

SIXTH COMMITTEE: ORGANIZATION

SUMMARY RECORD OF THE TWENTY-SIXTH MEETING

Held at the Capitol, Havana, Cuba, Friday, 6 February 1948, at 3.00 p.m.

Chairman: Mr. E. JOIBAN (Norway)

CONTINUATION OF DISCUSSION OF THE INTERIM REPORT OF THE SUB-COMMITTEE ON ARTICLES 95, 96, 98, 99 AND 100 (document E/CONF.2/C.6/28/Rev.1)
Article 95 - Amendments (Continuation of discussion)

Mr. FER (Turkey) emphasized the importance which his delegation attached to Article 95, and said that the new draft prepared by Sub-Committee J was an improvement on the Geneva draft. Four different procedures had, however, been laid down in the new draft for dealing with amendments, and he considered that Article 95 should be redrafted to avoid any amendment being effected in the way provided for in paragraph 1. In assessing the importance of the amendments provided for in Article 95 a change in the rights of Members as well as a change in obligations should be considered.

Mr. MACHADO (Cuba) suggested that the Central Drafting Committee should be asked to ensure that the language of paragraph 2 of Article 95 made it clear that the whole procedure under that paragraph was simultaneous.

The CHAIRMAN, after pointing out that paragraph 1 called for an affirmative vote of two-thirds of the Members, said he could not imagine that two-thirds majority giving up any rights which they held under the Charter. He therefore felt there was no fear of any Member losing any rights under paragraph 1. It was a different matter when the question arose of imposing new obligations on Members because, until the vote had been taken in the Conference, the various governments would have no possibility of going into the merits of the amendment submitted, and it was therefore necessary to reserve to them the right of ratification of such amendments. He felt that the Conference would be extremely careful not to apply paragraph 1 of Article 95 in such a way as to deprive any Members of their rights under the Charter.

/Article 96

Article 96 - Review of the Charter

Mr. KUMLIN (Sweden) said that his delegation still maintained its proposal that Article 96 should be deleted. It imposed upon the Executive Board an obligation to convolve a special session of the Conference for the specific purpose of reviewing the Charter after a period of five years, and, in the present state of world economy, that period was a very long time. The Organization might find it desirable to review the Charter before the period of five years had elapsed. The Swedish delegation felt, therefore, that Article 96 was far too rigid as it did not allow for any discretion in the matter of revision of the Charter on the part of the Executive Board and the Conference. The provisions of Article 73 and those of Article 95 constituted the best possible safeguards that the purposes for which Article 96 were drafted would be carried out.

If, however, the Committee decided to retain Article 96, the representative of Sweden felt that paragraph 1 should be redrafted to allow of some discretion on the part of the Conference and the Executive Board in regard to periodical reviews of the Charter.

Mr. AMADOR (Mexico) felt that if Article 96 were deleted the Conference would have no guidance as to when the Charter should be reviewed. World economy was far from stable, and it would be necessary to review the Charter from time to time.

Mr. POLITIS (Greece), although agreeing with the remarks of the representative of Sweden, felt that Article 96 should be retained. He suggested that the following sentence should be added at the beginning of the Article: "Unless the Conference at an ordinary session decides that urgent circumstances necessitate the review of the Charter on a previous date,....."

Mr. ROUCHDY (Egypt) considered the text of Article 96 too rigid. It should be left to the Conference to decide when a revision of the Charter should be made, and that decision should be taken in accordance with the provisions of Article 109 of the Charter of the United Nations.

Mr. KARMAKAR (India) supported Article 96 as at present drafted with the addition of the amendment suggested by the representative of Greece.

Mr. AUGENTHALER (Czechoslovakia) also supported the present wording of Article 96, and said he would not oppose the amendment proposed by the representative of Greece.

The CHAIRMAN pointed out that the purposes of Article 96 were not to give the Conference an opportunity to revise the Charter, but were to assure Governments subscribing to the Charter that, without having to submit amendments from time to time, they would be certain, after a comparatively short period of five years when most of the transitory clauses

/of the

of the Charter expired, of having the opportunity of discussing the whole Charter once again.

Mr. KUMLIN (Sweden) said that no provision was made for a further review after the first one which would take place at the end of five years. He supported the amendment proposed by the representative of Greece.

Paragraph 1 was approved.

Paragraphs 2 and 3

Approved without comment.

Article 97 - Withdrawal and Termination

Approved.

Article 98 - Entry into Force and Registration

Paragraph 1

Approved.

Paragraph 2

Mr. LAMBOGLIA (Argentina) said that the difficulties in the Sub-Committee centred around the point of how many ratifications were necessary to bring the Charter into force. His delegation had first supported the proposal made by the delegation of Uruguay that a two-thirds majority vote should be necessary, but afterwards, in a spirit of compromise, he had supported, together with the delegation of Uruguay, the Mexican proposal that the entry into force of the Charter should be conditional upon its acceptance by a majority of the signatories of the Final Act of the Havana Conference. He could not support the proposal made in the Geneva draft that the Charter should be brought into force after twenty acceptances had been received, and felt that the Committee should be guided by the provisions of Article 110 of the Charter of the United Nations.

Mr. GARCIA SERRATO (Uruguay) supported the remarks of the representative of Argentina, and pointed out that he strongly disagreed with the suggestion made by certain representatives in the Sub-Committee that if twenty nations ratified the Charter that fact would automatically attract other nations to do so. The Charter should not come into effect until it had been ratified by the majority of the signatories of the Final Act.

Mr. MARTIN (United Kingdom) pointed out that this question had been fully discussed before both in the Committee and in the Sub-Committee. It was argued that twenty was an arbitrary figure but it had been chosen for good reasons. It was, roughly speaking, the least number of states which could bring the Organization into existence. There was no question of a minority or a majority, for the states which deposited their instruments of acceptance would bind only themselves.

/If the number

If the number were to be enlarged, the hesitant countries and those which had an interest in delaying the entry into force of the Organization would have an opportunity of preventing it from beginning work in a normal manner.

Mr. AMADOR (Mexico) supported by the representative of Ecuador stressed the arbitrary nature of the number twenty and urged the acceptance of a simple majority of the states present at the Conference. Not only would a majority correspond to international usage, it was of particular importance as regards international trade and economic development. The Organization should be based on the principle of universality and should work for the benefit of all countries. If the final text of the Charter was a satisfactory one, there would be no hesitation on the part of all countries to deposit their instruments of acceptance.

Mr. GARCIA SERRANO (Uruguay) did not see how the mere acceptance of twenty countries would cause hesitant states to lose their apprehensions for it was a matter in which national parliaments and public opinion were involved. If, on the other hand, the peoples of the world could be sure of gaining advantages from the establishment of the Organization there would be a torrent of acceptances.

Mr. MARTIN (United Kingdom) said that his country might be in the position where it would have to hesitate before joining the Organization. If that were to be the case, it would not adopt the selfish attitude of trying to prevent the Organization from coming into existence. The representative of Mexico had drawn attention to the proviso in which it was laid down that less than twenty states could cause the entry into force of the Charter, if that were not already a fact by 30 June 1949. If twenty countries were prepared to join by September or October 1948, it surely would be better for the Organization to come into existence at that time.

Mr. AUGENTHALER (Czechoslovakia) said that he would not insist on his proposal for the number twenty-six, but would support the Mexican proposal of a simple majority.

Mr. KELLOGG (United States) urged the acceptance of a low figure for practical reasons. Much hard work had gone into the drafting of the Charter and no delegation would wish to see it wasted. It also would be more difficult to get the first twenty Members than the second twenty, because the benefits would increase with the increase in membership.

He drew the Argentine representative's attention to the fact that WHO and ICAO had come into existence when twenty-six states had deposited their instrument of acceptance; FAO and UNESCO when twenty states had joined and IRO's Charter would enter into force when only fifteen states accepted it.

/Mr. SPECKENBRINK

Mr. SPERKUNBRINK (Netherlands) felt that the Organization should be able to start its work with the minimum number of Members. The General Agreement had started with a limited number of countries and an even smaller group from among them had decided to give provisional applicants the Agreement.

Mr. FER (Turkey) stated that his delegation would be unable to take a decision on this question until it knew the final text of Article 93.

Mr. KARMARKAR (India) had not been convinced by the arguments that the number twenty should be enlarged. No decision had been taken by the Conference except after great deliberation and efforts to reconcile divergent views. For that reason, delegations should have little difficulty in persuading their national parliaments that the Charter should be accepted. It would be both arbitrary and undemocratic to demand a further passing on the Charter after the Havana Conference had approved it.

A simple majority would comprise as many as twenty-eight or twenty-nine states. He preferred the smaller number of twenty and in the Sub-Committee had suggested that they might be but twenty countries with the largest volume of trade.