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

VERBATIM REPORT.

THIRTY-SIXTH MEETING OF COMMISSION "A"
HELD ON TUESDAY, AUGUST 12 1947, AT 10.30 A.M. IN
THE PALAIS DES NATIONS, GENEVA.

H. E. Mr. Erik Colbea (Chairman) (Norway)

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CHAIRMAN: The Meeting is called to order.

You may remember that there were certain odds and ends left over from our last Meeting, but I would suggest that we should proceed now to the discussion of Article 37 and clear that out of the way first, and then afterwards we will take the different outstanding questions. There is the Chinese proposal on Article 18: 2 (c) and the suggestion of the Belgian Delegation on Article 21: 3 (b) and I have also been informed that the Delegate of South Africa has a statement to make. I wonder whether he wants to make his statement now or after the discussion?

The Delegate of South Africa.

Dr. J. E. HOLLOWAY (South Africa): Mr. Chairman, I am a little bit concerned, both as leader of my Delegation and in a personal capacity, about what has happened to a method that we used in the sub-Committee on Technical Articles in getting over some of our difficulties. I refer to the insertion of certain notes to make it plain what was intended. You will remember - all those who dealt with these matters - that we got up against some difficulties which seemed to be insoluble until we gave ourselves the latitude of putting certain things in footnotes and not putting them into the text, and in that way we got over some - I suppose - eight or ten problems.

However, those notes are on a very special level, because when we are all either dead or enjoying our pensions or doing other things, other people will have to interpret these Articles and if these Articles are thrown into the general record of the Conference they will be like a few straws in the Augean stables of the International Conference and it will take a lot of searching to find them.
Now, as I have said, as leader of the Delegation, I feel strongly about the matter because there are certain things on which we withdrew reservations on the assumption, which I think we all shared, that those notes would go into a special position. I feel more of a personal responsibility too - and I put it to the Delegations concerned - because both as Chairman of the sub-Committee and in the Committee on the Technical Articles I was instrumental in persuading certain people to accept a certain text which they did not like on the assumption that they would have a footnote with which they could accept the text.

Therefore, I came to the conclusion that it would be necessary to have a definite reference in the Charter to these footnotes and to give them status. For that reason I sent forward an amendment to Commission B, which referred it to the sub-Committee, to make a reference to notes which have been put into the Charter by the Preparatory Committee. That meant, of course, that each note had to be vetted and it had to be in an Explanatory Note which made it clearer what was meant and what was agreed on by the Conference and I suggested that in the Explanatory Chapter there should be a reference to a Schedule which should contain these notes. Commission B has turned that down, Sir, has recommended against it, and has said "Well, if it has got to be done, in any case it has got to be done by the World Conference". I fail to see the force of that argument because, after all, if the footnotes can only be finally drafted by the World Conference surely then the whole of the text of the Charter can only be finally drafted by the World Conference and then we might as well recognise that we have had some nice discussions, and we are coming back, and then we can draft all over again.
Now the reason why I raise it here instead of in the Preparatory Committee is partly to save time and partly because Commission B, or the Sub-Committee of Commission B, said they had not been instructed on the matter by Commission A.

My feeling at the moment is this, that as far as the South African Delegation is concerned the matter—after all, if these footnotes have no standing, all that I do is to note reservations when we come to exceptions. As far as my colleagues whom I have perhaps led astray by suggesting that we were safe to take this part are concerned, I wish to give them fair warning now that unless we do get these footnotes added in the special position which we all envisage for them, then they have been led astray and therefore they will also have to put in reservations.

I think the general effect of not dealing with those footnotes in the way in which we all intended to will be that we will probably have some fifteen or twenty reservations from different countries which would have been avoided if the footnotes had gone into the Annexure, and incidentally, the Text as it goes forward will be much less clear than it would be with the footnotes. Thank you.

CHAIRMAN: Well, the position seems to me to be the following.

We have decided in the Committee of Heads of Delegations, and I think it was repeated in the Executive Session, that all the documentation of the Preparatory Committee should be kept apart from the Text of the Draft Charter, but that formal reservations and explanatory notes replacing formal reservations—or making it possible not to make formal reservations—should be included at the bottom of the Text of
the Article to which such explanatory notes refer. In this way the explanatory notes have, not entirely but to a very great extent, the effect Dr. Holloway wants to give them. They will not be mixed up with an enormous amount of paper resulting from other Conferences in London, New York and here. They will be given a place of honour at the bottom of the page of the Draft Charter, side by side with the formal reservations, and I think that that gives considerable satisfaction. Whether it would be necessary or desirable in addition to that to insert a clause in the Charter finally saying that these explanatory notes should be considered as tentative notes to the Text to which they refer — whether it is desirable or necessary, I do not think we need to decide to-day. We have, by deciding to give them this place of honour, already drawn the attention of the Havana Conference to the importance we attach to these explanatory notes; and I do not think that we, at the present stage of our negotiations here at Geneva, should worry too much about it.
CHAIRMAN: I wonder whether my explanations have given some satisfaction to the Delegate of South Africa?

Dr. J. E. HOLLOWAY (South Africa): Mr. Chairman, I am very well aware of what happened at that meeting - I was present. I have also seen the Note of the General Secretary. The question is, however, not what the status of these Notes will be for the Havana Meeting. The question, as I said, is what their status will be when people who know not Joseph and all his works have to interpret this thing. I know the interpretation the lawyers will give to it. The lawyers will assume that we were a set of all-wise people who said actually everything it was necessary to say in the text. We have not said everything it was necessary to say in the text, partly because we are not wise enough and partly because we could not agree, but we could agree when we had those Notes. Therefore those Notes must have a status in regard to the Charter and that status can be given very simply by taking up those Notes in an annexure, as Explanatory Notes which must be used as interpretative material, and referring to them in the text of the Charter. Then when we are dead they will still be there; whereas, if we leave them out, in ten years' time people will be utterly lost about them.

CHAIRMAN: I feel it is rather for the Havana Conference to decide whether some of these Explanatory Notes should be incorporated in the final text of the Charter and whether some others, not to be incorporated, should be left out altogether, or, finally, whether some of them should be treated in a special way as interpretative material to the Charter. It is very difficult before we see how the World Conference will deal with these reservations, what status we are called upon to give certain of them. So my own suggestion would be, unless the
Commission feels otherwise, that we must let the matter remain there until the Havana Conference.

The Delegate of Australia.

Mr. C. E. MORTON (Australia): Mr. Chairman, the Australian Delegation is equally concerned with the South African Delegation about the status of the Notes on the technical Articles. We would like to be understood that the Notes, or the majority of the Notes on the technical Articles, are not like the Notes which appear to be scattered throughout the Charter like the leaves in Velloabrosa; they are the matters on which it was possible to have some agreement on the actual wording of the draft. I take it the draft text is going forward to Havana as an agreed draft text. If those Notes accompany the draft, with the same status as the draft itself, it should be no insuperable obstacle to give those Notes equal validity with the text whilst we are here. The Havana Conference will deal with both the text and the Notes however they see fit, but it must be clear at the World Conference that the text is only an agreed text as long as it is accompanied by certain of these interpretative Notes.

I would draw your attention to Page 11 of T/142 or Paragraph 2 of T/154. That text, in the absence of these Notes, is no good to 50 per cent of the Delegations here: with the Notes they are all agreed on it.

CHAIRMAN: I do not think there is any dissent amongst us as to the importance and the value of all these Explanatory Notes. It is obvious, as I said, that the Notes are inserted so as to avoid reservations and if the Notes are not respected then there will be reservations. Whether or not it is necessary in the Charter to introduce a formal declaration to that effect, I have an open mind, but on the substance we are all in agreement. These Notes are Explanatory Notes rendered necessary in order to avoid dissent.
Mr. E. WYNDHAM-WHITE (Executive Secretary): Mr. Chairman, I wonder if I could make a suggestion which might enable us to get off this point. As I understand it, the Delegate for Australia has repeated in somewhat different words, exactly what the decision of the Preparatory Committee is on the subject of these notes, and if it would make the Delegate of Australia and the Delegate of South Africa happier on this point, we could arrange to insert, in the introduction to the Report of the Second Session, a statement on the position which the Preparatory Committee has taken on this point, interpreted in the sense which the Delegate of Australia has interpreted it.

Baron P. de GAIFFIER (Belgium); (Interpretation): Mr. Chairman, the Belgian Delegation agrees with your interpretation. I believe we could all agree in saying that the notes attached to the text of the Charter should be treated by the Havana Conference on the same footing as the text of the Charter itself. Having settled that, we could then leave to the Havana Conference the decision for further continuation of this text.

CHAIRMAN: I would agree with what the Executive Secretary has said, that we should, in the Report of the Geneva Meeting, insert a statement to the effect that explanatory notes are being inserted in order to avoid reservations or dissenting opinions, and that they should be treated by the Conference in the same manner as the text of the Draft Charter. But I would also like to point out that this is the way in which we have treated the footnotes from the London Meeting and the footnotes in the New York Draft. Every time we go through an Article from the text of the New York Draft, we look at the footnotes and we discuss them in full. There is no difference of opinion on that score, so I really think we are all in perfect
agreement as to the importance and advisability of these explanatory
notes, and if we can, as suggested by the Executive Secretary, draw
the particular attention of the Conference to our conception of the
importance of the notes, it would be sufficient.

Mr. S. L. HOLMES (United Kingdom): Mr. Chairman, I would not
necessarily dissent from anything that you have suggested, or
anything that has been suggested by the Executive Secretary, but I
take it that this is hardly the body which could take a
general decision which will apply to the Report on the whole of
the work here - not merely on those parts with which this Commission
has been charged. I think, therefore, that I can assume that any
decision on the lines of what has been suggested will be endorsed,
or will be put up for endorsement, either by an Executive Session
of the Preparatory Committee or by its Delegations. Subject to
that, I hope that we may leave the question at the point at which
it now is so far as Commission B is concerned.

I would, however, like to dissent from one of the suggestions
which, as I understand it, the representative of South Africa made.
That was that we should all be dead within ten years. That is not
my own personal intention.

Dr. J. E. HOLLOWAY (South Africa): Mr. Chairman, the whole
difference is whether there should be a reference in the text of the
Charter to the notes, or not. I maintain that I am in honour
bound to my colleagues to fight for that, because I persuaded them,
in the Sub-Committee and later on, to accept certain notes. Now,
the matter does not affect only the Charter - it also affects the
General Agreement in which we have some of the same Articles over
and over again, so we cannot put over the matter to Havana.

As far as the method suggested by the Executive Secretary is
concerned, concerning Havana, it will give us another opportunity of dealing with the matter, and I presume the Report will come up for approval in Executive Session. Therefore, I am prepared to leave it at that, having warned my colleagues to whom I have commitments in the matter, of the position. I intend to be in Havana, and my government intends to be represented in Havana, but I must take into account that by November I may quite possibly be in a much less pleasant and much warmer spot no doubt. Some of you also may be in a much more pleasant and much cooler spot than even Havana, but the matter has now been fully ventilated here, and I must fight for the reference, in the text of the Charter itself, to these notes.
CHAIRMAN: The Delegate of the United States.

Mr. J.M. LEDDY (United States): Mr. Chairman, I would like to support the suggestion of the Delegate of the United Kingdom that this matter be referred to the Heads of Delegations meeting.

I should like to say in regard to Dr. Holloway's last point that so far as we were concerned, we agreed to the Notes on the understanding that they would be a part of the material for interpreting the Charter. They would not be a legal part of the text of the Charter - if the Committee had intended that, the Committee would have put them into the text, and I think that, without prejudice to any different decision which may be taken in the Heads of Delegations meeting, after further thought in the matter, the proposal to make the Notes a legal part of the text really changes the whole character of the Notes, and we should have to re-examine them very carefully as to their language if they were put in the text.

CHAIRMAN: You have heard the Delegate of South Africa, after having made his declaration, say that he would let the matter rest there for today, but the Delegate of the United Kingdom and the Delegate of the United States suggest that since the question has been brought up it ought to be thrashed out in the meeting of the Heads of Delegations. I do not think that anybody can object to that course being taken. May I take that to be agreed?

Agreed.

I said in the opening of the meeting that I would start the discussion today with Article 57. You have it on page 45 of document E/PC/T/154.
MR. G.B. URQUHART (Canada): Mr. Chairman, there are two apparent discrepancies in the Summary Record and Verbatim Report of the last meeting of Commission A, if this is the correct time to bring this up.

The first has to do with paragraph 4 of Article 18. The Summary Record says that it was decided to adopt the suggestion of the Legal Drafting Committee to transfer this paragraph so as to become the last sentence of paragraph 3(a). That, as I recall it, was not the decision of the Commission.

MR. C.E. MORTON (Australia): My recollection of the matter, Mr. Chairman, is the same as that of the Canadian Delegate. There was some talk of the transfer of paragraph 4 to paragraph 5 and vice versa, but we definitely agreed that the text of Article 18, paragraph 3 should not be further burdened by the addition of paragraphs 4 and 5.

CHAIRMAN: The Secretary informs me that there is a clerical error there on page 2 of document E/PC/T/A/SR/34 - they have omitted the word "not".

MR. G.B. URQUHART (Canada): The other point, Mr. Chairman, is on page 4 of the Summary Record. It says that in the English text of Article 20 the only change made was to retain the words "agreed to" in the first sentence of paragraph 5. There was some discussion regarding fixing the marks of origin, and I think some word was adopted there other than "fixed".

CHAIRMAN: The Secretary informs me that the word "fixed" was proposed in the Corrigendum to the Report of the Legal Drafting Committee, and we based our discussion on that Corrigendum. I am sorry for this misunderstanding.
H.E. Mr. WUNSZ-KING (China): Mr. Chairman, I wish to be enlightened as to whether we have taken any decision on Article 23, because I understand that there was one Delegation which proposed the deletion of Article 23 and that proposal was supported by another Delegation.

CHAIRMAN: My intention was to start with Article 37, and afterwards to come back to all the points we passed over last time.

On page 45 of Document T/154 you will find three general observations on Article 37. The first one is a reservation by the Delegate of India, who "maintained his suggestion that a Member should be allowed temporarily to discriminate against the trade of another Member when this is the only effective measure open to it to retaliate against discrimination practised by that Member in matters outside the purview of the Organization, pending a settlement of the issue through the United Nations". I would ask the Delegate of India whether he still maintains that suggestion.

Mr. S. RANGANATHAN (India): Yes, I should like that note to continue.

CHAIRMAN: Then it will be retained in the form "One Delegate maintained", and so on.

The second note you will remember from the previous Meeting: The Delegate of the Netherlands proposed an addition: "Necessary to protect the rights of the grower who improves plants of commercial use by selection or other scientific method".

He said in explanation that he simply wanted to mention the matter here. He did not expect it to be discussed, but he would reserve the right to take it up at the Conference in Havana. We pass on to the examination of the introduction to Article 37. There is no amendment, and you will see that the Legal Drafting Committee has, practically speaking, passed our text unaltered.
Mr. ROYER (France) (Interpretation): Mr. Chairman, we are compelled to-day to submit some modifications to paragraph II (a) of Article 37. I apologise if we do that at the last minute. This is due to a number of circumstances, especially to the fact that when Article 28 came to be examined a new suggestion was put forward after the Plenary Meeting, and the French Delegation would accept the new Text of Article 28 with a few Amendments to correct this new Text.

Unfortunately the French Amendments stirred some emotion in the Meeting, and we found, after studying the question, that the best solution would be to modify somewhat the Text of Article 37. This is why we submit to you a new Text for this paragraph (a) of II of Article 37. The Sub-Committee on Articles 26, 27 and 29, have recognised already that our procedure is well founded, and I even believe that its Chairman intends to make a declaration in this respect.

The Text we submit to you is as follows upon II (a): the words "necessary to ensure to a consuming country an equitable share of any product essential and in short supply to it". The main difference between this formula and the former Text is that the former Text only referred to distributing agreements going through international organizations like the IFC; and this is, to our mind, too restrictive.

We must be able to let the States distribute equitably this kind of goods, even if it does not go through such international agencies, and we have to maintain this position because our economic policy at present would be put in danger if we had to modify it. This is a very important point for the French Government, and such a change seems to us indispensable, if France is to be in a position to accept both a Charter and the General Agreement on Tariffs.
Therefore I would request the Committee to take our suggestion into consideration and to accept it.

CHAIRMAN (Interpretation): I propose to deal with the French Amendment when we deal with paragraph (II) of Article 37. We pass on to 1 (a) of the Article, "necessary to protect public morals". Any observations?

Mr. MELANDER (Norway): The Norwegian Delegation considers it necessary to maintain a reservation which we have on 1 (a) and (b), which is recorded on page 45 at the bottom of Doc. T/154.

CHAIRMAN: Any further remarks on (a) and (b)?

Approved.

(c). (d). Approved.

You will see that there is on page 48 a note on sub-paragraphs (c) and (d). "It was noted by the Commission that these sub-paragraphs may require further consideration after decisions are reached on articles 25-29".

I wonder whether it is necessary to maintain that statement now. If nobody wants it maintained, I think we can leave it out.

The Delegate of France.

Mr. ROUX (France) (Interpretation): I would draw attention to a change in the French text introduced by the Legal Drafting Committee, who put the words "les pratiques dolosives" instead of "les tromperies sur la nature"; but this is going too far, and we think the previous Text was a better one than the present French text.

BARON DE GAIFFIER (Belgium) (Interpretation): I entirely agree with the French Delegate.
CHAIRMAN: I think in the light of these declarations we revert to the previous Text.

Then on page 48 we have a second Note on sub-paragraph (b). "The Commission considered that the reference to Section E of Chapter V will require review after the adoption of the final text of that Section".

I wonder whether it is necessary to maintain it.

If nobody insists, I think we can strike it out.

We pass on on the top of page 47, sub-paragraph (e) "relating to the products of prison labour".

Any observation?

Agreed.

Sub-paragraph (f). Any observations? Approved.

(g) "relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption."

There you have a Document W/264. A re-draft by the Australian Delegation. You have the text before you. I would like to know whether any delegate has any objection to the proposal of the Australian Delegate.
Mr. J. M. Leddy (United States): Mr. Chairman, we have no objection to what must be the intent of this proposal, but we should like to call attention to Document S/PC/T/139, which is the Report on Chapters I, II and VIII. Page 26 contains a provision which permits a Member to take any action which the Member may consider to be necessary to protect its essential security interests "Relating to the traffic in arms, ammunition and implements of war" - and this is the important phrase which I will now read - "and to such traffic in other goods and materials as is carried on for the purpose of supplying a military establishment."

We had always considered that that exception would permit a country to restrict exports not only of exhaustible natural resources but of other things, such as, for example, scrap iron, to the extent that it felt that the export transactions were carried on for the purpose of supplying a military establishment abroad, whether or not they were directly or indirectly consigned to a military establishment as such, and I wonder whether this exception does not render the Australian proposal unnecessary. In other respects, I think that the Australian proposal may be a little too broad, because it is very difficult to say what may be necessary to a Member's long-term plans for security. I think that perhaps you could restrict almost anything in the world on that ground and I wonder whether the exception already in the Charter does not meet their point.

Dr. E. O. Coombs (Australia): Mr. Chairman, the sympathy which the United States Delegate has expressed for our point of
view is mutual, because we appreciate the difficulties of this proposal, the danger of being somewhat wide. We are concerned, however, as to the adequacy of the clause to which the United States Delegate has referred, from the point of view which we have in mind. The precise wording in the present draft of the Article to which he refers reads: "Relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on for the purpose of supplying a military establishment."

I do not know precisely what a military establishment is, but I doubt whether it would cover a factory which was engaged only or partly in the production of materials of war, or whether it would cover the factory or plant which produced the materials, semi-fabricated, from which materials of war were themselves produced.

To refer to the case that we have quoted in our Note. It was found necessary in the year or so immediately preceding the outbreak of the last war to prohibit the exportation of iron ore from Australia, because we had reason to believe that it was being, or would be, used for military purposes by Japan. I do not doubt that that iron ore would have been used, first of all at any rate, in ordinary smelting works in Japan, and I doubt whether you could describe such smelting works as a military establishment. Consequently I feel some doubt as to whether the Article referred to covers the sort of case we have in mind. However, I would be grateful to hear the views of other Delegates on the matter, as we are aware of the difficulties of this proposal.

CHAIRMAN: The Delegate of the United States.

Mr. J. M. LADDY (United States): I should explain, Mr. Chairman, that we also have restricted exports of scrap iron
for the same purpose as the Australians have restricted iron ore and it was always our interpretation of this clause that if a Member exporting commodities is satisfied that the purpose of the transaction was to supply a military establishment, immediately or ultimately, this language would cover it. It would not do violence to our understanding of it to add the words "directly or indirectly for the purpose of supplying a military establishment." I think that would meet this difficulty.

CHAIRMAN: The Delegate of Canada.

Mr. J. J. DEUTSCH (Canada): Mr. Chairman, we are also worried about the rather general character of the exception proposed by Australia. The words "long-term plans" are extremely wide and we feel that they may allow the taking of action which is contrary to the general intent of the Charter under those broad terms. Long-term plans may include almost anything and I would prefer to meet the point in the manner proposed by the United States Delegate.
Mr. J. MELANDER (Norway): Mr. Chairman, there is one point of
detail which comes out of the Australian amendment. It is said, in
the first sentence of the Australian amendment, "Relating to the
conservation, by export prohibitions." The words "by export
prohibitions" are not included in the original text, and they would,
of course, include a limitation by limiting these exceptional
measures only to export prohibitions. Of course, those methods,
"export prohibitions," would be the most likely ones to be used, but
there are also other measures, and as the text stands, drafted by
the Legal Drafting Committee, it is more general and we would prefer
the more general statement so that the words "by export prohibitions"
should be deleted, whatever else is done with the amendment proposed
by the Australian Delegation.

Baron P. de GLAFFIER (Belgium) (Interpretation): Mr. Chairman,
the Belgian Delegation shares the preoccupation expressed by the
representatives of the United States and Canada. Our attitude in
this is the same. We also see a danger in the Australian amendment
in that it establishes a general prohibition, when the preoccupation
expressed by the representative of Australia is to make prohibition
for certain countries at certain times. There is the danger of war,
and I believe that Article 91 already answers the desire expressed
by the Australian Delegate. It speaks of measures to be applied in
case of war or of international tension, and therefore I believe
that it is sufficient to cover the point raised by the Australian
representative.

Mr. S.L. HOLMES (United Kingdom): Mr. Chairman, the point
that has been raised by the Australian Delegation is obviously one
of importance, and I think it has been recognised here that solving
this problem will present difficulties if there are objections on
the grounds that the wording is a little too wide. Possibly a form of words may be found in some other references before the end of the meeting, which would enable us perhaps to get on to something else.

CHAIRMAN: Are there any other delegates wishing to speak on this matter? Well, I suggest that we pass over this point for the time being, and if, as may be the case, we shall have to have another meeting on these articles, we can then hope that, in the meantime, the delegates will get together and find a reasonable solution.

We pass on the next sub-paragraph (h): "undertaken in pursuance of obligations under inter-governmental commodity agreements concluded in accordance with the provisions of Chapter VII". Are there any observations? Then that is agreed.

On page 48 you will see that the Delegate of India has made a suggestion on the sub-paragraph (g). He maintained provisionally his suggestion that the words following upon "natural resources" should be deleted. It would read: "relating to the conservation of exhaustible natural resources". Does the Delegate of India maintain that suggestion, or would he prefer to wait until he will see the result of the discussion on the Australian amendment?

Mr. S. RINGANITHIN (India): I would prefer to wait until the Australian amendment is disposed of.
Mr. L.C. Webb (New Zealand): Mr. Chairman, the New Zealand Delegation has put forward in document E/PC/T/W.269 a proposal to add a sub-paragraph to paragraph 1 of Article 37. If it would suit your convenience, I would like to say a few words about that.

The purpose of this amendment relates to the work of a sub-committee which was set up to consider the New Zealand amendment to Article 33 relating to the use of trade controls generally, and in the course of that committee meeting the question was raised about New Zealand's use of export control. Unfortunately, that sub-committee on Article 33 has not completed its work, but we have considered it desirable to put forward this amendment in view of the fact that Article 37 was coming up for consideration before the sub-committee on Article 33 concluded its labours.

The purpose of this amendment is to provide for the case of countries like New Zealand which maintain as a matter of permanent policy price stabilization schemes covering, generally, the whole range of their economy. Any country which, like New Zealand, stabilizes its general price levels is faced with the problem that the world price for certain commodities, particularly raw materials which it exports, will be substantially higher than the stabilized domestic price for the like commodity. The best way of explaining that is, I think, to give a practical example. In New Zealand the price of leather to domestic users such as, for instance, the footwear industry is sold at a price very much below the world level. Now, in the circumstances it becomes necessary to ensure, by means of export controls, that the local requirements of leather are satisfied - otherwise, if that is not done, there would be no leather for the local market - or, alternatively, it
would be necessary to let the local price of leather rise to the world level. We do not assume that it would be contemplated that the effect of the Charter would be to compel the abandonment of the price stabilization schemes, and therefore we have brought forward this amendment. It is true that it has been suggested that the same result can be achieved by the method of export taxes, but we, and I think other countries who have tried that method, have found it unsatisfactory and, indeed, impracticable, because the world price of primary commodities is subject to such wide variations that the rate of tax has to be varied too frequently.

Furthermore, it has to be borne in mind that, as I say, these measures are part of domestic stabilization schemes, and the term "Domestic stabilization scheme" is included in our amendment. That, it seems to us, precludes the use of an export control of this sort for a purely protective purpose.

We would, therefore, commend this amendment to the sympathetic consideration of this Commission. I imagine that the sub-paragraph which we have suggested could be added to paragraph 1 of Article 37 as a further sub-paragraph.
CHAIRMAN: The Delegate of the United States.

Mr. J.M. Leddy (United States): Mr. Chairman, I do not want to delay the proceedings of the Commission, but I would like to have a bit more time to study the substance and the form of this amendment, because it is of some considerable importance. If it were possible, therefore, we should like to take it up at a later meeting.

CHAIRMAN: As I have already said, I have the impression that we shall not get through with our work today. I do not think there can be any objection to the postponement asked for by the United States Delegate.

We pass on to paragraph II(a) of the Report of the Legal Drafting Committee, where we have the amendment submitted by the French Delegation. You have heard the explanation in support of that amendment by the Delegate of France. I would call on other Delegates to express their views.

Mr. J.M. Leddy (United States): Mr. Chairman, we have given some thought to this proposal by the Delegate of France since the time it was first mentioned in connection with the balance-of-payments Articles. It appeared from the discussion in the Sub-Committee on the balance-of-payments Articles that this was not a problem which was confined to countries in balance-of-payments difficulties, but applied generally to the acquisition and distribution of commodities in short supply during the transition period.

We have re-examined the provisions of part two, paragraph (a) of Article 37 to see whether it did not, in fact, provide for Agreements between two or more countries as well as the more general multilateral arrangements relating to products in short supply, and we feel that probably it does require some re-casting
to take into account bilateral agreements. I think, as it stands, it would permit unilateral export restrictions, which could be justified as resulting in an equitable distribution of commodities in short supply, and also would cover such multilateral arrangements as the International Emergency Food Council.

We should like to suggest a re-wording which would provide certain safeguards to Members in the case of all three types of arrangements—that is to say, unilateral export restrictions; bilateral agreements regarding products in short supply, and the more general arrangements. The wording we would suggest would be this:

"essential to the allocation of products in short supply, provided that any such measures shall be considered with an equitable international distribution of such products among the several consuming Member countries and with multilateral arrangements directed to this end".

That would clearly permit, we think, of bilateral agreements and the mutual provision of products in short supply, but would make them subject to complaint in the event that they had the effect of depriving other Member countries which also need these products and are unable to get them by reason of the arrangements concerned. I believe that it is more or less in accordance with the proposal put forward by the French Delegation but has a little more elaborate provisions in the way of safeguards.

CHAIRMAN (Interpretation): Does the French Delegate wish to answer the Delegate of the United States on this point?

M. ROYER (France) (Interpretation): Unless someone else wants to speak on this subject, I would be glad to answer the Delegate of the United States.
Mr. S.L. HOLMES (United Kingdom): Mr. Chairman, it occurred to us that while there may be some point in the remarks made by the United States Delegate and in the latter part, particularly, of the alternative which he has suggested, the needs of the situation could, perhaps, be met by a fusion of the two drafts: that would be, to take the language suggested by the French Delegation with perhaps some minor alteration (to bring the English version more into line with English) and to add on to it the sort of proviso, or some reference to the sort of considerations, raised by the United States Delegate in the latter part of his formula.

BARON DE GAIFFIER (Belgium) (Interpretation): Mr. Chairman, I would like to make a general remark regarding the procedure in our work. These technical Articles were studied at the very beginning in the Preparatory Committee and now at our latest and last meetings we are confronted with a flood of new Amendments which all are reservations to paragraphs of our Charter. I see in this a danger of losing Article 37 from sight, and we would really come to a negative Article, which would have a rather bad effect on the whole of the Charter - it would make a negative Charter out of this Text.

I wonder if it would not be preferable for us to study these Amendments altogether instead piecemeal, and then see their repercussions on the essence of Article 37.
CH. IRMAN: The Delegate of Brazil.

Mr. E. L. RODRIGUES (Brazil): Mr. Chairman, I am in full agreement with the whole of the statement just made by the Delegate for Belgium.

CHAIRMAN: I have also the feeling that it will be necessary to include this amendment with the two previous ones to be discussed at our next meeting, but I wonder whether the Delegate of France now has anything to add to what he said, or whether we can leave the matter for today.

M. ROYER (France (Interpretation): Mr. Chairman, the French Delegation does not at all object to discussing its amendment together with the other two amendments on Article 37 which were submitted by the representatives of the United Kingdom and the United States of America, but I wanted to indicate that if we have submitted this text so late it is due to a number of extenuating circumstances. This disposition was, in fact, not originally in connection with Article 37. It came from the old Article 25 and it was also bound to Article 28. It was only yesterday that Article 28 was examined and that we were able to see what were the repercussions on Article 37 of this Article 28. Therefore we were not in a position materially to submit a precise text earlier.

This being said, I have no objection to examining our proposal later on. At the same time we will examine those of the United States and the United Kingdom Delegations.

As far as the first suggestion - that of the United States Delegation - is concerned, it is too early today to give a final opinion on it. I think a question of principle is implied. We have to find out if the text is sufficiently
flexible to permit the maintenance of the system which we consider necessary for our country.

As far as the other proposal is concerned - the one of the United Kingdom - we could, I believe, accept it. In any case, it would be a good thing to let the three interested countries get together and arrive at a common text which would be satisfactory to all.

This being said, I have no objection to the postponement of the discussion.
CHAIRMAN: We pass on then to paragraph II(a) of Article 37, and the delegates who have taken part in the discussion will try to arrive at some mutual understanding before our next meeting.

II(b): "essential to the control of prices by a Member country undergoing shortages subsequent to the war".

Mr. J. MELANDER (Norway): Mr. Chairman, II(b) deals with the price control in the transitional period, but it is obvious, to the Norwegian Delegation at any rate, that it will be necessary in future to provide for permanent price stabilisation arrangement in the countries if they are going to be able to fulfil the objects of this Charter, and generally to be able to conduct their foreign economic policy in the way for which this Charter is meant to provide.

It is quite clear, we feel, that the present provision does not cover this. It may be that the future work of this Preparatory Committee, especially the work relating to Article 15, probably also to the subsidiary Articles, may show that one can arrive at provisions here which will meet these objectives. Of course, this is also the same general object which is underlying the New Zealand proposal, which we have just discussed a quarter-of-an-hour ago. We feel that these problems have not really been considered fully enough at this Conference. I do not propose to take them up now. I will just refer the delegates to the fact that this point has been considered on a limited basis by the Sub-Committee dealing with state trading and monopolies.

In Article 32, paragraph 4, for example, it is provided for the possibility of an import monopoly arranging its price differentials between import prices and domestic prices, on the assumption that, if a product is a primary product "and the subject of a domestic price stabilization arrangement, provision may be made for adjustment to take account of wide fluctuations or variations in world prices,"
subject where a maximum duty ...." and so on. That shows that, in relation to state trading monopoly, that factor has been taken into account. We feel that it would be necessary to have the same provisions when it is a question of private trade. It is perhaps possible to make a statement in II(b), and alter it so that it would say that it is essential to the control of prices, and we would cut out the reference to "shortages subsequent to the war", and that would make the provisions more general. It may also be that we would need this transitional rule as it stands, but it is necessary to have a general rule relating to price stabilization schemes, just as was suggested by the New Zealand Delegate.

I do not want to take the Commission's time to discuss this here, because obviously it is impossible to reach a result until we see the results of the Sub-Committee dealing with Article 15. Consequently, the Norwegian Delegation will have to reserve its rights to II(b) as it stands now.
CHAIRMAN: Are there any further remarks?

Sub-paragraph (b) is adopted, with the reservation of the Norwegian Delegate.

Sub-paragraph (c). Are there any remarks?
Adopted.

I would like to ask you to go back to page 10 of document E/PC/T/154 where we had a remark by the Delegate for Cuba. He was not present when we dealt with it last time and we had to pass over it, but I have got a note from him saying that he agrees to his reservation being given the following form:— "One delegation would have preferred to introduce the Article by an express statement of condemnation of dumping". You will see that it is much milder in form than the previous one.

Before passing on to considering a new proposal concerning Article 18, paragraph 2(c) interesting the Chinese Delegation, I will ask the Executive Secretary to make a statement.
Mr. WYNDHAM-WHITE (Executive Secretary): Mr. Chairman, I will not take more time than I need, but I did want to take this opportunity to make a communication to all the Delegations in the Preparatory Committee, and, through the representatives here, to the Heads of Delegations, about certain modifications in the programme of meetings. I will confirm this in writing, but I think it would be as well to give this advance notice.

It has been decided to cancel the meetings which were arranged for tomorrow to consider Chapter IV and to substitute therefor a meeting of the Sub-Committee on Articles 14, 15 and 24. The meeting of Commission A on Chapter IV will be on Thursday morning and afternoon. On Friday morning and afternoon, Commission A will meet to consider Reports on Articles 25, 27; 26, 28, and 29. On Saturday morning and afternoon, Commission B will be considering Reports on Chapters I, II and VIII and the Sub-Committee on Voting.

On Monday, 18th August, Commission A will meet to consider the Report of the Sub-Committee on Articles 14, 15 and 25 - morning and afternoon. The final Plenary Sessions will then be postponed until Thursday, 21st August and Friday 22nd August.

I would like to add one remark, Mr. Chairman, and that is that I feel that this is the last proposal that I can make to the Preparatory Committee, and that if the feeling of Delegations is that the discussions of the Preparatory Committee cannot be fitted into this time-table, then I must ask the Delegations who take that view to request the Chairman of the Preparatory Committee to convene a meeting of the Heads of Delegations, for the Heads of Delegations themselves to decide what programme they think is practicable. Then, in the light of that suggestion, I would take up with the
Technical Services of the Secretariat of the United Nations.

the question of the possibility of providing services within
the programme requested by the Heads of Delegations. No
programme which I have suggested has, I am sorry to say,
corresponded in any way to the requirements of the situation,
which is probably due to my bad guessing! At any rate, my
programmes have little or no effect on the course of discussions,
so I think that probably the best thing to do is to ask the
Preparatory Committee itself to examine any questions...(sentence
not completed).
CH.IAN: Well, the declaration of the Executive Secretary renders it still more important that we must now try to terminate our work on the Technical Articles at our next Session.

We have taken, to my mind, too much time. We have discussed this Article in London, New York and here, over and over again, and we get new Amendments at the last minute. I do not criticise the Delegations who submit these Amendments, because everything is interdependent in the Charter, but we must face the difficulty and we must get through in time, because if we cannot end up according to the programme set by the Executive Secretary we shall not have time enough between the Preparatory Committee and the Havana Conference to get our Governments into line with what we recommend.

We have still the following problems before us.

We have the three Amendments to Article 37. That is one point. We have the question of boycott. It was suggested by two delegates that that Article 23 might be omitted. That is the second question. I have got a new suggestion from the Chinese Delegate with regard to the explanatory note on Article 18 2 (c), or as it now reads, Article 18 paragraph 5. That is the third point.

Finally, we have the question brought up by the Belgian Delegate at our last meeting on Marks of Origin - Article 21 3 (b). This is material enough for a fourth meeting, but I would warn you that there won't be any possibility for more than one meeting.
Mr. E. TYNDELM WHITE (Executive Secretary): I must say, if you agree, Mr. Chairman, that I would like it to be agreed in the Session as to the date of the next meeting. As far as I can see, there are likely to be clashes with several other meetings. There is a meeting of the Sub-committee on Articles 14, 15 and 24, Commission 'A' on Chapter IV, Commission 'A' on Articles 25, 26, 27, 28 and 29, Commission 'B' on Chapters I, II and VIII, and Commission 'A' on Articles 14, 15 and 24.

I would like the view of the Commission as to which of those clashes they would be best able to support.

Every evening at Nine o'clock is also vacant.

Mr. J. M. LEDDY (United States): Mr. Chairman, I suggest we do meet at night. I suggest we should not meet before tomorrow night, however, in order to allow of consultation on some of these points.

CHAIRMAN: The Delegate of China.

H. E. Mr. WUNZK KING (China): Mr. Chairman, I feel that my proposal might be disposed of in five minutes.

CHAIRMAN: I would suggest that we meet at 10.30 on Friday morning, August 15. That is the same time as Commission 'A' will deal with Articles 25, 26, 27, 28 and 29, but the Delegates, so far as I have been able to see, are generally different for the work on these Articles and the work on the technical Articles.

The Delegate of India,
Mr. S. RANGANATHAN (Inc.) : The only objection I see to that proposal, Mr. Chairman, is that there will be two incarnations of Commission 'A' functioning at the same time. I do not mind.

CHAIRMAN: That does not matter.

May I take it that it is agreed we meet on Friday morning, August 15, at 10.30, and that Delegates will arrange with other members of their Delegations that there will be no clash between our work and the work on Articles 25 to 29.

Are there any objections?

(Agreed).

That cannot be altered.

The Meeting is adjourned.

(The Meeting rose at 1.5 p.m.)