

PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE  
ON TRADE AND EMPLOYMENT

COMMITTEE V

Fourth Meeting

Held on 31 October 1946 at 3.00 p.m.

Chairman: Mr. L. R. EDWINSTER (United States)

DOCUMENTS

Mr. TURNER, Secretary, asked delegates who had specific suggestions for amendment of the Draft Charter which they wished to have circulated as Committee documents to submit them in writing to the Secretariat as soon as possible.

He further asked whether delegates wished to continue to receive the Summary Record of meetings, or would prefer to rely on the verbatim report, and whether, in the former case, they wished the Summary Record to continue in its present form, or whether a more condensed document, without detailed attributions, would be satisfactory.

The Committee wished to continue to receive the Summary Record as at present prepared.

REPORT OF CHAIRMAN OF SUB-COMMITTEE

Mr. DAO (China), Chairman of the Sub-Committee, said that the Sub-Committee had met promptly, and had agreed unanimously on its recommendations (Document CV/8). On the number and status of Deputy Directors-General, the Sub-Committee had suggested modifications designed to leave the fullest freedom to the Director-General himself to act according to the needs of the situation.

In deleting Article 69 (2) which provided that Deputy Directors-General should act as ex-officio members of Commissions, the Sub-Committee had felt it was necessary, before deciding on the role which Deputy Directors-General or other members of the Secretariat should play on Commissions, that more should be known as to the character of the Commissions - i.e. as to whether they were to remain composed of experts, or to be representative bodies. The principle might be considered further at a later date. The reference to food and agriculture in Article 71 (2) had been deleted: but the Sub-Committee recommended that consideration should be given to the possibility of including a further reference to the subject at some other point in the Draft Charter - perhaps in Article 66 (Functions of Commodity Commission).

The CHAIRMAN, in answer to Mr. SCHWENGER (United States), ruled that the remarks of the Chairman of the Sub-Committee should be taken as part of its report.

AMENDMENTS PROPOSED BY SUB-COMMITTEE

Article 67

Mr. LAURENCE (New Zealand) suggested that either the Conference or the Executive Board should have some voice in determining the number of Deputy Directors-General to be appointed, and deciding as to the need for appointing them.

H. E. Mr. COLBAN (Norway), said that control would be exercised through the budget. No rigid provision should be made until the working of the Organization became clearer.

Mr. QURESHI (India) proposed that perhaps the maximum number of Deputy Directors-General should be stipulated and their appointment should be made by the Body which appointed the Director-General.

H. E. Mr. COLBAN (Norway) objected that to do so would be to suggest that the offices had political importance. That would establish a sharp distinction between Deputy Directors-General and other high officers of the Organization.

Mr. MORAN (Cuba) said that the Sub-Committee had desired to give the Director-General control over the policy of his officers. That would be impossible, if he did not appoint his Deputies.

Mr. LAURENCE (New Zealand) observed that the effectiveness of the Budgetary check would depend on whether the appropriations for the salaries were made before or after the appointments.

Mr. FIERCE (Canada) objected to restricting the number of Deputy Directors-General. The Draft Charter provided that their appointment should be in accordance with regulations made by the Conference which would exercise control at the proper time. If the Director-General did not appoint his Deputies, he could dissociate himself from responsibility for their action.

Amendments approved

Article 68

Amendments approved

Article 69

Mr. SCHWENGER (United States) pointed out that the reservation to the deletion of paragraph (2) covered amendments that had already been accepted.

Amendments approved

Article 70

Amendments approved

Article 71

Dr. ALAMILLA (Cuba) referring to the foot note, said that his delegation wished to be free to discuss any suggestion which the United States delegation might subsequently make.

At the suggestion of the CHAIRMAN, the foot note was amended to read as follows:

"With reference to this amendment, it was agreed that the possibility of incorporating elsewhere in the Draft Charter an appropriate reference to the special importance of food and agriculture in relation to commodity arrangements, should be left open for consideration."

Amendment approved

Article 72

Amendment approved

Article 77

Amendment to title approved

The CHAIRMAN said that the amended wording proposed for the second sentence followed the text of Article 19 of the United Nations Charter.

After discussion, the amendment was approved, the question of where the provisions of this Article should most appropriately appear in the Draft Charter being left to the Drafting Committee.

The Sub-Committee had recommended that Article 71 (1, 3, 4) and Articles 73 and 74 of the Draft Charter should be approved without change.

Approved

Mr. PIERCE (Canada) proposed in Article 71 (2) to delete "international and substitute "inter-governmental". The latter term was, he said, employed throughout the Rules of Procedure in contrast to "non-governmental".

Approved

DISCUSSION OF ARTICLES 78 AND 79 (ENTRY INTO FORCE;  
WITHDRAWAL AND TERMINATION).

The CHAIRMAN suggested that the Committee should first deal

with paragraphs 1 and 2 which were of a more formal nature and concerned depository arrangements. Paragraph 3 dealt with actual entry into force and paragraph 4 with a rather different problem.

#### DEPOSIT OF INSTRUMENT

Mr. BENDA (Czechoslovakia) observed that Article 78 made no reference to signature of the future treaty. Article 20 of the Articles of Agreement of the International Monetary Fund, which prescribed the same procedure, included a provision with regard to signature of the International Convention. Did the wording mean that the Charter would be signed, and the instruments of acceptance deposited afterwards. The "acceptance" in Article 78 (3) of governments joining after the entry into force of the Charter was really only an adhesion, and this part of the Article should therefore be worded differently.

Mr. KELLOGG (United States) said that signature was merely a legal formality. It had been thought that inclusion of a provision for signature might only cause confusion. However, if such a provision was desired, his government would have no objection. "Acceptance" was used in the Draft Charter to include adhesion.

Mr. BENDA (Czechoslovakia) expressed his satisfaction with the United States Delegate's explanation.

#### Article 78 (1, 2) approved

It was agreed that consideration of paragraph 3 should be held over for the time being.

#### Article 78 (4)

Mr. HOLMES (United Kingdom) pointed out that the Colonies of the British Empire were in varying stages of development. There should be some provision whereby certain colonial territories which the United Kingdom had agreed should be covered by the Convention, would be entitled to withdraw, if they so elected, on achieving a high measure of responsibility for their own affairs.

Several Colonial Administrations enjoyed practical autonomy in many of the matters covered by the Charter. The rigid wording at present proposed might oblige the Imperial Government to use over-riding powers which had never hitherto been exercised in practice. He felt, therefore, that the provision should be less rigidly drawn up so as to permit a measure of discretion regarding the application of the Convention as a whole to such territories.

Mr. BURY (Australia) reserved the position of his Delegation, until the Charter could be seen as a whole, and its effect on the oversea territories, for which his government was responsible, could be predicted. This provision of the Charter had a unique application to peoples still in the trusteeship stage, and would not apply in the same degree to more advanced peoples.

Mr. PALTHEY (France), supporting the Australian position, desired to await the findings of the other Committees, and especially to see the effect of the revised form of Chapter IV, dealing with customs and tariffs.

The CHAIRMAN suggested that those especially concerned in these matters should get together with a view to the preparation of an alternative draft for submission to the Committee, and that meanwhile, further consideration of paragraph 4 should be deferred.

Mr. HOLMES (United Kingdom) undertook to submit an alternative text at a later meeting.

#### Article 79

Dr. ALAMILLA (Cuba) pointed out that Article 79 (Withdrawal) was closely linked with Article 75 (Amendments) which he suggested should be settled first.

Mr. HOLMES (United Kingdom) recalled that the Committee had previously decided that it could reach no conclusion on Article 75

without first considering Articles 53 and 58, which dealt with voting in the Conference and Executive Board.

The CHAIRMAN proposed that Article 79 be discussed in conjunction with Article 75 in so far as the two were inter-related; that no decision should be taken now, and that the Committee should return to both Articles after the question of voting had been dealt with. A special sub-committee might then be constituted to examine these Articles further in the light of the views expressed in the full Committee.

Dr. ALAMILLA (Cuba) desired to see a special provision in Article 79 under which members who are unable to accept fundamental changes in objectives or new obligations which are approved by a two-thirds majority, are permitted to withdraw from the Organization at relatively short notice.

Mr. SCHWENGER (United States) emphasized the necessity of giving the Organization a fair chance at its inception. The effect on international trade of many of the obligations would not become apparent within a year, and his government felt that five years represented a fair trial. He recognized, however, that countries were asked to commit themselves to several obligations which should be expressed more elastically than they were in Article 79.

Article 30, dealing with hardship caused to a member by the customs or other regulations of another, empowered the Organization to allow the complaining member to suspend the application to the other member of certain obligations or concessions, in which case the other member would be free within sixty days after such action is taken, to withdraw from the Organization on sixty days' written notice. A similar right of withdrawal was given by Article 18 (3), where a member failed to fulfil its obligations to reduce tariffs or eliminate preferences. He suggested that the Committee should deal with specific problems, and retain the five year period as a general rule.

Dr. ALAMILLA (Cuba) moved to amend Article 79 to allow members to withdraw on sixty days' notice without the approval of the Organization, if they found their obligations substantially altered.

Baron VAN TUYLL (Netherlands) suggested that alterations and amendments in the Charter should be made effective by a two-thirds majority after a period of six months or a year from their introduction. Members aggrieved by them could during that period give notice of withdrawal.

Mr. SCHWENGER (United States) said his delegation would prefer to see some special provision as suggested, incorporated in Article 75 rather than in Article 79. He therefore desired to postpone discussion of withdrawal until Article 75 was reached.

H.E. Mr. COLBAN (Norway) asked for general agreement to the principle of Article 79, as explained by the Delegate for the United States with full discussion of Article 75, including such safeguarding clauses as may be necessary, reserved for a later date.

Dr. ALAMILLA (Cuba) agreed to this course, and withdrew his amendment.

The CHAIRMAN proposed that the Committee at its next meeting should discuss Items 4 and 5 of its Agenda, deferring discussion on Item 2 (Membership).

The Committee rose at 5.45 p.m.