UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL
PREPARATORY COMMITTEE

of the

INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report

of the

FOURTH MEETING

of the

SUB-COMMITTEE of COMMITTEE II

on

QUANTITATIVE RESTRICTIONS AND EXCHANGE CONTROL

held in

The Hoare Memorial Hall,
Church House, Westminster, 1946

on

Friday, 15th November, 1946

at 8.30 p.m.

CHAIRMAN: DR. H. C. COOMBS (Australia)

(From the Shorthand Notes of
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1.
THE CHAIRMAN: Before we commence I have an urgent industrial problem to settle. The question is whether it is necessary to retain the services of the simultaneous interpreters for the evening. Could I ask the French speaking delegates whether it would be convenient for us to proceed on the basis that each speaker will speak in his own language and ask for a translation only in circumstances where he finds difficulty in understanding?

MR BARADUC: Yes.

THE CHAIRMAN: Would that be agreeable?

In those circumstances it will not be necessary for us to ask the simultaneous interpreters to stay, and we can only thank them for their attendance to this stage.

I suggest that we commence by asking our Rapporteur to report progress on the redrafting of the subject matter covered by Article 19 of the original Draft Charter.

THE RAPPORTEUR: Mr Chairman, all I have attempted to do in this draft of Article 19 is to go through the records of the discussions very hastily, because I have had practically no time to consult with people at all. In fact, I have done this without consultation. I have simply been through the records of the discussions, and, taking Article 19 of the United States' draft Charter as a basis, I have put in a few changes on subjects which were mentioned in the discussions and which, as far as I could see from the discussions and records, were either generally agreed or were changes which were not challenged. There are a number of other changes which were suggested of which I have not taken account in this draft, on the ground that simply from an examination of the debate and of the documents they seem to be more open to disagreement. In particular I have not taken account, for example, of the point which the delegate from Chile raised on the subject of Article 19, 2(e), the proposal being that the article should not apply only to agricultural products. There are certain others also which I have
not taken into account simply on the grounds that I was not sure at all from the record whether there was any general agreement about them. I hope a number of those points, although I fear perhaps not all of them, will have been met in part or in whole by the deliberations of the Joint Committee, or by the redraft of Article 20 on the balance of payments on which we have been working. I might just say something on that Article 20. A draft is included in this bundle of papers which I have prepared for this meeting, but since that was prepared I have had extensive conversations, particularly this afternoon, with the United Kingdom delegate, the French delegate, the Australian delegate, the United States delegate and the fund, and on the basis of that I have made some further changes which are now being typed. So I suggest that we do the commercial policy, Article 19, possibly Article 21, and then return to the balance of payments if the draft is ready.

THE CHAIRMAN: That procedure seems to be suitable in the circumstances. I suggest that we look at Article 19 and, seeing that we have discussed this matter now in general terms on a number of occasions, I think it might be appropriate if we take it paragraph by paragraph.
Paragraph 1 reads: "Except as otherwise provided elsewhere in this Charter, no prohibition or restriction other than duties, taxes or other charges, whether made effective through quotas, import licenses or other measures, shall be imposed or maintained by any Member country on the importation of any product of any other Member country, or on the exportation or sale for export, of any product destined for any other Member country."

There follows an Article which begins: "The provisions of paragraph 1 of this Article shall not extend to the following" - so we need not consider exceptions to paragraph 1 here. Is there any comment on paragraph 1? I take it paragraph 1 is agreed. (Agreed.)

Paragraph 2 reads: "The provisions of paragraph 1 of this Article shall not extend to the following: (a) Prohibitions or restrictions on imports or exports, imposed or maintained during the early post-war transitional period, which are essential to (i) the equitable distribution among the several consuming countries of products in short supply, whether such products are owned by private interests or by the Government of any Member country, or (ii) the maintenance of war-time price control by a country undergoing shortages subsequent to the war, or (iii) the orderly liquidation of temporary surpluses of stocks owned or controlled by the Government of any Member country: Provided, That restrictions under (iii) of this sub-paragraph may be imposed by any Member only after consultation with other interested Members with a view to appropriate international action. Import and export prohibitions and restrictions imposed or maintained under this sub-paragraph shall be removed as soon as the conditions giving rise to them have ceased and, in any event, not later than July 1, 1949: Provided, That this period may, with the concurrence of the Organisation, be extended in respect of any product for further periods not to exceed six months each." Is there any comment on paragraph 2(a)? I take it that 2(a) is agreed. (Agreed.) Would you like to read paragraph 2(b), Mr Rapporteur?

THE RAPPORTEUR: "(b) Export prohibitions or restrictions temporarily imposed to relieve conditions of distress which are local to the exporting country and which are caused by severe shortages of foodstuffs or other essential products." There is no change in this from the original draft. Is there
any comment on paragraph 2(b)?

MR PHILLIPS (Australia): I am not quite clear as to the meaning of "which are local to". Does the Rapporteur take that to mean "which are confined to the exporting countries"?

THE RAPPORTEUR: Might I ask the question of the U.S. delegation?

MR HAWKINS (USA): Mr Chairman, I think the reason is fairly clear for it. We are talking about distress in the country which wants to impose the export restrictions to prevent a bad shortage situation in that country being made worse. It is not for relieving distress situations elsewhere.

THE CHAIRMAN: Would the word "in" in place of "which are local to" in line 3 of paragraph 2(b) meet the case?

MR HAWKINS (USA): Yes.

THE CHAIRMAN: The paragraph would then read: "Export prohibitions or restrictions temporarily imposed to relieve conditions of distress in the exporting country", and so on. Is that agreed? (Agreed.)

MR BARADUC (France) (Interpretation): Mr Chairman, I think that in former meetings the question has already been raised as to the precise meaning and definition of the express conditions of distress. Let us take an example. Supposing there is a country which produces coal and which keeps this coal in order to carry out its programme of reconstruction; some other countries may come and say that there is nothing to prevent the export of coal because the conditions prevailing are not conditions of distress; so I think that the meaning should be made more clear and precise.

MR HAWKINS (USA): Mr Chairman, I would welcome any suggestions as to how to make it more clear. I think that in the case stated the exception would apply if it is an essential product. The country producing it may be suffering from lack of it. It may therefore limit the exportation of it. All that is subject to any agreements it may make with other countries. But I do not know how to make it more precise.

THE CHAIRMAN: Would it be sufficient to say "imposed to relieve severe shortages of foodstuffs or other essential products"?

MR PHILLIPS (Australia): I think it would be better.

MR HAWKINS (USA): I think the sense would be the same. The use of the word
"distress" here helps to emphasise the word "severe". That is the main difference.

THE CHAIRMAN: Would "critical" or something like that be better in place of "severe" - "critical shortages instead of severe shortages?

MR HAWKINS (USA): Yes, that would be better. This is intended to meet more or less emergency conditions of more or less short duration and not permanent conditions.

THE CHAIRMAN: Then it would read, "Export prohibitions or restrictions temporarily imposed to relieve critical shortages of foodstuffs or other essential products..."

MR PHILLIPS (Australia): "in the exporting country"?

THE CHAIRMAN: Yes: "in the exporting country". It would then be, "...critical shortages of foodstuffs or other essential products in the exporting country..." Is that agreeable?

MR BARADUC (France): I think it would be acceptable.

THE CHAIRMAN: I take it paragraph 2(b) is agreed? (Agreed.)

2(c): "Import and export prohibitions or restrictions necessary to the application of standards for the classification and grading of commodities in international commerce. If, in the opinion of the Organisation, the standards adopted by a Member under this sub-paragraph are likely to have an unduly restrictive effect on trade, the Organisation may request the Member to revise the standards, provided that it shall not request the revision of standards internationally agreed under paragraph 6 of Article 16." Is there any comment on that? I take it paragraph 2(c) is agreed. (Agreed.)
MR. MEADE (United Kingdom): Paragraph 2(d):

"Export or import quotas imposed under intergovernmental commodity agreements concluded in accordance with the provisions of Chapter VI."

That is the same as in the United States draft.

THE CHAIRMAN: Any comments? I take it that paragraph 2 (d) is adopted.

Agreed.

THE CHAIRMAN read paragraph 2 (e) of the Rapporteur's draft.

Any comments on paragraph 2 (e)?

MR. VIDELA (Chile): At Saturday's meeting the Rapporteur referred to these words and said that after reading the reports of the discussions the changes seemed to have been generally agreed or at any rate remained unchallenged. With due respect to the Rapporteur I have to claim here that the Chilean Delegation, in the general discussion, made a clear and concrete proposal to delete the word "agricultural" in order to give the same level to industrial countries as to agricultural countries. I think it was at the first meeting on this particular matter that I moved an amendment which was welcomed by many delegates. In our view there is no reason why manufactured goods should not be included in Article 19 (2) (e). If there is any reason in favour of any agricultural product, that reason applied to any manufactured product in the same circumstances. If the reason is to protect or develop any agricultural product, the countries with under-developed industries must be placed on the same footing. I am sure no country represented on this Committee could challenge the principle of placing countries on the same level. I cannot understand why the Rapporteur, being British, put in this point. I cannot accept it.

The second point Mr. Chairman is in connection with Article 29. We were discussing yesterday at the Procedure Sub-Committee this Article 29 and when I raised a question with the Cuban Delegate the Chairman said that we could not refer to Article 19 (2) (e) because the matter was being discussed here. Then I said I would like to have an interpretation of these words in Article 19 (2) (e): "Any member imposing restrictions
on the importation of any product, pursuant to this sub-paragraph shall give public notice of the total quantity or value of the product permitted to be imported during a specified period and of any change in such quantity or value." I asked for an interpretation of that because the Cuban Delegate when referring to Article 29 asked if sub-paragraph (d) allowed a Government to take action in imperative circumstances without giving notice. The United Kingdom and United States Delegates confirmed that in this particular paragraph (e) of Article 19 the meaning was that notice should be given after any measure taken. Then at the Procedure Sub-Committee I reserved the right to raise this point here and to present the same amendment in order to give agricultural countries a change to have notice. I gave the illustration of apples or tomatoes, for instance, sent to Great Britain which is 30 or 40 days away. We would not like such action taken without due notice. I asked the United Kingdom Delegate if he had any measure dealing with goods and he said that they did not take any notice of goods. That is to say, they do not care about such goods. Therefore I think my question is very important and I should like it taken into consideration here.

THE CHAIRMAN: There are two points here. First is the interpretation, which I think we might dispose of first, of the sentence beginning "Any member imposing restrictions... shall give public notice..." I understand that the point on which the Delegate of Chile wants an assurance if possible is that the restrictions contemplated in this sub-paragraph shall not apply to goods on route. Would the United States Delegate comment on this first?

MR. HAWKINS (United States): The meaning of the phrase is simply to make public the amounts permitted to be imported. As to the question regarding notice, there is a general provision on the subject, which has been dealt with by the Technical Sub-Committee, which deals in general with the question of advance notice. I confess I am not able to find it here but I am sure it is in somewhere. The sense of this in our original draft
was that regulations of this sort would not apply to goods en route.

I do not know what the Technical Sub-Committee has done in regard to that.

Mr. Videla may know; he is Chairman of that Committee.

H. VIDEEL. (Chile): There was a discussion.
MR. HAWKINS (United States): It was not a discussion on that particular point of en route, but I have not the documents here.

THE CHAIRMAN: If the provision is left that the regulation should not apply to goods en route --?

MR. VIDEALA (Chile): And also there was an amendment when the Report was presented, but of course the translation was not very accurate. They said "in transit" instead of "en route", and the French delegate raised that point and the alteration in the Report was accepted, but I have not got it here on paper.

THE CHAIRMAN: Can we take it then that the intention of the United States delegation in this clause is that these import restrictions contemplated in this sub-paragraph would not apply to goods in transit?

MR. HAWKINS (United States): Yes. They would be subject to whatever was agreed upon generally as regards the application of regulations. Our original draft provided that, but I do not know whether the Technical Sub-Committee changed it.

THE CHAIRMAN: Would anyone care to comment on that particular point before we pass on to the other point raised by the Chilean delegation?

MR. VIDEALA (Chile): If this amendment is taken I would not need to make any reservation, because we should be quite satisfied.

THE CHAIRMAN: Which amendment?

MR. VIDEALA (Chile): Adding that the goods en route will not be covered. That is what you offered a minute ago.

THE CHAIRMAN: The United States delegate suggests that they did not intend the import restrictions in (e) to apply to goods in transit, but the way he expressed his view was that this should be subject to whatever general proviso has been made about the treatment of goods in transit. He believes that that general
proviso would be subject to exceptions, but nobody seems to be too sure. Would it be an acceptable arrangement if we left this as it was; on the understanding that it means that these import restrictions would not apply to goods in transit?

MR. VIDELA (Chile): Not in transit - en route.

THE CHAIRMAN: What is the difference?

MR. VIDELA (Chile): The difference was made clear at the Technical Committee. Goods in transit are goods crossing a country from one country to another country, but en route goods are goods coming into a particular country, and then they are en route.

THE CHAIRMAN: Will not apply to goods en route, then. If that appears to be inconsistent with the general provision we will have another look at this.

MR. HAWKINS (United States): I can say it is definitely in the American draft, but I do not know where.

THE CHAIRMAN: Is that all right, that we take it that this is approved, at least in this respect, on the assumption that it does not apply to goods en route? If the general provision relating to goods on route is such as to make these import restrictions apply to such goods, then we will have another look at this in General Committee.

MR. VIDELA (Chile): I would like to include here a special wording on the lines you have suggested, Mr. Chairman.

THE CHAIRMAN: It would not be necessary to include such words if the general provisions ensured it. If the general provisions do not ensure it we will see that the matter is raised again so that the addition of the necessary words could be considered.

MR. VIDELA (Chile): I must insist on this because I have the statement made by the United Kingdom that they do not accept it for goods en route. I see the difficulty and I see that you very kindly want to avoid the difficulty, but I am not going to avoid it because one country wants to avoid it.
THE CHAIRMAN: The only thing I want to avoid is adding words to this sub-paragraph which may not be necessary. The impression of the United States delegate is that the addition of the word "is not necessary to ensure the result which you wish to achieve." I suggest, therefore, they might be omitted for the time being on the clear understanding that if the circumstances are not as the United States delegate believes, this matter will be reopened.

MR. VIDELA (Chile): I am forced to oppose this, Mr. Chairman, on behalf of the Chilean delegation.

THE CHAIRMAN: Any comment on that?

MR. HELMORE (United Kingdom): I do not know whether you want a long discussion on this now, Mr. Chairman, or whether you would sooner leave it until we know what the Technical Subcommittee say, but as the Chilean delegate knows very well, we have a point on this, and I should have thought it would be better to leave it until we see what the general position is about goods on route, and then see whether anything special is needed here.

THE CHAIRMAN: I think if the Chilean delegate has no objections we will note his reservation and will ask the Rapporteur to confer with the appropriate section of the Secretariat to see what is the provision and to advise us if in his opinion this matter should be re-opened.

MR. VIDELA (Chile): Thank you.

THE CHAIRMAN: The second point raised by the Chilean delegate is the question of whether the import restrictions contemplated in this paragraph should be limited to agricultural and fishery products, or whether they should be general, for any products, provided they observe the conditions outlined in sub-paragraphs 1 and 2. In view of the apparent uncertainty as to the views of the various delegations on this specific point of principle...
I think it would be as well if we had the views of the different delegates actually at this table. The delegate of the United States?

MR. HAWKINS (United States): Mr. Chairman, I do not think the exception should be brought in to cover all products. Our general aim should be to keep exceptions as few in number and as limited in scope as possible. Now we think it is possible to limit this exception to agricultural or fisheries products, because it is intended to deal with products in which surplus situations commonly arise. That is not true generally of manufactured products. As everyone realises, the facility with which production can be contracted in manufacturing industries is much greater than in the case of primary goods. My reason, therefore, for not wanting to broaden the exception is that I do not think any exception should be any broader than is essential.

MR. HELMORE (United Kingdom): Mr. Chairman, we would not wish to extend this beyond agricultural or fisheries products.

MR. BARADUC (France) (Interpretation): We consider the paragraph in its present form as acceptable, Mr. Chairman.

MR. RODRIGUES (Brazil): I agree with the delegate of France.

MR. PHILLIPS (Australia): On the particular point we are discussing, Mr. Chairman, we would not wish to extend this, but on the other hand we have some feeling that this whole exception might be tightened a bit. I think Mr. McCarthy earlier pointed out that it would be possible to have an almost nominal restriction on quantities of a like domestic product permitted to be marketed or produced, and that then quantitative restrictions could have the effect of preventing the proportion of imports from rising, even though other circumstances would have tended to make them rise.
For that reason we felt that it should at least be looked at to see whether it could not be tightened still further.

THE CHAIRMAN: That is a separate point, of course.

MR. LOKANATHAN (India): We do not wish to extend the scope of this section.

THE RAPPORTEUR: The Delegate of Chile has suggested that owing to the nationality of the Rapporteur, the deletion of agriculture is not made. I should like to point out that in my covering note I stated that the draft was the American draft, and that the changes which I had made were those which seemed to me to have been generally unchallenged. We have just heard that this proposed change is challenged by the United States, the United Kingdom, France, Brazil, Australia and India, and I should like to suggest that it was not the nationality of the Rapporteur that caused him to leave the word "agricultural" in. I have added the words "or fisheries" which happens to be a point raised by the United Kingdom Delegation. I did so because in the records which I read I saw no challenge to that addition. That I state by way of explanation. I may say that I have absolutely no objection to my work being challenged as being unintelligent, careless, slovenly or lazy, but that it should be challenged on the ground that, as Rapporteur, I have put in something which is agreeable to my Delegation, and not agreeable to any other Delegates, is a challenge which I, personally, resent. Whether my Delegation resents it or not, I do not know.

THE CHAIRMAN: In the circumstances I feel that all we can do on this point is to record the reservation of the Chilean Delegate on this point, and report it to the full Committee, when other Delegations not represented on the Sub-Committee will have the opportunity of expressing their views on it.
MR. VIDELE (Chile) I read the report of the first meeting, and I think I was justified in raising the point here, because I also read the declaration of the Rapporteur that it seemed to him that there was general agreement; when there was not general agreement. That was my point.

THE CHAIRMAN: I suggest it is not necessary for us to continue the discussion. There is no question of the right of the Delegate of Chile to raise the matter here. He was fully within his rights in raising the matter of the deletion or inclusion of this word, and I think, if the Committee agrees, the best thing we can do at this stage is to pass to the next point on the agenda.

MR. HELMORE (UK): I would like to suggest to the Committee that perhaps they would do better without the services of Mr. Meade as Rapporteur, since his good faith has been challenged, and the challenge has not been withdrawn.

MR. RODRIGUES (Brazil): I suggest that we leave this matter. I am sure the Chilean Delegate had no intention of creating in this meeting a situation at all unfavourable to the representative of the United Kingdom. It is perhaps difficult for me, in language such as mine, to show to the Committee, and particularly to the UK Delegate, that the Chilean Delegate was not throwing doubt on the good faith of the Rapporteur. There was, however, no such intention, and I believe all of us would be very happy if the Rapporteur would leave this matter, and not think about it any more.

THE CHAIRMAN: I suggest that the Committee might adjourn for a quarter of an hour and reassemble at ten minutes to ten.
(After a short adjournment).

THE CHAIRMAN: I understand the Chilean delegate desires to make a statement.

MR VIDELA (Chile): Mr Chairman, I am sure the Rapporteur will understand my point of view in trying to ensure that the Chilean Delegation's views are adequately recorded in the report. It was my intention to draw attention to what I believed to be an omission from the Rapporteur's Report. I did this because I have been sent here from my country and I have to defend the interests of my country. I assure Mr Meade that it was not my intention to question his integrity, and I think we may proceed on that understanding.

MR HELMORE: As I was in some sense responsible for the recent adjournment I should like to thank the Chilean delegate for his statement. I do think some of this arose because we were kind enough to allow the gentlemen in the glass box to get home early. So far as the point of view of the Chilean delegate is concerned, I am sure we all agree that the delegate was entirely right to raise that point of view of his country and we all wish to see it properly recorded in the report.

THE RAPPORTEUR: I should like to thank the delegate for Chile for the extremely gracious and kind remarks he made, and to extend to him my apologies for the hasty way in which the covering note to my Report had to be drafted, and to assure him that it was in no way my intention to remove any opportunity for him to put on the record at this meeting the point which he has now recorded.

THE CHAIRMAN: I think the Rapporteur has now to read paragraph (c).

MR LOIKANATHAN (India): There is one further point I would like to raise in regard to (c). You will recall that at the Committee Meeting the Indian Delegation raised this question of the ratio between imports and domestic production, that it should not be drastically reduced. It was pointed out how that would be more of a handicap to India and other countries.

THE CHAIRMAN: Has the delegate for India any alternative to advance to (c)?
the suggested criterion? I think the intention is fairly clear. It is largely to ensure that import restrictions of the kind contemplated here are used only for this purpose and not for disguised protection.

MR LOKANATHAN (India): I would suggest the inclusion of the word "unduly" or "excessively".
MR HAWKINS (USA): Mr Chairman, I should not like to see a change of that sort made. This, in effect, is a national treatment clause. The purpose is to prevent a country from requiring that foreign producers make a greater contribution towards meeting a surplus situation than domestic producers; in other words, that if imports are reduced there would be an equivalent reduction in domestic production, so that the burden would be spread equally over domestic and foreign producers. I do not know if it is clear but it seems to me rather important that that rule be preserved.

MR LOKANATHAN (India): My point is that the exporter has alternative markets whereas the country is going to suffer by having to limit its production.

THE CHAIRMAN: Are there any other comments on this note?

MR PHILLIPS (Australia): Just to point out that we think that in some circumstances the reverse might be true, and it might be desirable even to retain national treatment, in effect; that is to say that in some cases the level of imports relative to home production should possibly be increased.

THE CHAIRMAN: What sort of circumstances have you in mind?

MR PHILLIPS (Australia): Supposing there was a tendency for imports of a commodity into a country to increase relatively to home production, it might be possible to stop that increase by putting a nominal restriction on domestic products and holding imports down to the same proportion.

THE CHAIRMAN: In other words, this could be used to avoid the last proviso, that account should be taken, where practicable, "of any special factors which may have affected or may be affecting the trade in the product concerned".

MR PHILLIPS (Australia): If that was interpreted widely enough I think it would cover the point.

MR HAWKINS (USA): I do not think it should be capable of that interpretation. The purpose there of the last part is merely to implement the principle that the restriction or reduction should be the same
both for the domestic production and for the importation. This clause has in view a situation in which a country is having surplus difficulties in some products; it takes steps to restrict production to relieve the situation; it wants to avoid having its efforts defeated by a continued large flow of imports; it is therefore authorised to restrict them in the same degree that domestic production is restricted but no more. That is the intent of the Article.

THE CHAIRMAN: I think the Australian point is that where a country may, even if it has not really experienced a surplus, introduce a nominal restriction of production for the purpose of preventing a tendency for imports to replace local production, thus it would be limiting the effect of one of the factors which affect the trade in the product concerned at the time.

MR HAWKINS (USA): That would be inconsistent with the purpose. Whether the draft carries out the purpose, I am not sure, but if any language could be devised to achieve that it would be acceptable.

MR PHILLIPS (Australia): It is just a question of whether the language does it.

THE CHAIRMAN: I think we could leave that to be examined by the Rapporteur as to the language. Has the Rapporteur got the point of that?

THE RAPPORTEUR: I think I have the Australian point but I am not absolutely certain I have the Indian point.

MR LOKANATHAN (India): The Indian point, if I may repeat it, is this: that we object to the principle laid down in the last sentence that the ratio of imports to domestic production should be maintained even though domestic production is being curtailed, and therefore I suggest a very simple amendment: to say that it shall not be such as to reduce unduly the total of imports.

THE RAPPORTEUR: That is the end of the sentence?

MR LOKANATHAN (India): Yes; simply "any restrictions imposed under (i) of this sub-paragraph shall not be such as would reduce unduly the total of imports relative to the total of domestic production".

THE CHAIRMAN: I gather the Indian point is that the application of this
formula would not in fact distribute the burden evenly between the domestic consumer and the importer because alternative markets may be open to the importer.

MR. LOKANATHAN: And the second point is that it is also not right to talk about equality there, because the burdens would be more upon the exporter.

THE RAPPORTEUR: I follow that now.

THE CHAIRMAN: Would anybody else like to comment upon either of those points? I suggest we now pass to consideration of paragraph (f), which, as you will recall, the Rapporteur read a long time ago. This is completely new. Is there any comment on it?

MR. HELMONE (U.K.): We entirely agree with the purpose of this sub-paragraph. We only wonder whether it would be possible to improve the drafting slightly by two small changes. In the second line, after the word "imposed", insert "on private trade", and then read on "for the purpose of", and there insert "establishing a new or maintaining an existing", and it reads on from the beginning of the third line.

I take it there is absolutely no difference between what I have suggested and the suggestion of the Rapporteur, and I would like to ask his opinion, if I may, as to whether he thinks those words are totally unnecessary, or whether he would agree that perhaps they might be inserted.

THE RAPPORTEUR: I think the words that have been suggested express perhaps rather better the thought that I was intending to suggest here. They would be perfectly acceptable from the point of view of the point I was trying to make.

THE CHAIRMAN: Their effect is to enable these import and export prohibitions to be used not merely for maintaining an existing monopoly but for establishing a new one where it is a question of national policy so to do. Is there any comment?

MR. RODRIGUEZ (Brazil): I am sorry, but I should like to know if the proposal about the post-war transition period was taken into consideration in this Article 19.

THE RAPPORTEUR: The point was raised, I think, by the delegate of Brazil in another meeting as to whether in paragraph 19(2)(a)(ii) - the present 19(2)(a)(iii) - there should be a reference to the orderly liquidation of uneconomic industries created during the war. I wonder if that is the point?
MR. RODRIGUEZ (Brazil): It is right. I accept. I am sorry for taking this time.

THE CHAIRMAN: We pass now, then, to the consideration of Article 21, which deals with non-discriminatory administration of quantitative restrictions.

(The Chairman read paragraph 1 of Article 21.)

Any comments on this paragraph? Then we pass to paragraph 2. I call on the Rapporteur.

THE RAPPORTEUR: Do I read it all at once, Mr. Chairman?

THE CHAIRMAN: We will let you off with paragraph 2(a).

(The Rapporteur read paragraph 2(a).

Any comments? I take it that paragraph 2(a) is agreed.

Agreed.

(The Chairman read paragraph 2(b).

Agreed.

(The Rapporteur read paragraph 2(c).

THE CHAIRMAN: Before we pass over that, from a purely drafting point of view is it necessary to have any reference in paragraph 2(b) to the following paragraph?

MR. HEIMORE (United Kingdom): I want to make a suggestion to meet your drafting point, Mr. Chairman, but before I do so I want to make a confession to the Committee. Members will no doubt have observed that this is a tentative revised draft prepared in consultation between the United Kingdom and the United States Delegations. I would like to assure the Committee that this is the first time I have seen the document. I do not think it is because this document has not been prepared in consultation between my Delegation and the United States Delegation, it is simply due to pressure of work on all Committees, especially those which are fathered by the Committee over which you preside, namely Committee II, so there just has been no opportunity for consultation on it. Anything I say therefore must I am afraid be taken subject to the reserve that I really know nothing about it. In the light of that I would like to suggest that the way to meet your point is not to have what is now sub-paragraph (c) as a sub-paragraph, but
to amalgamate it with sub-paragraph (b), and begin "provided that in cases where..."

THE CHAIRMAN: I think that meets that point. Any comments on the content of what was previously sub-paragraph (c)?
Mr. Baraduc (France) (Interpretation): Mr. Chairman, I should like to stress first of all that I am in the same position as Mr. Helmore and there has been no prior consultation with the French delegation. I must say that as a whole this text seems to me to be an improvement over the original draft, but I should like to study it further, and maybe I shall have to re-open the question again at the next meeting.

The Chairman: Any other delegate?

Then paragraph 2(d): "No conditions or formalities shall be imposed which would prevent any Member country from utilising fully the share of any such total quantity or value which has been allotted to it."

This is unchanged, I gather. Any comment? Then I take it that paragraph 2(d) is agreed.

Paragraph 3 (a):

"In cases where import licences are issued in connection with import restrictions, the Member applying the restriction shall provide, upon the request of any Member having an interest in the trade in the product concerned, all relevant information as to the administration of the restriction and as to the import licences granted over a past recent period and on the distribution of such licences among supplying countries; provided however, that there shall be no obligation to supply information as to the names of importing or supplying firms."

Any comments on paragraph 3(a)? Paragraph 3(a) agreed. Paragraph 3 (b).

Mr. Baraduc (France) (Interpretation): What I said before applies to the whole of Article 19, Mr. Chairman.

The Chairman: Paragraph 3(b):

"In the case of import restrictions involving the fixing of quotas (whether or not allocated among supplying countries), the Member applying the restrictions shall
give public notice of the total quantity or value of the product or products which will be permitted to be imported during a specified future period, and of any change in such quantity or value.

Any comment?

MR. PHILLIPS (Australia): I do not know whether I can make the same reservation on behalf of the Australian delegation?

THE CHAIRMAN: I think we can take that reservation as applying to all Paragraph 3 (c):

"In the case of quotas allocated among supplying countries, the Member applying the restriction shall punctually inform all other members having an interest in supplying the product concerned, of the shares in the quota, by quantity or value, currently allocated to the various supplying countries."

What does "punctually" mean?

MR. HAWKINS (United States): Promptly.

THE RAPPORTEUR: Shall we amend it to "promptly"?

MR. HAWKINS (United States): I think it means the same thing.

MR. HELMORE (United Kingdom): I am prepared to take my life in my hands and support the amendment of "punctually" to "promptly", Mr. Chairman.

THE CHAIRMAN: I think "promptly" is preferable.

MR. HELMORE (United Kingdom): It is a word we have used many other times.

THE CHAIRMAN: Any other comment on 3(c)?

MR. RODRIGUES (Brazil): Mr. Chairman, I think we should like some information about the word "punctually", if it implies any particular date.

THE CHAIRMAN: The suggestion was that since "punctually" might be taken to refer to a particular date or time we would substitute the word "promptly" - expeditiously.
MR. RODRIGUES (Brazil): Yes.

MR. VIDELA (Chile): I only want to call attention to the fact that there are two or three of these matters which are interrelated. For instance, there was the remark of the Brazilian delegate with regard to "shall give public notice" under letter (b). I had an interpretation of that wording from the United States delegate and the United Kingdom delegate when I referred to Article 19, and it is very clear in my mind that the notice is always given before.

MR. HAWKINS (United States): Mr. Chairman, you note the words "will be permitted".

THE CHAIRMAN: It is quite clear in this case that the notice is prior notice - in this connection, anyway.
M. 1


MR. BARADUC (France) (Interpretation): In connection with paragraph 3, if all countries which apply quantitative restrictions make known in advance the global amount of their purchases, would that not lead to a very strong rise in prices on the world market?

MR. HAWKINS (USA): I do not understand why it should.

THE CHAIRMAN: I presume that if a large proportion of buyers were applying quantitative restrictions and they announced proposals for quotas for purchase which, I gather, the French Delegate considers in some cases might add up to more than the prospective total supply and thus lead to pressure on the prices, the situation he envisages would arise. Such circumstances are likely to arise only where a large proportion of the world's buyers are applying quantitative restrictions, and in a situation where, quite apart from the restrictions, it would be difficult for their requirements to be met.

MR. HAWKINS (USA): I would like to point out that in any special circumstances of that kind, the whole draft would permit a quantitative restriction system with a global quota. A global quota is not compulsory under this article. A global quota is preferred, but it is not absolutely required.

THE CHAIRMAN: You could control imports without licences.

MR. HAWKINS (USA): Paragraph 2(a) is where the point is covered.

THE CHAIRMAN: The US Delegate would argue that if global quotas would be likely to lead to a change in the world prices adverse to the country concerned, that country would be free not to announce its global quotas, but to proceed to limit the imports by the issue of licences without the declaration of a quota.

MR. BARADUC (France) (Interpretation): This is not clearly implied by the text.

THE RAPPORTEUR: Is it not so in paragraph 2(a) of the text, where it says "Wherever practicable, global quotas,...should be fixed, and
notice given of their amount." Paragraph 2(b) says you can have import licences whether or not they are within the limits of global quotas. In the circumstances which the French Delegate envisages, it might well be held that it is not really practicable to operate global quotas, and that one would have to give licences under paragraph 2(b) not within the global quota.

THE CHAIRMAN: Would it be possible to meet the point by adding to paragraph 2(a) "If global quotas are not practicable, import licences or permits may be issued"?

THE RAPPORTEUR: I am afraid that will not work, because paragraph 2(b) says something about import licences which is relevant to import licences whether they are within a global quota or not.

THE CHAIRMAN: I think there is something in the point that there should be some statement which precedes subparagraphs (a), (b) and (c), which really are directions as to how you will operate various forms of quantitative restrictions. It does seem that it would be helpful to have this preceded by a statement that wherever practicable global quotas would be the method employed, but where this was not practicable, the member concerned could apply quantitative restrictions in the form of import licences.

THE RAPPORTEUR: May I suggest that this could be met by the addition of a simple sentence at the end of paragraph 2(a) as it now stands -- "Where global quotas are not practicable, import restrictions may be applied by means of import licences without a global quota".

MR. HAWKINS (USA): That would be all right.

THE RAPPORTEUR: Paragraph 2(b) tells you what you do with the import licences whether they are within or without the global quota. I wonder whether that would meet the point.

MR. BARADUC (France): I think it would.

THE CHAIRMAN: I think that meets the point. I am not sure it is the happiest phrasing, but that does not matter. The Rapporteur might
lock at it subsequently.

Mr. Helmore (UK): I do not want to press it at this moment, but I
am inclined to think that as we put paragraph 2(c) into a proviso,
it might now be preferable to make the sentence which the Rapporteur
has just read to be paragraph 2(b) and the present paragraph 2(b)
a new paragraph 2(c). I am sure the Rapporteur can arrange that.

The Chairman: If there is nothing else on paragraphs 2 or 3, we will
pass to paragraph 4:

"Selection of representative periods and appraisal of special
factors

"With regard to restrictions imposed in accordance with
sub-paragraph 2(c) of this Article or under sub-paragraph 2(c)
of Article 19, the selection of a representative period for any
product and the appraisal of any special factors affecting the
trade in the product shall be made initially by the Member
imposing the restriction; Provided, that such Member shall
upon the request of any other Member having a substantial
interest in supplying that product, or upon the request of the
Organisation, consult promptly with the other Member or with the
Organisation regarding the need for an adjustment of the base
period selected or for the re-appraisal of the special factors
involved."

Mr. Hawkins (USA): I think that reference should be to Article
19, 2(e). It is a typographical error.

The Chairman: If there are no comments, I take it that paragraph 4
is agreed.
"Tariff quotas.

The provisions of this Article shall apply to any tariff quota established or maintained by any Member."

MR. HELMORE (United Kingdom): I do not want to raise any point on this paragraph, but I want to reserve my right to make a point on this Article as a whole.

THE CHAIRMAN: If nobody has any comments on paragraph 5 I will take it as agreed, with the global reservation.

MR. HELMORE (United Kingdom): This is a highly technical point, which I raise with a great deal of diffidence, but I am inclined to think that in this corpus of Articles relating to import restrictions and administration, and import restrictions on balance of payments grounds taken together with state trading provisions, we may unwittingly have put an obstacle in the way of state traders. The point is on publication. It is quite clear that an import restriction imposed for the purpose of maintaining a monopoly of trade is a restriction to nil, and there is no difficulty in publishing that. But when a country which maintains a monopoly of trade for a state trading enterprise is in balance of payments difficulties it is allowed to extend its operation to restrict its imports below the satisfaction of the full demand. That is done under the provisions of the balance of payments Article; and I believe the non-discriminatory administration which we have just been looking at applies to the Article as well. How a state trader would publish his restriction in two parts, so to speak, I am not quite clear.

THE CHAIRMAN: What are the two parts?

MR. HELMORE (United Kingdom): The first part is that no private person may trade; and the second part would be that the limitation of the operation of the buying of the state monopoly itself - in so far as that limitation took place under the balance of payments Article - would, when read together with this Article for publication, require the state trader to say he was restricting his imports by 20 per cent. of what he might otherwise have bought. Since the state trader would clearly have a purchasers' programme
in mind he would have to divulge the sources from which he was buying.
I do not know if I have made the point clear, to the Rapporteur.

THE RAPPORTEUR: No.

THE CHAIRMAN: You certainly have not to the Chairman.

MR. HELMORE (United Kingdom): Then may I tried again? You have the restriction to safeguard the balance of payments Article; a state trader may restrict his imports to a greater extent than he would be allowed to do under the normal operation of the state trading Article. Now, when a state or a state trader does that he is operating a balance of payments restriction. The balance of payments restriction has got to be administered in the light of this non-discrimination Article which we have just been reading. That non-discrimination Article requires publication of the extent and nature of the restriction. I do not think it is practicable for a state trader who can do as any other trader does - that is, to keep his buying programme to himself, like an ordinary firm - to be required to publish. It has been pointed out to me that there is no obligation to supply information as to the names of importing or supplying firms; but that only relates to the names, and I am not sure that "importing firm" is a correct description of a state trading monopoly.

THE RAPPORTEUR: Might I make one suggestion, in order to make confusion worse confounded? It has occurred to me that a good way of dealing with this problem -- and I think it was felt it might be a good way of dealing with this general problem -- is not to mention state trading restrictions on balance of payments grounds under Article 20, but to mention them under the Articles on state trading with reference back to Article 20. In other words, under the state trading Article you have certain provisions which say that the state trader must not restrict his imports by more than a certain amount. There you would say "except in those conditions under Article 20", in which a private trader would have been permitted to restrict still further, in which case it can do so to the same extent and under the same general rules. By that means you
would avoid what has always seemed to be a bit of an anomaly, calling a restriction by a state trader on balance of payments grounds a private quantitative restriction. I do not know whether or not that is a good way of doing it.

THE CHAIRMAN: It might be a kind of limit, but it does not overcome the difficulty with which Mr. Helmore is concerned. If you provide in the state trading section that a state trader may, for balance of payments purposes, restrict his imports to the extent as provided in the section dealing with the restriction of imports by private traders, then presumably it would be subject to the same provisions about publication. You would have to have another exception excepting the publication.

THE RAPPORTEUR: No, I think not, because Article 21, which we are on, is on non-discrimination, state trading Article, as I understand it, has its own rules about non-discrimination. The reference which I am suggesting in the state trading Article would not refer to the non-discriminatory treatment of restrictions, but only to the extent to which you could limit your imports. You would merely say the state trader can import less than he would otherwise have to under the state trading Article to the extent which would be allowed under Article 20.

MR. HELMORE (United Kingdom): From what the Rapporteur has just said I am satisfied that his denial that he understood my point was quite wrong, and that he understood it very well. I am, like you, Mr. Chairman, a bit doubtful about his solution, but I have great confidence in his ability and will leave it to him.

THE RAPPORTEUR: First of all I would like to point that I did not understand Mr. Helmore the first time, but I did the second. The logic of my suggestion is that we should ask the sub-committee dealing with state trading to deal with this matter, or ask the drafting committee.

THE CHAIRMAN: Apart from that suggestion I think we can proceed. Mr. Helmore will be able to reopen the point he has in mind if it is not adequately dealt with in the state trading section. That, I think completes Article 21.
Now I think we may revert to Article 20, "Restrictions to safeguard the balance of payments," for which there is a revised version. Perhaps Delegates would appreciate a few minutes in which to read it.

THE RAPPORTEUR: May I point out one small misprint which I have just observed? There may be others. In 2 (a) the second line should read,

"restrictions except to the extent necessary. . ."
THE CHAIRMAN: Did all the delegates get that amendment?

THE RAPPORTEUR: The word "necessary" should be put in before the bracket in the second line of paragraph 2 (a). (After a pause) There is another serious misprint. Have I your permission, Mr Chairman, to point it out?

THE CHAIRMAN: Yes.

THE RAPPORTEUR: At the top of page 2, paragraph 2 (b) the first line should be crossed out. The sub-paragraph should simply begin: "(b) To eliminate, the restrictions when conditions would no longer justify" etc.

THE CHAIRMAN: Gentlemen, it seems to me that the hour is getting a little late to examine with very great care an article dealing with so technical and complicated a subject. I would suggest, therefore, that we adjourn shortly, and we will consider in a moment the time for the next meeting. It has been suggested that, while it would be obviously unfair to ask delegates to agree even tentatively to a document of this sort as it now stands, it would perhaps facilitate the consideration of it if we just ran through it paragraph by paragraph to see if anybody has any question which he would like to ask at this stage as to the meaning of any part of the draft, or, if he has already prepared any suggestions, to read them out, but we will not discuss any of the items in detail. Is that agreeable?

MR BARADUC (France): As you have asked us, we are not going to open a discussion now, a discussion which has already been held, but we intend to submit a proposal for the modification of the first sentence. However, we are not going to submit it tonight.

THE CHAIRMAN: You have not got it ready now?

MR BARADUC (France): No.

MR HEMING (U.K.): I do not know at what time we are going to meet or when, but I do hope that if the French delegation have their suggestion ready they will do their best to get it ready privately for members of this Committee before we meet, so that we can have a chance of looking at it.

MR BARADUC: Certainly, I quite agree.

THE CHAIRMAN: Anything else on paragraph 1? Paragraph 2(a)? Paragraph 2(b)? Anything on paragraph 2(c)?
Any questions on paragraph 2?

MR. RODRIGUEZ (Brazil): I am not sure of the exact meaning of the word "progressively". I think the intention is not to say "progressively" but "regressively".

THE RAPPORTEUR: The intention is to impose "regressively" and relax "progressively". Is not that so?

THE CHAIRMAN: I am not quite sure I understand the point.

MR. RODRIGUEZ (Brazil): In the Portuguese language one could not use the word "progressively" in this sense.

THE RAPPORTEUR: "Continuously" might be the word.

MR. RODRIGUEZ (Brazil): "Gradually", perhaps, but not "progressively." I do not know - perhaps it is all right in English.

MR. HELMORE (United Kingdom): I think, in the use of English, "relax them progressively" is perfectly all right, though I see that it may present difficulties in translation.

MR. PALCHEY (France): (Interpretation): I think it is quite easy to translate it into French.

THE CHAIRMAN: I think it is all right. Anything else on paragraph 2?

Paragraph 3(a)? Paragraph 3(b)?

THE RAPPORTEUR: In the very last line of 3(b) there is a small missprint. It should be, "...institution, and subsequently maintained under paragraphs 1 and 2 of this Article."

THE CHAIRMAN: Anything further on 3(b)? 3(c)?

MR. VIDELA (Chile): I have a small remark, but not on (c) in this paper, (c) in the draft Charter, which I think becomes (d) here.

THE CHAIRMAN: Then, 3(d)?

MR. VIDELA (Chile): When I made a speech here I had instructions from my colleagues to call attention to this paragraph. At the first meeting of this Sub-Committee I said that our Delegation held the view that a country imposing quantitative restrictions applied to another should carry the burden of proving that the latter's balance of payments is not unfavourable.
Q.2

I think here, after saying that it may bring the matter for discussion, we should add "after proving that there is a prima facie case".

THE CHAIRMAN: I do not think we will discuss that now; has everybody noted the suggestion?

MR. HELMORE (United Kingdom): I am not absolutely clear where the words come in.

MR. VIDELA (Chile): I think we should add after the phrase "may bring the matter for discussion to the Organisation", "And after proving that there is a prima facie case."

THE CHAIRMAN: I think it might be more appropriate to put it a little further down and say, "The Organisation may, if it is satisfied that there is a prima facie case, consult with the International Monetary Fund" etc.

MR. VIDELA (Chile): I think that is better.

THE CHAIRMAN: It is a more appropriate place to put it. We will note that.

Anything further on (d) ?

MR. PHILLIPS (Australia): There is a very small verbal change, may be a missprint, in the second to the last line - "Members" should be "Member" - "towards the Member".

THE CHAIRMAN: Paragraph 4 ?
THE CHAIRMAN: Paragraph 5.

MR. RODRIGUES (Brazil): There is another word here, Mr. Chairman, and I am almost afraid to raise a question about its meaning. It is line 3 "apparent disequilibrium". Could we not substitute "real" or "possible" or "potential"? It looks right, but it seems to me it is not right.

THE CHAIRMAN: Supposing we delete "indicating" and replace it by "suggestion", and then we could delete "apparent".

MR. HELMORE (United Kingdom): We were just going to suggest leaving out "apparent", but I think we would prefer the word "indicating".

THE RAPPORTEUR: The thought I had in mind, as far as I was Rapporteur on this, was to remove the word "apparent", indicating the existence of a disequilibrium.

THE CHAIRMAN: I suggest we leave that and that the Rapporteur will deal with the suggestion made. Is there anything else on Paragraph 5?

Paragraph 6.

MR. HELMORE (United Kingdom): Mr. Chairman, I simply want to give notice of a very hastily scratched out amendment which may meet the complicated point which I had to put twice because I failed the first time to make myself clear. It would be to add at the end of Paragraph 6: "provided that no Member shall be required to disclose information which would hamper the commercial operations of such a State Trading Organization." I would like to say I am not in the least wedded to the exact words, but I think that may be the best way to meet the point which I raised.

THE CHAIRMAN: Any other question on 6? Any other general question?

I suggest, gentlemen, we adjourn at this point, but we must first decide when we reassemble. It would be possible for us to meet tomorrow afternoon at 3 p.m. There are scheduled for tomorrow afternoon a meeting of the Drafting Sub-Committee on State Trading, but we understand that is expected to be a meeting of minutes only, and then at 3 o'clock there is a meeting.
of the Procedure Sub-Committee, which I gather will not affect necessarily the members of this Committee. It is suggested, therefore, that we might reassemble tomorrow afternoon at 3 o'clock.

THE RAPPORTEUR: In order to discuss this Article?

THE CHAIRMAN: In order to discuss this Article. Article 22 deals with the same general subject-matter, I think, and we could therefore consider Article 22 also, and Article 23, Exchange Control. So that is Articles 20, 22 and 23, and 24, which is also Exchange Control.

The meeting will now adjourn, and we reassemble at 3 p.m. tomorrow.

The meeting rose at 11.26 p.m.