

SIXTH COMMITTEE ORGANIZATION

SUMMARY RECORD OF THE FOURTH MEETING

Held at the Capitol Havana Cuba,
Thursday 4 December 1947 at 10 30 a m

Chairman Mr Erik COLBAN (Norway)

The CHAIRMAN opened the meeting and invited discussion of the amendment to Article 68, paragraph 1 proposed by the delegation of Burma as amended by the delegation of Belgium (E/CONF 2/C 6/3 and Corr 1)

Mr GARCIA OLDINI (Chile) wanted the discussion postponed until after the dead line of 6 December 1947 for the submission of amendments had been reached so as to avoid complicating matters

The CHAIRMAN explained that the present discussion was being held in the nature of a first reading only and said he was certain that delegations having an opinion to express regarding the present point would do so now

Mr FORTHOUME (Belgium) supported the Chairman's explanation but made the reservation that in any case Members should not be barred from moving for, or discussing, further amendments either after the dead line of 6 December or at any other time if the matter arose from the discussion on the floor

The CHAIRMAN agreed that this procedure would be followed

Mr GARCIA OLDINI (Chile) recalled the experiences of the Preparatory Committee at Geneva where a second reading had been dispensed with in order to save time. Such attempts to save time would only complicate matters and in fact require more time in the end. He proposed a definite ruling be adopted by the Committee to assure a second reading

The CHAIRMAN assured the Chilean representative that a second reading would be held under all circumstances, and explained that he himself had been presiding at the Geneva meeting referred to, and that proper care had been taken there to safeguard final disposition of the matter

The meeting then was transferred to Committee Room B, where simultaneous interpretation had been installed by the Secretariat

To an inquiry by Mr. KYIN (Burma) the CHAIRMAN asked the representative to substitute the word accordance for the word acceptance in the second paragraph of the

paragraph of the Belgian amendment had already been corrected in document (E/CONF.2/C.6/3/Corr.1). Mr. KYLIN reserved his position to the Belgian amendment and added that he would prefer his own version to be agreed to regarding the admission into membership of the Organization of separate customs territories.

Mr. VIRATA (Philippine Republic) supported the Burmese amendment since it would widen the opportunity for international co-operation in economic development and would place separate customs territories in the same category as autonomous States. He had certain misgivings about the Belgian draft, which could be overcome, however, by inserting the words "by their governments through the competent Members" instead of the words "on their behalf by the competent Members" in the revised draft of Article 68, paragraph 1 (b). The wording he suggested was used in the resolution of the Economic and Social Council issuing invitations to the Conference.

Mr. FORTHOMME (Belgium) said that he attempted to modify the Burmese amendment as little as possible and that from the point of view of consistency, the language used in Article 98, paragraph 1 and of Article 99, paragraph 2 should be retained. As far as the Philippine revision was concerned, he would like to see the general reaction to it by the Committee.

Mr. CORREA (Ceylon) supported the Philippine proposal because it removed any misgivings which could arise from the Belgian draft. The Belgian amendment might leave room for the connotation that the metropolitan States' acceptance was required for admission of autonomous customs territories into the Organization. Ceylon probably in February next year would be raised to the status of a dominion and therefore this provision would not be of practical importance to Ceylon. He understood that some delegations intended to introduce amendments to Articles 98 and 99 and in the case that those amendments would be adopted the difficulty he referred to would disappear.

The CHAIRMAN suggested that it might become necessary to set up a special drafting committee to avoid duplication or contradiction between various Articles. He saw no substantive difference in the Belgian and Philippine proposals, and the final draft of that clause could be decided later.

Mr. SPEEKENBRINK (Netherlands) reserved his position in regard to the amendment to Article 68 although stating that he might accept the Belgian version of the draft. While he hoped that all territories making substantial contributions to world trade should eventually be included in the Organization, he warned that the criteria for admission to be applied to each territory should be very carefully determined especially since

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considerably greater latitude than in the Charter of the United Nations was going to be allowed. Under the Charter as drafted at present independent and sovereign states were qualified for admission to the Organization, either states invited to the present Conference or states not invited whose application for admission was approved by the Conference of the Organization. But it was felt that this was not enough. Under the constitutions of many states there were several territories which in the formal and often rather loose framework of an individual state had authority to decide separately and individually upon a number of subjects of an economic and political nature. Therefore states might request that some of those territories be admitted to the Organization in their own right. The Netherlands Government sympathized with this idea. Before the war the constituent parts of the Netherlands were each separately and individually signatories to many multilateral treaties and members of international organizations.

The Charter would have to lay down the special criteria to be determined for the second category of Members of the Organization. The territory concerned had to be a separate customs territory and the proper authority to inform the Conference that a certain part of the territory under its sovereignty possessed this status was the competent Member. Moreover the competent Member would have to accept the Charter on behalf of such a separate customs territory because only sovereign and independent states could assume obligations deriving from the Charter for themselves or could declare that the territories concerned were competent to do so.

The Netherlands supported the declaration that Burma, Ceylon and Southern Rhodesia each fully and completely complied with the criteria required. However, these criteria had to be met by every territory applying for membership and great care had to be exercised before it was decided that every territory represented at Havana was, ipso facto, entitled to become a Member of the Organization. This was all the more necessary because in a great part of the world a process of reconstruction of the relationship between so-called metropolitan powers and dependent territories was under way.

Mr. LIMA (El Salvador) stressed that the matter of membership in the Organization raised problems of a legal character and he suggested the creation of a legal sub-committee.

Mr. AMADOR (Mexico), in referring to Article 68 generally, without regard to the amendments of Burma, Belgium, and the Philippine Republic, and in view of Chapter II, Article 3 and 4 of the United Nations Charter, urged that the Conference establish more clearly a definition of the autonomous customs territories pursuant to Article 68, paragraph 3. The

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present wording of the draft did not provide such a complete definition. The Conference should also define more clearly what the conditions for admission to be accepted for the admission of separate customs territories. The discussion of Article 68, paragraphs 3, 4 and 5 should be postponed until paragraphs 1 and 2 had been decided.

Mr. ROWE (Southern Rhodesia) said that he would accept the amendment of Belgium as originally proposed or as modified by the Philippine Republic.

Mr. GANI (Indonesian Republic) stated that his delegation disagreed with the statement made by the Netherlands delegation and reserved his comments for a later date.

Mr. HOLMES (United Kingdom) supported the Netherlands delegation but believed that the qualifications of the three autonomous customs territories had already been examined and the propriety of their admission accepted.

Mr. FORTHOMME (Belgium) emphasized that his proposal would avoid the necessity of the Organization settling the problem of relationships between States Members and territories. This did not fall in the province of the International Trade Organization.

Mr. KOJEVE (France) endorsed the Belgian amendment which would involve no legal implications. He feared that if the Burmese text were adopted, questions outside the competence of the Organization would arise and it might be necessary to seek legal advice of the Secretary-General or of the International Court of Justice. His delegation was prepared to accept the Belgian amendment in the first reading.

The CHAIRMAN, after noting that no objection was voiced, declared the Burmese amendment with the Belgian amendment thereto as agreed upon in first reading. If Articles 98 and 99 were modified, then Article 68 could still be amended accordingly. Paragraph 2 was included in the Burmese amendment, and paragraph 5 now became paragraph 4 with the clause on the Free Territory of Trieste remaining open for further discussion.

ARTICLE 69

Mr. REAL (Switzerland) wished to know where the fact that a customs union existed between Switzerland and the Principality of Liechtenstein could be recorded.

The CHAIRMAN informed him that this should be done at the discussion of Article 42 in the Third Committee.

Mr. VIRATA (Philippine Republic) took exception to the enumeration in Article 69 of its functions which had been previously mentioned in many other places in the Charter. Only "commercial arbitration" and "double taxation" were functions not mentioned previously.

The CHAIRMAN felt

The CHAIRMAN felt that this summary could serve a useful purpose.

Mr. AMADOR (Mexico) suggested that discussion be postponed of Article 69, paragraph c (1) until the Second Committee had decided on Article 12.

This was agreed and the rest of Article 69 as set out in the Report of the Preparatory Committee was adopted on first reading.

ARTICLE 70

Mr. AMADOR (Mexico) explained that by its amendment his delegation wished to redress the lack of balance between international trade and economic development in the text of the draft Charter. Underdeveloped countries and those with an incipient industrial development were too numerous to have this major problem given secondary importance. It was imperative to form a permanent committee, not only a commission, to deal with the basic objective of economic development.

Mr. ALAYZA (Peru) agreed with the representative of Mexico regarding the importance of establishing a committee on economic development, similar in scope to the Tariff Committee.

Mr. GAZDAR (Pakistan) also supported the Mexican proposal, declaring that Pakistan, as an underdeveloped country, would have to seek the assistance of such a committee.

Mr. GARCIA QLDINI (Chile) shared the opinions of the representative of Mexico and suggested that a chapter similar to the one on the Tariff Committee should be added to the Charter.

Mr. LIMA (El Salvador) referring to a statement by his delegation in the plenary meeting, said that El Salvador had withheld a similar proposal in view of the Mexican amendment which his delegation supported.

Mr. KOJEVE (France) recalled that his delegation had proposed at the Preparatory Commission in Geneva an alternative text of Article 68 which contained a list of commissions, including one for economic development. His delegation would, therefore, support the Mexican proposal.

Mr. GOMEZ (Colombia) proposed the insertion after Article 12, of a new article dealing with the creation of a committee on economic development. While not objecting to a discussion of the Mexican proposal, he pointed out that the terms of reference of the committee could only be determined after the acceptance of the Colombian proposal.

Mr. KING (China) recalling his delegation's previous proposals regarding the matter, warmly supported the Mexican proposal as filling a serious lacuna in the Charter. In view of the complexity of the matter, he suggested that after further details had been given, an ad hoc committee might study all proposals on that question. Furthermore, Article 70 of the Charter might be amended, so as to list all commissions, and a committee on economic development.

/Mr. STINEBOWER

Mr. STINEBOWER (United States of America) agreed with the preceding speakers regarding the necessity of determining the terms of reference and scope of an economic development committee before deciding in principle to set up such a body. The United States delegation had previously opposed an enumeration of commissions. Chapter III, as well as Article 68, contained provisions for economic development. Contrary to commercial policy, however, economic development presented considerable difficulty in its definition and machinery; it would therefore, be necessary first to consult the specialized agencies as well as the Economic and Social Council of the United Nations with which the Organization would co-operate.

The work of the Council and its commissions covered a very broad field and care should be taken to avoid duplicating that work. In order to avoid constitutional problems, it was preferable to list the organs in Article 70, leaving it to the Organization to determine in consultation with the other specialized agencies of the Council, what the structure of the committee should be.

The CHAIRMAN, announcing that his list of speakers included Mexico, Venezuela, Cuba, Greece, Turkey, India and Australia, adjourned the meeting until the following day.