

**United Nations
CONFERENCE
ON
TRADE AND EMPLOYMENT**

**Nations Unies
CONFERENCE
DU
COMMERCE ET DE L'EMPLOI**

RESTRICTED
E/CONF.2/C.6/W.87
5 February 1948
ORIGINAL: ENGLISH

SIXTH COMMITTEE: ORGANIZATION

SUB-COMMITTEE J ON ARTICLES 95, 96, 98, 99 AND 100

NOTES ON TWELFTH MEETING

Held 4 February 1948, at 6.00 p.m.

Chairman: Mr. AMADOR (Mexico)

The Sub-Committee continued to discuss the point of order raised by the representative of France and supported by the representative of Poland.

The representative of the United States referred to the terms of reference of the Conference to show that the Economic and Social Council intended the Conference to take decisions regarding Germany and Japan. This was in conformity, namely, that the control authorities were merely the agents of the governments responsible for the administration of Germany and Japan, which governments should take the necessary decisions on substance at Havana.

The argument that had been advanced that acceptance of the United States proposal would lead to a breach of obligations under other international agreements was illusory. The United States delegation never had any intention of attempting to modify the control agreements and to clarify this position he was prepared to insert at the commencement of the proposal the words "without prejudice to existing international agreements to which Members are parties." The particular United States proposal before the Sub-Committee was not the only place where questions of relationships with other treaties were involved. The argument that the Conference was not competent to discuss the solution of the problem because of other treaties could therefore easily be reduced to absurdity.

The United States proposal was so clearly not in conflict with the control agreements that there seemed to be no need to examine the terms of such agreements when discussing the proposal. It was specifically stated that the proposal was subject to these agreements. If at any time a conflict arose between the United States proposal and the agreements, the agreements would prevail. However, the United States delegation was prepared to examine in detail the control agreements to show that as a practical matter its proposal was not in conflict with them but as a matter of fact held

/considerable

considerable substance.

The representative of the United States then went on to quote extensively from the control agreements, showing that there was no inconsistency between them and the United States proposal. He concluded by stating that not only was there no inconsistency but the proposal would have substantial effect covering all of Japan and most, if not all, of Germany. It would offer substantial benefits not only to the Occupied Areas but to all Members of the Organization who dealt with those areas either at the present time or in the future.

The representative of Denmark agreed with the remarks previously made by the representative of Poland that the Conference did not have the power of construing the control agreements for Germany and Japan. He suggested that the Sub-Committee might seek other ways in which it might deal with the United States proposal than by inserting the substance of it in the Charter. If this were done the Sub-Committee would need to make an examination of the other articles of the Charter to see if they were suitable for application to Germany and Japan. He quoted the articles on economic development as ones which might not be appropriate as they were drafted in this respect. If it was agreed not to insert the substance of the United States proposal in the Charter, a way out of the difficulty might be to suggest to the occupying powers that they might apply the principles of the Charter in such way as they saw fit.

The representative of France supported the suggestion of the representative of Denmark which he considered would not have the dangerous implications which the insertion of the United States proposal in the Charter might entail.

The Chairman reiterated his opinion that the Conference was a conference of sovereign states which had the power to discuss any proposal within its terms of reference. Each of these sovereign states alone was able to decide whether it could undertake the commitments involved in the Charter whether or not these commitments conflicted with commitments under other international agreements to which they might be parties. He thought that at the next meeting the Sub-Committee should concentrate its discussion upon an examination of ways other than making specific provision in the Charter in which the substance of the United States proposal might be met.
