

SIXTH COMMITTEE: ORGANIZATION

SUB-COMMITTEE ON CHAPTER VIII (SETTLEMENT OF DIFFERENCES - INTERPRETATION)

SUMMARY RECORD OF THE FIRST MEETING

Held 5 January 1948 at 5.45 p.m.

Chairman: Mr. COUILLARD (Canada)

The sub-committee had before it as its working paper document E/CONF.2/C.6/W.15 and decided to embark immediately upon an examination of Article 89 (Consultation Between Members). Discussion was commenced upon the amendment proposed by the delegations of India and Mexico to delete sub-paragraphs (b) and (c).

Mr. COOMBS (Australia) reviewed the history of Article 89. The delegation of Australia at the Preparatory Committee had proposed very positive obligations regarding employment. However, that delegate had been persuaded to accept obligations relating to employment of a less positive character in return for provisions in Article 89 which would enable a Member to obtain without difficulty a review of its obligations under the Charter should the obligations regarding employment not serve to prevent such situations as the collapse of levels of employment and effective demand leading to widespread depression. This was the type of situation envisaged in sub-paragraph (c) which also could be used to cover the case of a non-Member taking action causing a Member difficulty in carrying out its obligations under the Charter. He admitted that the text of sub-paragraphs (b) and (c) was very wide but it was very difficult to find a text less flexible which could cover all the situations which might arise.

Mr. KOJEVE (France) suggested that sub-paragraphs (b) and (c) might be made more definite by inserting "economic" before "measure" and "situation" respectively.

Mr. AMADOR (Mexico) stated that it might be possible to meet the representative of Australia's argument by defining the "exceptional circumstances" mentioned in paragraph 3 of Article 74 to include the circumstances which that representative had in mind.

/Mr. HOLLOWAY

Mr. HOLLOWAY (South Africa) supported the amendment of India and Mexico but he pointed out that the purpose of that amendment could also be accomplished by amending Article 90. If Article 90 were amended as the delegation of South Africa had proposed, he was prepared to accept the present text of Article 89.

Mr. RUBIN (United States) favoured the maintenance of the text of Article 89 as drafted by the Preparatory Committee. It would be very difficult to amend that text as it was considered as standing behind all the provisions of the Charter. He did not find the text was broad as it must be remembered that all the Organization had to decide was whether or not the objectives of the Charter were being frustrated.

Mr. FAWCETT (United Kingdom) also preferred to maintain the text as presented in the draft Charter.

Mr. MONDELLO (Italy) preferred to maintain the text but asked whether sub-paragraph (c) would cover decisions of the Tariff Committee.

Mr. RUBIN (United States) replied that the decisions of the Tariff Committee were not directly subject to review under Chapter VIII but that such decisions might give rise to situations which would fall within Chapter VIII.

Mr. SELDENADEN (Denmark) favoured the maintenance of the text prepared by the Preparatory Committee.

Mr. REAL (Switzerland) was prepared to accept the present text of Article 89 but thought that it might be improved by accepting the suggestion of the representative of France.

Mr. BLUSZTEIN (Poland) stated that he thought consultation under Article 89 should be limited to obligations assumed under the Charter.

Mr. PACHACHI (Iraq) favoured an enumeration of situations as suggested by the representative of Australia. If this were not acceptable he would accept the present text of Article 89 as amended by the suggestion of the representative of France.

Mr. FACK (Netherlands) favoured the present text of Article 89.

Mr. AMADOR (Mexico) stated that in a spirit of compromise he would accept the amendment of the representative of Colombia to sub-paragraph (b). He would also accept sub-paragraph (c) if the words "relating to the obligations of this Charter" were added to it.

It was agreed that a working party composed of the representatives of Australia, India, Mexico and the United States should be set up to prepare a redraft of Article 89 in the light of the amendments which had been presented. The working party was charged with considering

(a) the possibility of listing situations as suggested by the representative of Australia,

/(b) the possibility

- (b) the possibility of amending Article 90 instead of Article 89,
- (c) the narrowing down of the language of sub-paragraphs (b) and (c), and
- (d) the question whether Article 89 should cover decisions of the  
Tariff Committee or situations arising from such decisions.

The working party was also authorized to examine Article 90 insofar as the scope of that Article depended on the scope of Article 89.

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