suggested that it be sent to the Sub-Committee for further study. This suggestion was supported by Mr. FAWCETT (New Zealand) and by Mr. SCHWEINGER (United States) who also wished to have certain explanations by the Colombian delegation regarding the machinery intended to be set up.

Mr. PARGA (Colombia) emphasized that rapid action was needed to prevent hardships caused by speculation to countries producing basic commodities like coffee. The machinery provided in Chapter VI for such contingencies was too slow to be of value. His proposal would, on the other hand, leave consuming countries adequate protection against the possibility of producing countries mis-using this new right, by their appealing to the Organization to have such mis-use set aside.

Mr. COREA (Ceylon) supported the Colombian proposal.
Mr. McCARTHY (Australia) felt that the Colombian proposal was contrary to the spirit of the Charter inasmuch as it would prevent producing and consuming countries from getting together and working out amicable agreements. The Committee should decide whether such a departure was acceptable before sending the amendment to the Sub-Committee.

Mr. SCHWENGER (United States) supported the Australian point of view and observed that while price extremes were for a short time profitable to individuals, they were unprofitable and disruptive to the economies of both producing and consuming countries in the long run.

The CHAIRMAN explained that it would be difficult for the Committee to decide the issue at the first reading and referred it to the Sub-Committee which was to consider it on the basis of the views expressed in the Committee.

Article 53, paragraph 1 - Proposal of the Delegation of Uruguay

Mr. STEWART (Uruguay) stated in support of his amendment that the high ideals of the Charter were being watered down by limitations and exceptions, and that producers of basic commodities needed industrial equipment without which they could not work for the world market. His amendment would equalize the position of producers of basic commodities with that of countries exporting agricultural machinery and equipment.

Mr. REICHART (Argentina), Mr. LACARRA (Mexico) and Mr. KUNTER (Turkey) supported the Uruguayan amendment.

Mr. SCHWENGER (United States) was of the opinion that the appropriate supply of the means of production to primary producing countries was already being discussed elsewhere in the Conference.

Mr. STEWART (Uruguay) replied that his amendment provided for equal treatment of producers and consumers. It would provide the necessary safeguards to assure co-operation between these two parties in the discussion of prices both of basic commodities and of the machinery to produce them.

Mr. CAPLAN (United Kingdom) felt grave concern at the implications of the Uruguayan amendment, apart from its dealing with certain matters being discussed in Committee II. Many such industrial commodities were already covered elsewhere in the Charter; and Article 53 provided a wide application. If the Uruguayan proposal were to be adopted, it would require considerable re-drafting of the Chapter.

Mr. USMANI (Pakistan) agreed with the position taken by the United States and United Kingdom delegations, and pointed to the Pakistan amendment to Chapter III, Article 10, regarding assistance by technical advice and equipment, as well as to the amendment to Article 70.
Article 70 regarding the creation of a Development Committee. If those amendments were accepted, they would fulfill the Uruguayan objective much better.

Mr. McCABHY (Australia) sympathized with the objective of the Uruguayan amendment but did not think it could be achieved by these means. Manufactured goods, like tractors, could not be treated by multilateral or inter-governmental agreements as was the case with standardized primary commodities.

Mr. RICHARDS (Canada) supported the Australian view and added that the Uruguayan amendment would only serve to bring the producers of agricultural machinery together into a combine which would be even stronger than the individual manufacturers in imposing conditions on primary producers.

Mr. LACARRA (Mexico) supported the Uruguayan proposal which would help avoid the very difficulties foreseen in Article 52. While the whole Charter was trying to maintain the principle of equality, this Chapter seemed to favor the industrialized countries over the primary producers, who had to sell on a controlled market while having to buy on a free market.

Mr. STEWART (Uruguay) admitted that there were difficulties and obstacles but they could be overcome. Producers of primary products are consumers of industrial equipment. It was important that the Charter should not discriminate against countries like Uruguay.

Mr. CAPIAN (United Kingdom) thought that the text of Article 53 would satisfy the objective of the proposed amendment.

The CHAIRMAN referred the matter to the Sub-Committee.

Article 74 - Sub-paragraph (b) - Proposal of the Delegation of Mexico

Mr. LACARRA (Mexico) explained the importance of his delegation’s amendment to countries with potentialities for industrial development, and cited the Mexican chicle production as an example. In certain cases, the Organization should recognize the right of under-developed countries to process their own primary products, or at least their right to receive assistance in their attempts at industrialization.

Mr. Bogaardt (Netherlands) opposed the Mexican amendment, the substantive parts of which he felt should be discussed in Committee II.

Mr. CAPIAN (United Kingdom), while sympathetic to the difficulties of primary producers, and familiar with the aims of secondary industries, thought that the proposal, if implemented, would only serve to encourage restriction of world trade and high prices.

Mr. LACARRA (Mexico) explained that it was a question of temporary measures only, to alleviate maladjustments by shifting resources into new occupations.
Mr. COREA (Ceylon) and Mr. STEWART (Uruguay) warmly supported the Mexican amendment, which the CHAIRMAN then referred to the Sub-Committee.

Sub-paragraph (c) - Proposals of the Delegations of the Philippines, Ceylon, Uruguay, Venezuela, El Salvador, Mexico and Cuba

Mr. ALAMILLA (Cuba) in explaining the amendment of his delegation, referred to the wording of the Caracas Declaration. For the guidance of the Sub-Committee to which the matter would be referred, he emphasized the need for a clarification of the word "efficient". His delegation had been unable to define this vague term, but had evolved an adequate definition of "not efficient" as meaning a producer who resorted to sub-standard working conditions and workers' pay to achieve lower prices. Some such provision was necessary to avoid the destruction of an industry by sub-standard conditions elsewhere. If such a provision could be formulated, the Cuban delegation would withdraw its amendment.

Mr. CAPLAN (United Kingdom) thought it would be better to drop the different amendments and leave only the sentence: "on a basis of prices fair to producers and consumers".

Mr. RICHARDS (Canada) stated that he was willing to agree to the deletion of the word "efficient" and to the addition of the words "producers and consumers alike".

After a further discussion on the retention of the word "efficient" in which Mr. de GAIFFIER (Belgium), Mr. ZAFRA (Philippines), Mr. RICHARDS (Canada), Mr. COREA (Ceylon), Mr. REICHART (Argentina) and Mr. LACARRA (Mexico) participated, it was decided to refer the question to the Sub-Committee.

Article 54 - sub-paragraph (e) - Proposal of the Delegation of Cuba

Mr. ALAMILLA (Cuba) announced that his delegation would withdraw the proposed amendment because after careful study the case was found to be fully covered by paragraph (c) of Article 60.

Article 54 - Proposal of the Delegation of El Salvador for the addition of two new paragraphs (g) and (h)

Mr. CASTILLO (El Salvador) explained that the proposal for sub-paragraph (g) was intended to provide measures for the relatively weaker countries to defend themselves by means of inter-governmental agreements against powerful foreign companies.

Mr. CAPLAN (United Kingdom) urged that no attempt should be made to overlap with the work of Committee IV, which was considering restrictive business practices; nor should the debate proceed as an issue between producers and consumers.

It was decided to refer the proposal for examination by the Sub-Committee.
Article 5\textsuperscript{4} - Proposal by the Delegation of Uruguay

This proposal to add a new paragraph was referred without comment to the Sub-Committee.

Appointment of Sub-Committee

The CHAIRMAN declared that the first reading was completed. He proposed that the Drafting Sub-Committee previously appointed and which had now completed its work, should be enlarged into a working Sub-Committee. This would be done by the addition of the representatives of Cuba, Egypt, El Salvador, Italy, Pakistan, and Sweden. The Sub-Committee would be given the following terms of reference:

1. to consider all proposed amendments to Chapter \textsc{vi} as contained in document E/CONF.2/C.5/5 together with the suggestions made during the discussions in Committee V of these proposed amendments; and
2. to recommend texts which would reconcile the various points of view expressed.

The meeting rose at 7.55 p.m.