

SIXTH COMMITTEE: ORGANIZATION

SUMMARY RECORD OF THE SEVENTEENTH MEETING

Held at the Capitol, Havana, Cuba, Wednesday, 31 December 1947, at 4.00 p.m.

Chairman: Mr. Eric COLBAN (Norway).

The CHAIRMAN announced that the Sub-Committee on paragraph 1 of Article 83 had recommended a text (document E/CONF.2/C.6/33). The Committee accepted in first reading the Sub-Committee's recommendation.

CONSIDERATION OF ARTICLE 84

Paragraphs 1 and 2 as drafted by the Preparatory Committee were accepted on first reading.

Paragraph 3

The CHAIRMAN noted that a document had been presented by the International Co-operative Alliance concerning the participation of non-governmental organizations in the work of the Organization (document E/CONF.2/15, page 5).

Mr. ODHE (International Co-operative Alliance) declared that in London and Geneva the International Co-operative Alliance had expressed the desire to co-operate with the Organization in the implementation of certain provisions of the Charter. With national organizations in thirty-five countries, representing ninety-five million families, the Alliance hoped to be able to assist the Organization with information on consumer needs and other questions, especially regarding agricultural production, thus complementing the views of Members. Article 84 made possible such co-operation. The Alliance, however, considered that it would be helpful to have more closely defined provisions for assistance by non-governmental organizations in different Chapters of the Charter where permanent contact was to be ensured and where such assistance ought to be requested automatically.

The CHAIRMAN doubted whether it was necessary to extend Article 83 further since it already provided for co-operation with non-governmental organizations. As no delegate asked to speak on the comments of the International Co-operative Alliance, he declared paragraph 3 adopted on first reading as drafted by the Preparatory Committee.

/Paragraph 4

Paragraph 4

Mr. KARMARKER (India) noted that paragraph 4 provided for the transfer to the Organization of functions and resources of other inter-governmental organizations. His delegation therefore suggested that on the principle of reciprocity, provision should be made for transfer - if desirable from the point of view of work - of the functions and resources of the Organization to other inter-governmental organizations.

Mr. MACHADO (Cuba) said that legal difficulties might arise in connection with the transfer of the functions and resources of the Organization to other organizations, particularly as in some countries international agreements formed a part of the constitution. While appreciating the motives of the delegate of India, he felt that the present text of Article 84 was adequate.

Mr. TANGE (Australia) thought that the question of transfer of resources could be settled by majority vote, as proposed by India, since budgetary decisions could also be taken by majority vote; the important question of transfer of functions should be, however, looked at as an amendment to the Charter requiring a two-thirds vote by the Members of the Organization.

Mr. STINEBOWER (United States) appreciated the concern of the delegate of India regarding duplication of work, but he pointed out that there was only an apparent parallel between the provisions of paragraph 4 and the proposed sub-paragraph (d). Paragraph 4 visualized the absorption by the Organization of smaller related organizations already in existence such as those dealing with the publication of trade statistics. Transfer of functions or resources of the Organization was an entirely different matter and should only be carried out according to the procedure for amendments to the Charter.

The CHAIRMAN thought that paragraph 4 was bound to the principle elaborated in paragraph 2 of Article 84. The Indian proposal seemed to have been based on a misunderstanding of paragraph 2.

Mr. GAZDAR (Pakistan) supported the remarks of the representative of Cuba.

Mr. AMADOR (Mexico) shared the views of the representatives of Cuba and Australia. He would not be able to accept the Charter if it included provisions giving such latitude to the Organization since the Charter, if accepted and ratified by his Government, would ultimately be included into the Mexican Constitution.

Mr. COUILLARD (Canada) stressed that any change in the functions of the Organization would disrupt the desired balanced distribution of functions in the Organization. He also felt that the matter had to be considered like an amendment to the Charter and agreed with the Chairman that the Article

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contained ample provision for co-operation.

Mr. KARMARKAR (India) explained that his proposal had been presented after due consideration of the provisions of paragraph 2. He had felt that since paragraph 4 provided for the implementation of paragraph 2 through transfer of functions to the Organization, the Conference might also wish, in certain circumstances, to arrange for the transfer of its own powers and resources to other agencies. If the amendment were passed over, he reserved the right to revert to it at subsequent readings.

The CHAIRMAN announced that Article 84 had been passed on first reading.

Articles 85, 86 and paragraphs 1 and 2 of Article 87 were accepted on first reading as drafted by the Preparatory Committee.

ARTICLE 87 - Paragraph 3

The CHAIRMAN drew attention to the Secretariat redraft of paragraph 3, which mentioned an annex to the General Convention on Privileges and Immunities of the Specialized Agencies. He wondered whether the Secretariat might not prepare such an annex for the Committee's consideration, provided the latter agreed to amend Article 87 accordingly. There was also the possibility that the Interim Commission, if established, might, in preparation for the first Conference of the Organization, examine the draft.

Mr. FAWCETT (United Kingdom) supported the Secretariat draft of paragraph 3. It might be premature, however, to begin a compilation of the annex at the present time, and he therefore supported the Chairman's second suggestion.

Mr. KOJEVE (France) supported the representative of the United Kingdom.

The CHAIRMAN thought that there was general agreement on the Secretariat draft of paragraph 3. The Committee seemed to prefer his second suggestion regarding the annex. In case the Interim Commission were not set up, the Secretariat would prepare a draft annex for the Committee's consideration before the end of the present Conference.

ARTICLE 88

The CHAIRMAN noted that the representative of Peru had withdrawn his amendment to that Article.

Article 88 was adopted on first reading as drafted by the Preparatory Committee.

CHAPTER VIII

The CHAIRMAN, pointing to the footnote on page 53 of the English text of the draft Charter, thought that a strong Sub-Committee should examine that Chapter (excluding Article 92, paragraph 1).

He nominated the following countries as members of the Sub-Committee: Switzerland, Australia, Canada, Colombia, Denmark, France, Iraq, Italy, India, Mexico, Netherlands, Poland, Union of South Africa, United Kingdom, United States and Uruguay.

/The CHAIRMAN

The CHAIRMAN suggested that the representative of Switzerland might be Chairman of the Sub-Committee.

Mr. BEAL (Switzerland) reserved the right, after consultation with the head of his delegation, to decline the Chairmanship of the Sub-Committee.

Mr. de GAILFIER (Belgium), said that the important question of settlement of differences in the Organization directly affected international co-operation. Furthermore, the Organization's decisions on economic questions, as well as on cases in dispute were of great importance in connection with international law and jurisprudence. There could be two kinds of differences: (1) legal disputes, based on a Member's allegation that his legal rights had been violated. In that case there was a possibility for the Organization to request the advisory opinion of the International Court of Justice; (2) non-legal disputes in which it might be necessary to prove the legality of the Organization's decisions on the basis of economic or political considerations. He wished to stress the importance of legal guarantees for the impartiality and competence of the Organization's decisions in connection with the settlement of differences. The Organization's authority and prestige would thus also be ensured. As far as the second point was concerned the Belgian delegation submitted proposals to Chapter VIII in Geneva which, however, had not been accepted. Although these proposals were not submitted at the present Conference, his delegation would insist that the terms of reference of the Sub-Committee should include an examination of the question as to what provisions would best ensure the impartiality and competence of decisions taken by the Organization on political and economic questions.
