

UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL

PREPARATORY COMMITTEE

of the

INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report

of the

FOURTH MEETING

of

COMMITTEE V

held at

Church House, Westminster, S.W.1.

on

Thursday, 31st October, 1966.

at 3 p.m.

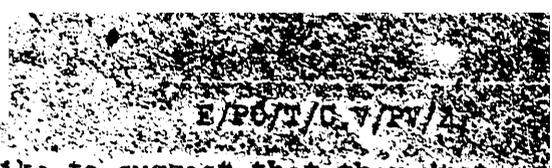
CHAIRMAN: Mr. LYNN R. EDMISTER (U.S.A.)

(From the Shorthand Notes of
W.S. GURNEY, SONS & FUNNELL,
50, Victoria Street,
Westminster, S.W.1.)

THE CHAIRMAN: The Secretary of the Committee wishes to make a statement before we begin our general business.

THE SECRETARY: Mr Chairman, just two points I have been asked to raise in reference to documents. Firstly, I would call the Committee's attention to a document which will appear, document No. 9, comprising a number of proposals involving amendment of the American draft text submitted by the Cuban delegation; and in calling the Committee's attention to these proposals might I add that if any other delegation have specific suggestions, it would be helpful if they could be submitted in writing to the secretariat of this Committee as soon as possible. Secondly, I have been asked to ascertain the wishes of members of this Committee with reference to summary records. As you know, a summary record is prepared of the discussion at the end of each meeting and is circulated as quickly as possible, usually by the following day. It has been suggested that the summary records perhaps are superfluous, in view of the fact that the verbatim record is also made available fairly quickly. The difference is, of course, that, whereas the verbatim records are in limited supply, the summary records are made available to delegations in much greater number. It would be helpful if we could know whether in the view of this Committee the summary record as at present produced is considered useful and whether it is the desire that it should be continued along the present lines, or whether you would be satisfied with an even more condensed summary containing merely a record of decisions taken subsequently to the motions moved, and so on.

Mr BURY (Australia): Mr Chairman, I should like to suggest that they be continued in their present form. Anything shorter would be insufficient to convey to other Members of the Delegation and to Departments at home what transpired. On the other hand, verbatim records are very limited in number and difficult to get, and most of the people concerned will not wish to peruse anything



so full. Therefore, I should like to suggest that they just continue in their present form.

THE CHAIRMAN: Unless there is objection, I shall assume that this Committee wishes to continue the summary in its present form.

Mr ERIK COLBAN (Norway): Mr Chairman, with regard to the first point brought up by the Secretary as to submission in writing of amendments and proposals, I venture to ask for indulgence, as it is only during the discussion that I understand the draft Charter's meaning fully and only then am I prepared to state my own view. Up to now that has worked very satisfactorily, and I am a little bit afraid of the very rigid procedure forcing us to stick to such amendments as are submitted before hand in writing.

THE SECRETARY: Mr Chairman, may I remove any misunderstanding? I may not have made myself very clear. I had no intention whatever of departing from the procedure that we have been following. All I meant was that if a delegation has a certain concrete suggestion which they intend in any case to submit, it does give other delegations as well as the secretariat an opportunity of studying those suggestions before they actually arise in the meeting; but otherwise it is fully understood that most suggestions must come in the course of our day-to-day discussions.

THE CHAIRMAN: Does the delegate of Canada want to say anything?

Mr. PIERCE (Canada): I was going to support warmly the views of the Norwegian delegate.

THE CHAIRMAN: If there are no further comments, we shall proceed to the discussion of the first item on the agenda, which is a consideration of the report of the Subcommittee which was set up at our last meeting. I shall, therefore, call upon the Chairman of that Sub-committee, Mr Dao.

MR. DAO (China) (Chairman of Sub-Committee): Mr. Chairman, the Sub-Committee which was appointed by you at our last meeting met promptly in accordance with its instructions and was successful in reaching unanimous agreement on the text of the various articles which it was asked to consider:

The Sub-Committee's recommendations are set out in Document No. 8 of Committee V which has been distributed and which members will have before them.

In attempting to solve the question of the number and status of Deputy-Directors General, the Sub-Committee has suggested certain modifications of Article 67, 68, 69, the general effect of which is to leave the fullest freedom to the Director General himself to act in this matter according to the needs of the situation as they arise.

In deleting Paragraph 2 of Article 69 which made provision for Deputy-Directors General to act as ex-officio members of Commissions, the Sub-Committee was influenced by the argument that it is necessary to know more definitely what the character of the Commissions is going to be before decisions can be taken regarding the role which Deputy-Directors General or other members of the Secretariat should play therein. For example, it was felt that a good deal depends on whether the Commissioners are to remain as bodies composed of experts (as at present provided) or whether, at least in the case of certain Commissions, they are to be representative bodies. In these circumstances, the Sub-Committee agreed that the principle implicit in Paragraph 2 of Article 69 might be further considered at a later date. I would draw the Committee's attention, also, to the proposal concerning the reference to food and agriculture which it is recommended be omitted from Paragraph 2 of Article 71. On the suggestion of the U.S. member, it was agreed that consideration should be given to the possibility of including some such reference elsewhere in the draft Charter - for example, in the Section dealing with the structure and functions of the proposed Commodity Commission.

It will be observed that the great majority of the proposals which were put forward during our third and fourth meetings and which met with any general measure of support have been recommended for acceptance.

The Sub-Committee hopes, Mr. Chairman, that Committee V will see fit to accept its recommendations.

MR. SCHENGER (United States): Mr. Chairman, in connection with this report I would just like to ask that the written report be taken in connection with the qualifications that the Chairman of the Sub-Committee has made in his oral statement, because some of them do not appear here, especially those regarding the necessity for considering further the decisions taken in the light of what the other Committees of the Preparatory Committee may have to say about the nature of the Commission. The points were made by Mr. Dao in his oral presentation.

THE CHAIRMAN: If there is no objection to that procedure we will consider Mr Dao's remarks as constituting a part of the Report of the Sub-Committee.

You have heard the Report of the Sub-Committee. The next step is to take up the amendments which were proposed by the Sub-Committee and to dispose of them seriatim in this Plenary Committee. The first amendment which has been proposed relates to Article 67. It is proposed that this Article be amended to read as follows:-

"1. The Secretariat shall consist of a Director-General and such staff as may be required".

"2. The Director-General shall have authority to appoint such Deputy Directors-General as he deems necessary. Such appointments shall be made in accordance with regulations approved by the Conference".

I should be glad to hear any comments or discussion on this proposal.

MR. LAURENCE (New Zealand): Mr Chairman, one point arising from the Article as it now stands: to have the prescription that the appointments shall be made in accordance with regulations approved by the Conference. That is the regulations as to the procedure of appointment, I take it. I am just wondering whether it is not reasonable to give either the Conference or

There is one more point: we stressed this matter at the last meeting. In view of the great importance of the post of Deputy Director General, would it not be desirable that instead of the Director General nominating Deputy Directors General or appointing them, it should be entrusted to the same body as appoints the Director General? This is just to show the importance of the post of Deputy Director General.

Mr ERIK COLBAN (Norway): Mr Chairman, I beg to differ, for this reason: if the Deputy Directors General are appointed by the same body as appoints the Director General, it will underline the importance of their office, and it will create a very great gap between the Deputy Directors General and the other high officials of the Organisation. It will put the other officials of the Organisation very much below the Deputy Directors. I think it is much better to appoint only the Director General by the Conference and the Deputy Directors by the Director General according to regulations approved by the Conference.

Mr. MORAN (Cuba): Mr Chairman, I think the prevailing sentiment of the Subcommittee when this matter was discussed was to give the Director General the means of confirming the policy of the Conference, and this we could not possibly obtain if the assistant or Deputy Directors General should be appointed by anybody except himself, because then he could not possibly control their policies. I understand quite well that there are two opposite views. I just want to call the attention of the delegate for India to the fact that we considered this on the Subcommittee. We approached the other end of the question that we deliberately wanted to give the Director General the last word in selecting his assistants. As a matter of fact, I think we even talked about the convenience of his being able at any time to jump into any Committee on which one of the Deputy Directors General might be attending, so that he might at all times be in a

position to impress his own policy and his own ideas on any given Subcommittee.

MR BURY (Australia): Mr Chairman, I would not wish in any way to limit discussion, but it did occur to me - perhaps my impression is a wrong one - that the points raised by the New Zealand and Indian delegates are points which were discussed in the full Committee, and the sense of the discussion in the full Committee has been conveyed to the Subcommittee. It does seem to me that unless we confine our attention largely to whether the report of the Subcommittee does meet the original wishes of this full Committee, we just will not make progress.

MR G. LAURENCE (New Zealand): Mr Chairman, if we accept the point made by Australia, it pre-supposes that if a mistake were made in the approach in the early discussion, it becomes impossible to correct it at some later stage. However, to take up the point raised by the delegate for Cuba, it was not the question of the number of appointments that were to be made. I am quite aware of the fact that some check on the number of appointments that the Director General can make is available through consideration of the Budget, but whether or not that check is very effective is dependent upon whether or not appropriations for the purpose of paying the salaries are made prior to the appointment or subsequent to it. I do suggest that it is a matter of crucial importance, and I should say that either the Executive Board or the Conference is very directly concerned as to the number of persons allowed to hold the status of Deputy.

MR PIERCE (Canada): Mr Chairman, it seems to me to be ^{as} wrong at this stage to put a ceiling as it is to put a floor on the number of Deputies that are to be appointed. I do not think we need be any more fearful than the United Nations was about the number that would be appointed. We are not losing control in any way of expenditures. We have a provision in the draft here that appointments can be made in accordance with regulations by

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the Conference. If at that time we know enough about the work to say there shall not be more than six or five or four, let it be said then; but surely you need not say it now; and, as the delegate from Norway has pointed out, we always have what certainly is in our case - and I imagine in the case of all other countries - a most effective control through the Budget. I know that our Treasury officers would examine the appropriations very carefully and make sure that they were not lump appropriations that could cover extravagances in the engaging of staff. I think the paragraph as worded represents the sense of the Committee and is as far as we can realistically go now and still leave ample control in the hands of the Conference.

As to the point raised by the Indian delegate, the point has some force, but it appears to me to be outweighed by the practical consideration that if we do not leave the appointment of the Deputies to the Director General himself, it makes it rather easy for him to disassociate himself from the actions of the Deputies. We want him to be responsible for them, and I think we will judge his efficiency by the men he appoints. If the men he appoints are not satisfactory, he himself cannot be satisfactory. That is one of the duties of his office. On the other hand, if we make the appointments subject to approval, it makes it very difficult for him to take on men quickly, as he may have to do. I think we have to leave the responsibility on his shoulders, trusting that we have chosen the right man who can discharge that responsibility, and if we have not, we shall have to discharge the Director-General himself.

Dr. A.I. QURESHI (India): We have no strong feelings on this point. I just suggested it for the consideration of the Committee. As a matter of fact, it was not an objection: it was only an observation. It was made by me and I just mention it to the House.

THE CHAIRMAN: The Chair desires to thank the delegate from India very much for his statement and to ask the delegate from New

Zealand whether, in view of the explanations which have been made, he cares to withdraw his opposition.

Mr. G. LAURENCE (New Zealand): Mr Chairman, I hesitate to delay the meeting, but I do not know that I have made myself clear, because the reply made by the delegate for Canada does not meet the point that I had in mind. His reply suggested that the regulations approved by the Conference would extend to the regulations as to number.

Mr PIERCE (Canada): Gould.

Mr LAURENCE (New Zealand): Well, I cannot read that into the clause. I am not questioning the point as to whether or not the Director General should appoint the persons that he wants as Deputies; I think that is quite right. My point is this, that it is conceivable that a Director General may get the idea that he can set up half a dozen persons as Deputy Directors General, and he may proceed to do that. Then the Executive Board and the Conference would be met with a fait accompli: he has done it; what are we to do about it? My point is that I think the administration in this thing is crucial. I am not questioning that the Director General should appoint the persons that he wants to appoint, but I do think he should be under some responsibility to get the approval either of the Executive Board or the Conference as to the number of officers that he wants with the status of Deputy Director General. That is my point; but if the meeting sees nothing in the point, I of course accept the majority decision.

Mr NAUDE (South Africa): Mr Chairman, I do not want to delay the thing at all. It was passing through my mind that my Prime Minister only yesterday again spoke about the know-how of co-operation there is in the British Commonwealth; and apparently you have got a scrap on here between the British Commonwealth. But it seems to me that we ought to find a solution for our friend

from New Zealand, as long as he realises that the Conference, once set up -- and it may not meet for another 12 weeks -- will have the duty to lay down in the regulations whatever they desire the Director General to do; and if he is concerned with a ceiling on the number of Deputy Directors General, the Conference will still have the power, once it meets, to lay that down. So that that point is covered, if he is so concerned on that point.

THE CHAIRMAN: Is the delegate from New Zealand now satisfied with the explanation made by the delegate from the Union of South Africa?

Mr LAURENCE (New Zealand): Now that the meeting has not disputed the point that the regulation applies to numbers as well as procedure, that meets the point.

THE CHAIRMAN: If there is no further discussion, then I take it that the Committee agrees to the amendment of Article 67 which has been proposed by the Subcommittee, and we pass on to Article 68. With respect to Article 68 it is proposed that in paragraph 1, the fourth line, the words "he shall be eligible for re-appointment" be deleted, and that in paragraph 2 the first sentence be amended to read as follows: "The Director General or a Deputy designated by him shall participate without the right to vote in all meetings of the Conference of the Executive Board and of commissions and committees of the Organisation". Are there any comments on this proposed amendment?

Mr SCHWENGER (USA): Mr Chairman, I believe there was probably an error of typography in our rush in preparing this, in this particular phrase. Specifically we planned to have capital "C" Commissions and small "c" committees; and associated with that I would like to suggest that it would not be inconsistent with what we agreed and I think it would be quite consistent with that agreement on the capitals and the lower case letters if it were to read after "Executive Board" "and", of the Commissions, and of

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committees of the Organisation". I believe that would not differ from what we agreed and would bring out more clearly the difference between Commissions, which are constitutional bodies, and committees which are ad hoc.

THE SECRETARY: Mr Chairman, may I intervene to say that the responsibility for the capital "C" in the word "committees" is exclusively that of the Documents Section and not of the Secretariat of this Committee. It was the definite understanding of the subcommittee that it should be with a small "c".

THE CHAIRMAN: The delegate from the United States has suggested a slight revision of the wording of the proposed amendment. Are his suggestions supported by other members of the committee? If there is no objection, I take it that the amendment of the amendment which has been suggested by the delegate for the United States is agreeable, and we then pass to consideration as to whether the proposed amendment as amended is acceptable to this committee. (After a pause:-) I hear no objection, and therefore I assume that this amendment as amended is approved. We pass now to Article 69.

Mr NAUDE (SOUTH AFRICA): Mr Chairman, I have no strong feelings about the words "a deputy" there, but, to avoid confusion possibly with a Deputy Director General might it not be preferable to say: "The Director General or a deputy designated by him"? There may be good reasons for retaining the word "deputy".

Mr. ERIK COLBAN (Norway): Yes; I was responsible for that change. I have to explain. I prefer the word "deputy" in order to make it clear that the man would have authority to act on behalf of the Director General and not only represent him, always looking behind him to find out whether the Director General agreed on every point. I want a deputy instead of Deputy Director General in order to allow other officials of the staff to take part in the work. That might make it possible to restrict the number

of persons salaried as Deputy Directors General.

THE CHAIRMAN: Does the statement made by the delegate for Norway satisfy the delegate from South Africa?

Mr NAUDE (South Africa): Mr Chairman, the Norwegian delegate speaks from a great fund of experience, and I obviously withdraw what was not an amendment at all. I merely asked for an explanation.

THE CHAIRMAN: I take it, then, that we may take it that the proposed amendment of Article 68 is approved. We pass now to Article 69. It is first proposed that paragraph 1 as amended be incorporated in Article 67. It is then proposed that paragraph 2 be deleted but without prejudice to subsequent reconsideration at such time as the character, composition and functions of the proposed Commissions have been more clearly determined. Are there comments on these amendments?

MR. SCHENGER (United States): Mr. Chairman, I have already made this point in general, but it might be noted here that this reservation extends by inference to what we have already accepted for Article 68, paragraph 2, since the change accepted at the top of this page was to replace the deletion which we here note as being without prejudice to subsequent reconsideration.

THE CHAIRMAN: Without further comment the amendments proposed of Article 69 will be recorded as agreed to.

The next is Article 70. It is proposed with reference to para. 1, first sentence, that the following words be added to the end of the first sentence after the word "service":

"In accordance with regulations approved by the Conference."

It is also proposed that in para. 1, second sentence, the following words be added to the end of the second sentence after the word "integrity":

"due regard being paid to the importance of recruiting the staff on as wide a geographical basis as possible."

It is of course clear that there was a typographical error, and that the "i" in the first amendment proposed should be in the lower case letter.

Without further comment the proposed amendments of Article 70 are agreed to.

Article 71: It is proposed that in para. 2, the first sentence, the words "with particular reference to the importance of food and agriculture in relation to the subjects dealt with in Chapter 6" be deleted. There is, however, a note that with reference to this amendment, it was agreed that the United States Delegation should examine 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.

Are there any comments on these proposals?

MR. MORAN (Cuba): I wonder if we can have the permission of the Chair to have Dr. Alamilla, of the Cuban Delegation, comment on that provision on our behalf?

THE CHAIRMAN: Certainly.

DR. ALAMILLA (Cuba): With your permission, Mr. Chairman, I would like just to add this, that we are, of course, in accordance with the suggestion that these words be deleted, but that we would like to have the note underneath drafted in a somewhat different way, because it seems that we have agreed that the United States delegation should examine the possibility of putting an appropriate reference, and therefore we are taking somewhat of a responsibility in considering that an appropriate reference should be made in some other place in the Charter. The Cuban delegation would like to be able, when these points are raised, also to discuss whether or not it is appropriate to do it and whether or not it should be incorporated. Thank you.

THE CHAIRMAN: Would it be agreeable to the delegate of Cuba if that note were changed 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" ?

DR. ALAMILLA (Cuba): Yes.

THE CHAIRMAN: In the absence of further comment I take it that the amendment proposed to Article 71, with the note as revised, is agreed to.

Article 72: It is proposed that in the fourth line the words "These persons may be appointed without regard to their nationality" be deleted. Are there any comments on that? Then without comment that amendment is agreed to.

Article 77, the title: It is proposed that the title of this

Article be amended to read "Payment of Contributions". Are there comments on that? If not, that part of the proposal I take it is agreed to.

It is also proposed with reference to Article 77 that the second sentence be deleted and the following substituted therefor:

"A Member of the Organization which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the Conference if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Conference may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member".

That is the text of Article 19 of the United Nations Charter. Are there comments on that?

R. W. C. NAUDE (South Africa): Mr. Chairman, I apologise for intervening again, and again I will say I do not press what I want to say. It does seem to me that from the point of view of the structure of the constitution it seems to be perhaps not very appropriate to say in Article 55 that the Conference will apportion the expenses, and then to say about 20 Articles later that the members will pay promptly. What I have in mind - I am merely thinking aloud - is whether we should not put in Article 55, para. 4, "The Conference shall approve the budget of the Organization and shall apportion the expenses of the Organization among the members, which members agree to pay promptly". This particular Article that we are talking about now really does not deal with the payment of contributions. It deals with contributions in arrears, which is in this Article 19 of the United Nations Charter. I hope I have made myself clear.

THE CHAIRMAN: As I understand it, the delegate of South Africa is proposing a further amendment, which is that the first sentence of Article 77 should be transferred to Article 55 and added to para. 4 of that Article.

MR. W. C. NAUDE (South Africa): I should go so far as to change the title. If we need a title for the Article I would make the title

of Article 77 something after the style of "Contributions in arrears". I notice that in the United Nations Charter there is no title shown. Then in place of 77 simply leave this proposed second sentence which the Sub-Committee has now suggested to us, which is simply Article 19 of the United Nations Charter. If nobody agrees with me, Mr. Chairman, I withdraw what I have said, but I do think it is a valid point.

MR. DAO (China): Mr. Chairman, there is a point in the remark just made by the delegate of South Africa, but my difficulty is this. Under Article 55 all the provisions relate to the powers and duties of the Conference. If we add that the contributions be paid promptly by members, that is an obligation of members, and I think it is rather difficult to add anything to that Article with regard to obligations of members. It is quite correct to say that these two things really are the same thing, although separated by such a long distance, but I do not see how it can be reconciled. If you say "Each member undertakes to pay promptly", that would refer to the method of payment, and if they do not pay promptly or fail to pay then there are certain penalties. I think it is right to have these two things together, but I am not insisting that the title is appropriate for this chapter.

MR. COLBAN (Norway): I do not know whether it would help if I say that Article 77 could quite easily be cut in two, the first sentence, in spite of the observations of the Chinese delegate, being added to para. 4 of Article 55. Paragraph 4 imposes obligations on the members, and the first sentence only makes the obligation more precise. Then the second part of Article 77 could quite well be transferred to Article 53. But I do not think it is worth while continuing this discussion. I propose that we adopt the report of the Sub-Committee, leaving to the Drafting Committee the question as to where to place these different sentences.

MR. BURY (Australia): Mr. Chairman, I was going to suggest more or less the same thing as the delegate of Norway, with the alternative suggestion that perhaps the delegate of the United States might give this point consideration and bring it up again when we are discussing Article 55, or perhaps at the next meeting.

MR. NAUDE (South Africa): Mr. Chairman, I merely wanted to say, after the Norwegian delegate had finished, that I wholeheartedly support his suggestion.

THE CHAIRMAN: May I take it for granted then that the amendment which has been proposed by the Sub-Committee is agreed to, and that the decision as to where it shall come in the Charter will be left to the Drafting Committee? I take it then that Article 77 is agreed to with the changes proposed by the Sub-Committee.

Then the Sub-Committee have further recommended, that paragraphs 1, 3 and 4 of Article 71 together with Article 73 and Article 74 of the United States draft Charter be approved without change. Are there any comments on those recommendations?

MR. PIERCE (Canada): A very minor point, Mr. Chairman. I may be out of order here, but it is in connection with Article 71, para. 2. It is a very small drafting point, but I wondered whether the word "international" in the second line might be replaced by the word "intergovernmental"?

THE CHAIRMAN: I suggest that the delegate of Canada state his reason for that proposed change, and that we make that a part of the record for the Drafting Committee.

MR. PIERCE (Canada): The reason was just this: There was a good deal of debate at the beginning of this Conference on the terms "international", "intergovernmental" and "non-governmental", and we did develop in our rules of procedure methods for treating them, and I think in those rules we specified "intergovernmental" in contrast with "non-governmental", and I think if we used "intergovernmental" in para. 2 it would point the contrast, with "non-governmental" in para. 3, because a non-governmental agency is also an international agency.

MR. SCHWENGER (United States): I just wanted to be quite sure which word "international" it was, and I have been informed from right and left that it is the one in the second line of para. 2 in the Charter which the delegate of Canada has before him, but in the first line of para. 2 in the printed Charter.

MR. PIERCE (Canada): Yes. I am sorry. It is the first reference in para. 2. I think para. 1 covers United Nations, para. 2 covers intergovernmental, para. 3 covers non-governmental.

THE CHAIRMAN: I take it that the suggestion made by the delegate of Canada is acceptable?

We pass now to the second item on the agenda, which is a discussion of the two miscellaneous items. That is, Article 78, on Entry into Force, and Article 79, on Withdrawal and Termination, which were left over at the last meeting. I suggest that in discussing these two articles we have in mind that if it can be avoided they be not submitted to any sub-committee for further consideration. I hope that we can agree on them here, and then when we come to the next part of our agenda, in a different part of this Charter, we will be able to refer points for discussion by the sub-committee in that section of the Charter, without confusing them with these two rather routine Articles at the end of the Charter.

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The first two paragraphs of Article 78 have to do with the depositing of the instrument, and we might, therefore, address our attention first to them. The last paragraphs have to do with the entry into force -- rather a different matter, and we should perhaps take those things up one at a time.

Mr LUCIAN BENDA (Czechoslovakia): Mr Chairman, I quite agree with you that these two Articles are really only routine Articles, but I should like to put a question to our United States colleague. It does not say anything at all about signing the treaty. I should like to point out the difference between that and Article 20 of the Articles of Agreement of the International Monetary Fund, where there is the same procedure about depositing the instruments of acceptance, but also it prescribes the signature to the International Convention that is going to be. Is that covered by the beginning of the second paragraph of Article 78: "Each government accepting this Charter"? Does it mean that it will be signed and afterwards the instruments of acceptance will be deposited? That is one point. The other point I would like to make is about paragraph 3 of Article 78, where it speaks of the acceptance by governments after the time when it has been accepted by the 20 governments before. I should say that this is not an acceptance in the truest sense of the word, because it is a matter of adhesion; it means that the rest of the governments would adhere to a treaty which already exists. I should very much like to have clarification on these points.

Mr KELLOGG (USA): As to the question of signature, when getting up this Article we went into the question of the legal effect of signature of a treaty with our legal experts and they advised that actually the signature of a treaty is a pleasant formality which usually has no legal effect whatever; and because unless you sign with a special power to bind your government, it is merely a formality and thus might confuse things, we decided to leave it out, because it is one possibly expensive formality which does no good and might confuse. However, if the members of the committee

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are accustomed to sign and want to go through a conventional formality and feel that it would help in any way, of course, we should be glad to put it back in. As to the second question, I am not quite sure that I understood what you mean by that.

Mr LUCIAN BENDA (CZECHOSLOVAKIA): Mr Chairman, may I make myself clear on that point? Let us say that 20 governments deposit their instruments of acceptance. The treaty comes into force: it is binding between them on the 60th day after the deposit of these instruments. Now let us say a 21st government after some time wants to adhere to that treaty as well. Now, this is not going to be called "acceptance" any more, because the treaty as such is in force. It is adhesion. That government would adhere to that treaty; and an instrument of acceptance would have quite a different wording from, let us say, an original acceptance, because it would be only adhesion; the treaty would be in force, and the 21st or 22nd government would adhere to the treaty which is in force with 20 other governments. That is what I mean.

Mr KELLOGG (USA): We have viewed the word "acceptance" as applied to those nations which might accept after the coming into force of the Charter, as including the idea of adhesion. We are using the word "acceptance" here as involving whatever may be necessary under the constitutional provisions of whatever government is involved to bind that government to the Charter; and if the members of the committee find the word "adhesion" a more correct use of the English language, we would be glad to use it.

Mr HOLMES (UK): Mr Chairman, I think it is perhaps only rather accidental or incidental that we have drifted into a discussion based on the third subsection of Article 78. I had understood from the proposed order of business in E/PC/T/C.V/3, as circulated and I think approved, that we were going to discuss Article 78 of the United States draft Charter with the exception of this subsection. I mention this because, while I do not wish to hold up

relevant discussion, there are certain other points which arise on this subsection which may give us some difficulty at a later stage, and had I think been intentionally reserved by yourself for discussion towards the end of the proceedings of this Committee.

THE CHAIRMAN: I may say that it had been intended that we would defer discussion of paragraph 3 until later, if that were agreeable to the committee, and I am guilty of having allowed the discussion to get over into that paragraph. It was with that idea in mind that I had suggested that we take up first paragraphs 1 and 2, and I hope we can go ahead and clear our discussion of paragraphs 1 and 2, meanwhile, of course, retaining for the record the suggestions which have been made with reference to 3, which suggestions would be taken up, of course, later, when other suggestions come up for discussion under that same sub-paragraph. Does the delegate for Canada still want to speak?

Mr PIERCE (Canada): No. I should be out of order: it was on paragraph 3.

THE CHAIRMAN: Is the delegate for Czechoslovakia satisfied with the explanation which was made under paragraphs 1 and 2 of his point with reference to signature?

Mr BENDA (Czechoslovakia): Yes, Mr Chairman.

THE CHAIRMAN: Are there any further comments with reference to paragraphs 1 and 2 of Article 78? If not, I take it those two paragraphs are approved. We pass now to paragraph 4 of Article 78.

Mr HOLMES (UK): Mr Chairman, paragraph 4 gives us some little difficulty, because, as is probably well known, the various Colonies which compose the Colonial Empire for which we are responsible are in very varying stages of development. This has a definite relevance to Article 4, for two reasons. One is that there must be, I think, some provision in it whereby a colonial territory in respect of which the United Kingdom had agreed that the

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instrument should be accepted and applicable should have the right to withdraw if and when it achieves a higher measure of responsibility for its own affairs. That is one point. The other point is that several colonial administrations at the present time have practical autonomy in relation to many of the matters with which the proposed agreement is concerned, and we should find a certain difficulty in the very rigid wording of sub-paragraph 4. It might be that in certain cases, at any rate, there were theoretically overriding powers on the part of the United Kingdom, but they would be powers which would certainly not have been customarily exercised in such matters, and we feel that paragraph 4, therefore, should be less rigidly drawn to allow a certain measure of discretion to be exercised by advanced colonial territories as to whether or not they have the convention as a whole made application to them.

Mr BURY (Australia): Mr Chairman, Australia also will have to enter some reservation on paragraph 4 until such time as the Charter can be seen in its entirety, until we can examine the effects it would have on the overseas territories for which we are responsible.

M. PALTHEY (France) (Interpretation): Mr Chairman, I wish to second the proposal of the Australian delegation, and I would suggest that we only examine at a later date sub-paragraph 4 of Article 78, particularly when the other committees have done their work. It seems to me that it will be particularly relevant to study the consequences of these regulations on overseas territories, especially when Chapter IV, as an example, bearing on customs, will have been studied.

THE CHAIRMAN: I may say that the Chair is somewhat concerned about the putting off until a later date of provisions as we come to them if it can possibly be avoided, although, of course, it must always be understood that a provision which had been tentatively

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agreed to could be reopened for discussion, and I had hoped that I might suggest that the delegates from those countries which are interested in this paragraph should meanwhile get together and attempt to draft a substitute which might be agreeable to them and submit it to this committee. The difficulty with that suggestion, of course, is that apparently some of the members prefer to wait for some time before even attempting that. I wonder whether they would be willing, however, favourably to consider my suggestion?

Mr BURY (Australia): Mr Chairman, it may well be that finally we could accept this, but in the mean time many clauses of this Charter have a unique application to peoples who are still in the trusteeship class. It would not apply to people in a more advanced stage. While I should like to be able to comply with your suggestion, unfortunately we have no representative from our own external territories here on this occasion, although we shall have undoubtedly at a later stage; and we have in fact no one who could properly discuss this particular question; and it is in relation to these territories that the matter would arise.

Mr SCHWENGER (USA): Mr Chairman, I can well understand the difficulty of agreeing finally as to the territory to which provisions which are not yet agreed upon might apply. The delegate from the United Kingdom has suggested by his remarks that his delegation should have given this rather greater thought than some of the others might, and I wonder if your purpose might not be served if the delegate of the United Kingdom would be willing to suggest the kind of draft that he had in mind in his remarks, perhaps at a later meeting of this committee.

Mr HOLMES (UK): Mr Chairman, I think I should be very willing to fall in with the suggestion made by the representative of the United States, not at this meeting but at a later meeting, or in some other way I would propose to you, perhaps with other people's

agreement, a variation in the wording of this sub-paragraph to meet the two points that I have made.

THE CHAIRMAN: Shall we then leave the matter on the basis which has just been mentioned by the delegate from the United Kingdom?
(After a pause:-) I take it it is agreed and we pass now to Article 78.

Mr. ALAMILLA (Cuba): The other day when we discussed Article 75 I made it clear that when we came to Article 79 I would like to have some explanation from the draftsmen of this Charter - that is the United States representation; but before I come to that point, I would like to draw attention to something else. I see that in this proposed order of business Article 75 was supposed to be taken before we take Article 79. In the Drafting Committee Article 75 has not been, and I would propose that now, this being so important and relevant to this matter covered by Article 79, we would come to the discussion of Article 75 together with Article 79.

THE CHAIRMAN: The chair desires to state to the Delegate of Cuba that as he knows there has been discussion by this Committee on Article 75. The Sub-Committee has not recommended action on that article. I assume that further discussion of the article is open and I see no reason why it may not be further discussed in connection with Article 79 in so far as a discussion of Article 75 is pertinent in connection of a discussion of Article 79.

MR MORAN (Cuba): Mr Chairman, I see that in this recommendation of the Sub-Committee no mention is made of Article 75 which means that this article has not yet been the subject of revision and, therefore, I propose that we discuss it now or send it to the Sub-Committee for further discussion together with Article 79.

THE CHAIRMAN: I suggest that we go ahead with our discussion of Article 79 and that any discussion on Article 75 which is pertinent to the discussion on Article 79 shall go along to the Sub-Committee for consideration jointly with Article 79. In other words, I propose that the two articles be considered jointly in the Sub-Committee and I propose that we go ahead now with our discussion on Article 79 on that understanding.

MR HOLMES (UK): Mr Chairman, I only wish to say that my own impression - it may well be a wrong one - had been that when we did have some brief discussion previously on Article 75 we rather came to the conclusion that it was impossible to arrive at any very definite ideas on the subject without relation to those earlier articles in the draft Charter which dealt with voting (I think they are Articles 53 and 58) which had been put down on the proposed Order of Business for this Committee at a rather lower stage. I think that that is probably fair in so far as Article 75 deals with the question of voting and type of majority required for certain matters and that it can hardly be discussed in the abstract when we have not really come to any decision or even taken up the question of voting more generally.

I might add that I had something that I wished to say on Article 79 which did not import this question of Article 75 but perhaps I can deal with that later when you have ruled on my present suggestion.

THE CHAIRMAN: The Chair would like to point out that there may be as in the case of the Delegate for the United Kingdom some aspects of Article 79 which are not closely related to the other articles, which could be disposed of at this time and suggests that at least we try to dispose of those. We may leave the question of how to deal with the interrelated parts of Article 79 and of Article 75 and other articles for later disposition.

MR. MORAN (Cuba): Mr Chairman, I can easily understand the reasons of the Delegate of the United Kingdom for not wanting to discuss this article here and I believe I have found a practical way of solving the problem that I have in mind without coming to the substance of Article 75 but covering nevertheless the point that I would like to make now. In the discussion the other day I referred to the fact that members who would like to go out of this Charter would have to wait for five years.

MR. COLTAN (Norway): Six.

MR. MORAN (Cuba): Five years I said and I was corrected by the Delegate from the United States who said that it was one. I admit that I was wrong. It was not five; it was six as Mr Coltan has just pointed out. It is six just now but, of course, after the first five years has elapsed then it would be only one year. Anyway, it means that even after the five years have elapsed members who were not satisfied with the modifications or impositions or new obligations established by two-thirds majorities would be in a very peculiar situation in this organization and my practical suggestion is that, without coming into the discussion of Article 75, we should in this article, which disposes of the withdrawal and termination, ~~establish~~^a special way out for the members in those cases where substantial modifications or new obligations are imposed on them so that they would not have to wait for one, five or six years to go out of the organization. I would like to cover that point and I think we can cover that as a matter of formality without coming to the substance of Article 75.

MR. SCHWENGER (US): Mr Chairman, I apologise if our Delegation erred in

its statement which was given offhand on this matter to the Delegate of Cuba. His interpretation of Article 79 as it stands I believe is quite correct and it is merely that in principle, once the organisation is going, there will be one year withdrawal. In the first case, at the inception of the organisation, we felt, after rather considerable discussion of the point, that it would be necessary to assure as much as was possible, in view of the nature of the obligations taken under the Charter, that it would be given^a chance. A good number of the obligations taken are such that they cannot be effective on international trade sufficiently to show their merit within a period of a year and it was felt that five years represented a fair trial for so great an experiment (if you wish to call it that) as this international trade organisation represents. Nevertheless, we recognise, with the Delegate from Cuba, that there are many things to which countries are considering committing themselves under the Charter which do require more elasticity than the general provisions of Article 79 permit, but that they are to be treated specifically and they are so treated in the Charter. I do not have them all in mind but I might call the Committee's attention as an example to Article 30 on page 23 of the printed version, which contains a procedure for dealing with^a certain kind of hardship that might be experienced under the obligations assumed in the Charter of which it forms a part, and it ends with this sentence:- "The Organisation, if it considers the case serious enough to justify such action, may determine that the complaining member is entitled to suspend the application to the other member" - there being two involved in this procedure - "of specified obligations or concessions under this Chapter, and if such obligations or concessions are in fact suspended, such other member shall then be free, within sixty days after such action is taken, to withdraw from the Organisation on sixty days' written notice to the Organisation".

Another relevant Article is Article 16, paragraph 3 where provision is made for steps which can be taken by any member who considers that any other member has failed within a reasonable period of time to fulfil those obligations under paragraph one of Article 16 and so forth. Then

in some cases there are transitional periods of a specified number of years during which a given requirement of the Charter is not to come into full effect, and so forth, and I would hope that we could agree to deal with these particular problems as specific problems and to leave as a general principle this provision that for the first five years we will not permit general notice of withdrawal. That may require further consideration and discussion at a later meeting, but I would like to urge the logic with which we approach it as being one which gives the organization a better chance than it would have if you put a general short-term withdrawal in it.

DR. ALAMILLA (Cuba): Mr. Chairman, I agree entirely with the proposition of the United States to give a five year's period to this Charter when we decide what we are going to sign or approve, but it is a very serious thing that after one year a two-thirds majority could modify substantially or bring new obligations on members, and I believe that in those cases those members, without the permission of the Organization, should have the right to withdraw from the Organization, which would be something different from that which they had signed before. Therefore, what I propose is that although we should make a trial of five years in this Charter, we should also state in that paragraph that in any case of modifications by a two-thirds majority or otherwise, or of new obligations being imposed on members through modifications of the Charter, the members should have the right to withdraw on 60 days' notice without recourse to the Organization. I put that as a specific amendment for consideration, because I believe it is a point of extreme importance to every country here.

THE CHAIRMAN: Does the delegate of Australia wish to speak?

MR. BURY (Australia): Mr. Chairman, I had a point relating to the period concerned, but I think perhaps it would be better to

deal with the Cuban delegate's amendment first.

MR. VAN TUYLL (Netherlands): Mr. Chairman, the course of this discussion shows already that it is very difficult to discuss Article 79 without having Article 75 at the back of the mind. Therefore, I would like to ask a certain question on Article 75 before we continue this discussion on Article 79. Article 75 as it now reads in the draft Charter deals with amendments and alterations in a way which, as has been shown in the preceding meeting, may raise some difficulties and in itself may not be quite clear. Another method of dealing with amendments and alterations in the Charter which all delegates are undoubtedly aware of is one in which one would say that alterations can be made to become effective by a two-thirds vote after a certain period of, let me say, six months or a year. Para. 2 of such an Article could say that all members can study that alteration in the course of the six months period, and if they do not agree they can withdraw from membership of this organization at the time when the alterations become effective. Now I would like to ask a question of the United States delegate. What is the reason that this simple method (which may not be the best, but which has the advantage of being simple) has not been adopted?

MR. SCHWENGER (United States): Mr. Chairman, I think our delegation is not without sympathy with the substance, at least in part, of the point raised by the delegate of Cuba, and I think we would argue that it is at least partly taken care of in Article 75. I think we might also find some merit in the suggestion of the delegate of the Netherlands. I think we might argue there, too, that we had in part taken care of it, but I should like to take refuge, if the Committee will permit me, in the suggestion that the solution, whatever it may be, that is agreed on by the Committee in relation to this particular problem, would, from our point of view about keeping the particular problems associated with particular parts of the Charter from which they stem, best take place when we come to a further discussion of Article 75, and I would hope that we could agree to bring these points up then. I might put my point of view in this form. If it should prove necessary from the point of view of the Committee to have a withdrawal clause associated with amendment, we would prefer to see that withdrawal clause as a paragraph of Art. 75 rather than as a paragraph of Art. 79, and from that point of view we would like to see this discussion adjourned to the time when we discuss Article 75 further.

Mr ERIK COLBAN (Norway): Mr Chairman, I entirely agree with the statement of the United States delegate. I have not heard up to now that anybody is in disagreement with the wording of Article 79 as it stands. Some delegates feel anxious about it because of Article 75. But could not we in principle agree to the wording of Article 79 and then reserve the full discussion of Article 75 until afterwards, and in that discussion bring in such safeguarding clauses as may be necessary, not because of the clause in Article 79, but because of the final wording of Article 75 itself?

Mr. ALAMILLA (Cuba): I have no objection to this procedure.

THE CHAIRMAN: Gentlemen, the hour is getting late and we have had a pretty full discussion of this matter. I should like to suggest that at our next meeting we take up item 4 on the agenda and then after that item 5; that we defer for the time being the discussion of item 2, which is membership of organisation, and that after our discussion of items 4 and 5, we again consider Articles 75 and 79, and in the light of that discussion that has been had meanwhile on voting and so forth, this matter of the interrelationship of those various provisions and the working out of a suitable draft be then referred to a special subcommittee on that subject to report back on that particular point.

Mr HOLMES (UK): Mr Chairman, I merely want to say this, that I see no objection at all to the procedure you suggest, but I wanted to make it clear that I had one or two remarks to make which I am quite happy to defer on the period mentioned in Article 79, looking at it from a quite different point of view from the point of view with which it has been looked at by the delegate of Cuba.

THE CHAIRMAN: I am a little fearful that if we start a new subject for discussion at this time, we shall wear further into the evening, and I wonder whether the delegate for the United Kingdom would be agreeable to our taking up his further points on Article

79 at a later date, perhaps at the beginning of our next meeting, certainly before long.

Mr HOLMES (UK): Yes.

THE CHAIRMAN: One more point: the question actually arises as to when we shall have our next meeting. Examination of the Journal appears to indicate that we might be able to meet tomorrow afternoon or Saturday morning. I am hopeful that we can move forward with the work of this Committee at as rapid a pace as possible. I believe there will be enough to be done at the last moment in any case, and we ought to get as much done as possible now. I very much hope, therefore, that a meeting can be arranged either for tomorrow afternoon or Saturday morning. Are there any questions or comments with regard to the subject matter of this afternoon's discussion?

Mr NAUDE (South Africa): If we could avoid Saturday morning it would be very useful.

Mr BURY (Australia): I prefer Saturday morning, Mr Chairman.

THE CHAIRMAN: Let us not say, then. The meeting is adjourned.

(The meeting rose at 5.42 p.m.)
