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UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

PREPARATORY COMMITTEE

of the

INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report

of the

SEVENTH MEETING

of

COMMITTEE V

held at

The Hoare Memorial Hall,  
Church House, Westminster, S.W.1.

on

Tuesday, 5th November, 1946

at 10.30 a.m.

CHAIRMAN: MR LYNN R. EDMINSTER (USA)

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

THE CHAIRMAN: At the close of the meeting yesterday we were discussing article 62 on the composition and procedure of Commissions. As the discussion closed I suggested that the Delegate for the United States might wish to make some clarifying statement with reference to the assumptions which had lain behind the preparation of the United States draft in respect to this matter; and I believe that it would be helpful to the Committee if I called upon him to make some statement at this time. I assume, of course, that we will wish to continue the discussion of this very important matter after he has made his statement. The delegate for the United States.

MR KELLOGG (U.S.A.): Mr Chairman, taking up first the general status of the Commissions, it is the United States view that they should be autonomous bodies on a high level, subject only to the supervision and co-ordinating authority of the Executive Board. They would draw their authority from the Charter itself and from their appointment by the Board. It is hoped that the members would be men of the highest calibre and prestige. We might hope, possibly, to attract such a man as our Chairman, Mr Suetens, and people of top-most rank and prestige of this sort. It is hoped that the important responsibility of the position which these men would hold in the Commissions would appeal to this kind of man. The job of the Commissions is to draw conclusions and to make recommendations on which the Executive Board will act.

The next question would be: What is the relation of the Commissions to the Executive Board? The Commissions would be subordinate to the Board and their recommendations as experts would be subject to the political judgment of the government representatives on the Board. The Board would also have the responsibility to co-ordinate the Commissions among themselves, with a view to keeping them from working at cross-purposes. The Executive Board would refer to the Commissions any matters which it considers suitable; that is specifically provided.

The third question would be: What is the relationship between the Commissions and the Director-General and the Secretariat? The functions of the

Director-General and Secretariat are different in nature, in our view, from those of the Commissions. The Secretariat would assemble the facts and the evidence on the basis of which the Commissions would reach conclusions and make recommendations. The Secretariat would be ready to assist the Commissions in gathering and marshalling the information and to make the studies which the Commissions would require. The Director-General would consult with the various Commissions in setting up the divisions of the Secretariat concerned with the work of each individual Commission. The Director-General and the Secretariat would be able to maintain intimate contact with and full cognisance of the work of the Commissions at all times. The original United States draft made the Deputy Directors General ex officio members of each of the Commissions, and the present draft still provides for participation in the Commissions' work on the part of the D.G. or his Deputy. If the Director-General foresees the likelihood of conflict as between the Commissions, he has the right of participation in the meetings of the Executive Board, and this gives him a chance to express his fears in an effective way. He may also initiate proposals in any of the organs of the I.T.O., including, of course, the Commissions. In short, the Director-General and the Secretariat would be there to render to the Commissions, on their request, the indispensable assistance in preparation, personnel and administration, without which the Commissions cannot operate.

Another specific question raised was: Should the Director-General direct the Commissions? -- or: Should the Commissions be part of the Secretariat? In our view, this provision would tend to prevent the Commissions from having the high level status they require and which is needed in order to appeal to top-level men. The conclusions of the best experts in the field should, in our view, be channelled direct to the Executive Board, and should not have to pass through any one man such as the Director-General. To put this duty on the Director-General would be to burden him with responsibilities (many of them semi-judicial) which no one man should assume. As a result, all or some particular segments of the work of the I.T.O. would suffer. If the capacities and interests of the

Director-General were, for example, weighted in one particular direction, it would obviously have serious consequences on the work of the other aspects of the I.T.O.

Another question which was raised was: Who will raise the problems before the Commissions? Who will bring matters to their attention? In the United States draft, the Executive Board, under Article 60, would refer matters to the Commissions as it deemed appropriate and supervise their work. The Director-General has the right, also, under Article 68(2) to initiate proposals in any of the organs of the I.T.O. The Commissions also would have the right, on their own initiative, to take up studies.

Another question asked was: Are there any precedents for this arrangement in other Organisations? The Air Navigation Commission provided in the Charter of the International Civil Aviation Organisation is very similar; it is not identical, but it is very similar. It is composed of experts. It is appointed by the Executive Body of ICAO and it makes recommendations to that Executive Body.

Another question asked was: What is the relation between the Director-General and the Chairman of a Commission? We feel that the Chairman of a Commission is the head of a semi-judicial body, while the Director-General or his Deputy in the Commission is concerned with the administrative and investigative work of the body. We feel that you should not give to an administrative or executive officer a judicial function, that the judicial function should be held by the autonomous bodies, responsible only to the Executive Board.

Finally, what is the status of the Members of the Commissions? We feel, as we have said before, that they have got to be men of extremely high prestige. The status of the Commissions has been so conceived as to attract this kind of man, but we feel it is now impossible to predict whether or not their jobs would be full-time or only part-time. You will notice that our draft does not at any place say whether they are to be full-time or part-time. It leaves the matter to the Conference. It may well turn out that some of these Commissions will

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find their work extremely heavy, in which case it is likely that they will call on their members to work for a very large part of the year.

In other cases, it may not be necessary. We feel it is to be hoped that

the Organisation at the outset can get the very best men. These men will

set up and establish the prestige of the Organisation in the Commissions,

and if later we find that they are working more and more and their work is

building up and requiring more and more of their time, we hope that by

that time the prestige of the Organisation will be such that we can

attract good men on a full-time basis.

MR. HOLMES (United Kingdom): I have listened with great interest to the statement of the United States Delegate, as I am sure all Delegates have. It was a longish statement and an important statement, and I wonder whether it could perhaps be incorporated in the record in full, as an exceptional measure.

THE CHAIRMAN: Would that be agreeable to the Committee?

(Agreed.)

MR. ERASMUS (Union of South Africa): I agree with the United States Delegate as far as the relationship of the Commissions is concerned with the Executive Board and the Secretariat. That is very important. But I foresee a difficulty in getting really highly qualified men to do this work on the Commissions on a permanent basis. I think there will be difficulty in getting them. There might be the possibility to appoint a permanent Chairman for each Commission, and all the other members could then serve on a part-time basis. In that respect I think we should redraft the Charter in that way. It will bring out the different distinction between the Commissions and the Secretariat, and will show their responsibilities to the Executive Board.

MR. COLBAN (Norway): I also listened with the greatest interest to the statement of the United States Delegate, and as I have already told him privately, I agree, I think, with every word he said. It was a clear and precise statement. I will add that I also agree with the idea of the South African representative, and in order to bring the draft into accord with these ideas, I would suggest two tiny drafting amendments. In the first line of Article 62 (1), where it reads "The Commission shall be composed of persons appointed by...." I would say "invited by..." And in regard to the number of members of each Commission and the conditions of office, etc., I would say "the conditions of service." These two slight drafting amendments

would, to my mind, fully take into account the purposes explained by the United States Delegate and would also be sufficiently elastic to make it possible for the Conference to make special arrangements for a permanent Chairman of each Commission.

MR. BURY (Australia): I listened with very great interest to the statement of the United States Delegate, but in certain respects it did fill me with some misgiving. I feel that there would be considerable value in having Commissions of this character consisting of people of very high personal ability and commanding respect, but I think that their functions should be akin to those of a board of directors of an ordinary commercial concern, that is, that they should be distinctly part-time, that they should be people in constant daily contact with the affairs of their own countries and the world outside, and that it is the benefit of this kind of daily experience and outside contact which should be brought to bear within these Commissions.

We feel that if there were a tendency for the Commissions to consist of full-time people, however eminent they might be in the first place, it would tend to build up bodies with considerable influence in these spheres which would be in practice very remote, and would as time went on become detached further from the main stream of the things they were administering.

As far as their permanence or temporary nature goes, too, we should be rather concerned at having an over-elaborate structure which would inevitably be very expensive. The idea of attracting men of world eminence to fill these Commissions on a permanent basis would add enormously to the cost, and would in practice, we feel, tend to embarrass the Executive Board in its handling of these questions. The U.S. Delegate mentioned that these Commissions would be called upon to fulfil semi-judicial functions. If he means that in tendering advice to the Executive Board they would behave in an impartial manner, I would agree with him.

Any tendency for these commissions, by themselves, to be exerting semi-judicial functions in relation to matters which the Executive Board will finally have to decide we would regard as most out of place. I found myself in very substantial agreement with the remarks made yesterday by the French Delegate on this subject. Although I realise that the United States Delegate leaves open the question whether these commissions should consist of permanent men or temporary people, we feel that this is a very vital question, that it does affect the kind of functions that these individuals perform; and if they were to perform, say, the functions of an advisory character akin to those performed by boards of directors, and were selected from people eminent in their own countries in these spheres, we would give it our very warm support. But we would resist this building up of an elaborate structure, very expensive to operate, of world famous experts on a permanent footing.

MR. HOLMES (United Kingdom): I find myself in the happy position of agreeing very generally with almost everything which has been said on this subject, from which I infer that there is not really any real fundamental difference between us. As regards the statement by the United States Delegate, I would say that in our view it is, very generally at any rate, on the right lines, and I had been intending at this stage to quarrel with only one word, a word which I think has caught the attention of the Australian Delegate, namely, the word "semi-judicial." It may be only a matter of language, but that did suggest to me that perhaps we were proposing to endow the commissions with rather more of a judicial character than was really intended.

In the view of the United Kingdom Delegation, the commissions would be advisory, and the United States draft charter seems to us on the whole to provide for that. There might be certain passages in Article 65 which deals with the functions of the commission on business practices; it may be that this would apply also to Articles 64 and 66 in a limited degree. It may be that in those Articles there were one or two places in which we

would feel that the general supervisory character of the Executive Board in relation to the commissions might perhaps have been slightly slurred over. Coming to what the Australian Delegate has just said, I think perhaps we would very fully agree with him, that ideally the members of the commissions, and indeed their chairmen, would greatly benefit by the fairly close contact with reality, which they would get from a daily or periodic knowledge of how things were working in the business world.

However, in the case of some of the commissions -- and I expect this would apply more particularly to those provided for on commercial policy, and perhaps on commodity matters -- we must, I think, recognise that the work will be fairly arduous and fairly continuous. I doubt whether we would be wise, however, to lay down any particular rule, or attempt to do so, as to whether the work of the commissions should occupy the whole time of these men or women, or whether it should not be allowed to occupy more than half their time. Circumstances will vary, and I think we shall have to see how we get on.

Provided it is generally accepted that the commissions are advisory bodies composed of experts, and that it will be the function of the Executive Board to consider their advice and generally to supervise their functions, we would say that the sort of scheme outlined by the United States Delegate met the situation about as well as it could be met.

MR. KOLBAN (Norway): This is really superfluous, but the slight drafting amendments I allowed myself to suggest had exactly the purpose of covering the points raised by the Australian and United Kingdom Delegates. It was done in order to avoid a text which would create offices, to see that they should only have the best possible advisors, leaving the question on what terms they should be appointed an open one. I really

had an alternative draft, which I did not like to read out, which read: -

" . . . services including stipulations concerning fees and indemnities."

That, of course, does not fit in in the solemn charter, but it indicates the way in which I am thinking - that we ask the best possible world experts we can get hold of, and we ask them to come together to act in an advisory capacity and not as holding office in competition with the Secretariat or the Director-General.

MR QUESHI (India): Mr Chairman, we all realize that the members of these commissions will have very important duties to perform. I certainly feel that those duties will be more onerous than those of any board of a company. Therefore, I very much doubt if it will be possible for us to have part-time experts, especially when they have to cover such a wide field and have to operate on the international plane. We realize fully the need for economy, but economy should not be at the expense of efficiency. I for one feel that you do not get good results by occasional meetings of ad hoc experts, and certainly if they are real experts they will not have much time for meetings of this nature, which may take up too much of their time. Again, we feel that there is a need for continuity and for certain procedures and conventions to be set up and the matters to be interpreted in that form. Therefore, the need for some sort of permanent or quasi-permanent organization seems very essential to me. We might arrive at a compromise in that the commission itself should be permanent but that the membership should be for a certain period of time. If we want short contracts, it may be for three years, we may confine the membership to a smaller number and the members may vary from time to time. I would also like to emphasize that in the constitution of these commissions special regard should be paid to giving representation to the less industrially-developed countries, and we attach great importance to this point.

THE CHAIRMAN: Gentlemen, the delegates from five countries have up to the present moment requested the floor at this point. Since I cannot give the floor simultaneously to all five, I shall have to follow the rule of awarding the bids in the order in which they were entered, unless some delegate wishes to yield to another delegate at this point. The first bidder was the delegate from South Africa.

MR ERASMUS (South Africa): Mr Chairman, I will not be long here, but I just want to bring out these points on this question of permanent membership and part-time membership. The position in regard to permanent membership affects not only questions of economy, because if you have part-time

membership as well as if you have full-time membership you have a position whereby you are building up an international civil service, which after four or five years most probably would lose the practical viewpoints of members. That is an important thing. Then you also have the difficulty of getting highly qualified people on a part-time basis to sit on these commissions. So that I think it will be beneficial to the Organization to have a part-time membership, because you must have continuity in these commissions, and that is my point. I propose a permanent Chairman with, say, a secretariat of his own which will get all these points digested and put to the Commission. On that point you have a definite contact on the part of the Secretariat and the Commission, whereas if you bring your members in from outside on a part-time basis you will have the practical viewpoint coming in on the other side, and you need not lose any time in getting things done.

THE CHAIRMAN: I believe the Chinese delegate had asked for the floor next.

MR DAO (China): Mr Chairman, with regard to the selection of persons to be appointed by the Executive Board for the various commissions, we think it would be advisable to follow the precedent which has been set by the Economic and Social Council of the United Nations, that is to say, the selection of persons for these commissions shall be made in consultation with and subject to the consent of the governments of which those persons are nationals. Because these persons will be experts and highly qualified they may not be able to be spared by the governments concerned. Furthermore, we think it is advisable that not more than one person should be selected from any single country for any one commission.

THE CHAIRMAN: I think the next delegate who had requested the floor was the delegate from Australia.

MR BURY (Australia): Mr Chairman, I just wanted to support the amendments suggested by the delegate of Norway, which meet in a practical way the points I was making. I would agree that at this stage it is advisable to leave the decision flexible and perhaps appoint people as circumstances

suggest themselves later on, when the structure of the Organization can be seen more fully, and provided the various points made, most of which I agree with, are taken into consideration at that time.

MR HOUTMAN (Belgium) (Interpretation): Mr Chairman, I shall be very short, because all that I intended to say has been said already by the South African delegate, and I agree entirely with what he said. He said that we must find temporary advisers for economic reasons, but who would be at the same time technicians who were highly qualified. On the other hand, we must have a permanent secretariat, and it seems to me that this is justified by the aims and the functions which are foreseen in the Charter, functions which will be those of the various commissions. Therefore, in view of that, I have the honour to propose the following amendment to article 62 (3): "Each commission shall elect not its Chairman, but one Chairman and one Secretariat, and will adopt its own rules of procedure, subject to the approval of the Executive Committee, and the functions of the Secretary will be of a permanent character."

MR PALTHEY (France) (Interpretation): Mr Chairman, I want only to say that I very much agree with what has been said by the delegate of the United Kingdom. Yesterday I was asking questions about the part played by the Commissions, and the answers which were given this morning were extremely satisfactory. I completely agree with the argument of the United States delegate and also with those of the various other delegates who spoke, especially the delegate of Norway. I think that the suggestion he has made would be very satisfactory for the purposes which we have in view. Therefore, we should not commit ourselves in any way, but we should keep our final draft in a very flexible form.

MR BURY (Australia): Mr Chairman, without disagreeing with it as an eventual solution, I do not feel very happy about the proposal made by the Belgian delegate at this stage. It does seem to me to be a case where we might leave it open for a later decision.

THE CHAIRMAN: We have had a very interesting discussion on the broad aspects of this problem. I have in mind that there should be a special Sub-Committee set up to consider all of the points of view that have been expressed and to attempt to draft provisions of this Article to take them into account. I think that it might be desirable, before we do that, however, if we were to proceed through Article 62 paragraph by paragraph, to see whether there are any more suggestions or points, perhaps of detail, which any Delegate might wish to bring up, and which could be taken into account by a Sub-Committee which would report on this matter.

If that suggestion is agreeable to the Committee, I will ask whether there are any detailed comments on paragraph 1 of Article 62, in addition to those which we have already had.

Are there any comments on paragraph 2?

Are there any comments on paragraph 3?

MR COUILLARD (Canada): There is one question on subparagraph 3. I understood the South African Delegate to suggest that the Chairman should be appointed or invited to serve on a permanent basis. On the other hand, I understood the Belgian Delegate to suggest that the Secretariat should be on a permanent basis. Could I have that point clarified, please?

MR ERASMUS (South Africa): I suggested that the Chairman of each Commission should be appointed on a permanent basis, I mean a permanent man with a Secretariat for each Commission; That is to say, a few people who are expert and who can help him, and whenever the Commission has to consider a certain matter, the main points will have been taken out and the issue can be put before the Commission straight away and they can carry on their work.

They can take up the matter and prepare the main issue for the Commission.

THE CHAIRMAN: Does the Delegate from Belgium wish to clarify the point which he made?

MR HOUTMAN (Belgium)(interpretation): Mr Chairman, I should like to support once more the proposal of the South African Delegate, and I should like to bring a few changes to the amendment I suggested. I should like to say that

in this new paragraph, paragraph 3, The Commission will allocate the Chairman and the Secretariat and will adopt its own rules of procedure, subject only to the executive body. I would like to add that the Secretariat and the Chairman will have permanent functions.

MR ERASMUS (South Africa): I did not mean that the Commission itself would appoint its Secretariat. I meant that the Secretariat would form part of the I.T.O. Secretariat and it would be appointed by the Director-General, with, of course, the advice of the Chairman; not that the Commission would appoint its own Secretariat, but that it is a Secretariat allocated to the Commission.

THE CHAIRMAN: Are there any comments on paragraph 4?

MR LAURENCE (New Zealand): Just a drafting point: Comparing the language in paragraph 4 of Article 62 with the language in the first sentence of paragraph 2 of Article 68, we see in one place that the wording "deliberations of the Executive Board and of the Conference" is used, and in the other place the word "meetings" is used. Is it intended that there should be any discrimination between what are "deliberations" in one place and what are "meetings" in the other place?

MR KELLOGG (U.S.A.): In answer to the suggestion of the Delegate of New Zealand, there is no serious distinction intended there. "Meetings" is a somewhat broader word. It would, of course, cover procedural as well as substantive matters. If you prefer to use the same wording in both cases, we would have no objection.

MR LAURENCE (New Zealand): I have no particular desire in this, but in some interpretations it may be thought that "deliberations" may include proceedings apart from formal meetings, and I was just interested to know whether there was any point in making the distinction; but I will leave it entirely to the Drafting Committee, having drawn attention to the distinction.

THE CHAIRMAN: Are there any comments on paragraph 5?

MR VAN TUYLL (Netherlands): Mr Chairman, I apologise for returning to a point which has been discussed at some length already this morning. In the

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discussions this morning it was pointed out that it is essential that the members of the Commissions should be experts, and we all agree, I think, that these experts are experts only as long as they have their work in the field with which the Commission is concerned. So that would definitely mean that it is advisable to have these experts not on a permanent basis, but on a temporary basis. I think that the suggestion of the Norwegian Delegate to change the word "appointed" into "invited" is a very happy suggestion. However, would it not be advisable to introduce still further the meaning of what we have decided by including words which express the temporary character still more? For instance, in paragraph 1 we could say that "The Commissions shall be composed of persons which from time to time are invited", or "as may be required, are invited", so that it would mean that one expert, for instance, could sit for about 6 months, and another expert would be available for one year, so that not all the experts would serve the same length of service.

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MR. LAURENCE (New Zealand): I would like to raise a drafting point in connection with paragraph 5, in which there is used the term "public international organisation". We have used the term "international organisations", and discussed it before, in respect of Articles 55 and 71. I am wondering whether anything is gained by the use of the word "public" and also whether it would not be an advantage to leave the term wide by deleting both the words "public" and "international". The Commissions could then make arrangements for representatives of other organisations having a special interest in the activities of the Commissions.

MR. KELLOGG (United States of America): I would like to thank the Delegate of New Zealand for pointing out a matter which should be cleared up. I think we probably should conform the wording of paragraph 5 of Article 62 to the wording which we chose for paragraph 2 of Article 71, and use the word "intergovernmental". The Delegate of New Zealand raises, however, the issue as to whether or not we want to have non-governmental organisations included in paragraph 5 of Article 62. I should be very grateful to hear his opinion on that.

MR. LAURENCE (New Zealand): I have been asked to express an opinion on this, and I would say that since we are dealing with a Charter for an organisation for which we have no previous experience, it would be desirable to leave the phrasing as wide as possible, and for that reason I would say that we should delete the words "public international". You have all the restriction that you want in the subsequent term "having a special interest in." I would simply raise the question whether it should be "having a special interest in the activities of" or "having a special interest to" any of the Commissions. But on the specific point that has been raised, I think it would be desirable to have just the term "organisation".

THE CHAIRMAN: As Chairman I should not wish ever to enter into debate on any subject. At any time the Chairman wishes to enter into debate, he will relieve himself of the responsibility of sitting in the Chair, and turn it over to someone else. I would suggest, however, that there might be a rather important distinction there between the wording which would involve consultation with private groups or organisations on the one hand, and, on the other hand, provision for participation in the work of such Commissions. That is rather a strong phrase, and the Committee, in considering the suggestions made by the Delegate of New Zealand may wish to take into account the distinction, which I think is rather an important one, between such a phrase as "consultation with" or "wish to consult", on the one hand, and actually providing for the active participation of private organisations in the work of those Commissions.

I would myself have some misgiving on that, but as I say, I would not want to debate the matter, and I hope the Committee will forgive me if I just mention that point in passing.

MR. BURY (Australia): The point raised by the Delegate of New Zealand is not one which has been considered by the Australian Delegation in specific relation to the work of the Commissions. Therefore, I can only offer a provisional thought of my own. It is that if organisations other than inter-governmental organisations are to participate in the work of the Commissions, it might be sufficiently covered already by Article 71, which presumably covers the whole Organisation.

On the other hand, if it is necessary or desirable to refer to a possible link between the Commissions and the other inter-governmental bodies, then I think it should be just confined to that. Some of these Commissions might be a particularly suitable point at which there might be a reasonable degree of interlocking with organisations such as the F.A.O. and the I.M.F., but if it were open to other organisations

to press to be represented in the Commissions, it might make the Organisation subject to a lot of very unwelcome pressure.

MR. COLBAN (Norway): I would like to answer briefly the observations of the Netherlands Delegate. I am afraid that by introducing such a clause as he suggested in paragraph 1 of Article 62, we would make it a little bit too loose. I think it is dangerous to distinguish in the Charter between the terms of appointment for different Members of the Commissions. It is elastic as it stands, and I think it should remain as it is.

THE CHAIRMAN: If there is no further discussion of Article 62, I would like now to have the approval of the Committee simply to add Article 62 to the terms of reference of the General Committee which was appointed yesterday. You will recall that I eliminated Article 62 yesterday from its terms of reference because we had not completed the discussion. I think it would be practicable simply to add this Article to its assignment, and we would hope that within a matter of a day or two we could have a report from that Sub-Committee to cover the articles which were indicated yesterday, plus the one which we have discussed this morning -- Article 62.

I might, simply for purposes of the record, indicate again that the membership includes Australia, Belgium, Canada, India, the Netherlands, the United Kingdom, and the United States.

It might be well at this point also if the Secretary were to indicate the progress made by that Sub-Committee in its meeting yesterday.

MR. TURNER (Secretary): For the information of the Committee

I might report that the Sub-Committee held a meeting at five o'clock yesterday evening, and considered those Articles which had been specifically referred to it. It was successful in coming to unanimous agreement on a redraft of those Articles. The report is at present in course of preparation.

If, however, the additional Article is to be taken up by the same Sub-Committee, I would suggest that the Sub-Committee should have a further meeting, and that reports on all the Articles should be prepared by it. I think that could be done at an early meeting of the Sub-Committee -- perhaps the next one, or the one after that.

THE CHAIRMAN: I take it that is satisfactory to the committee.

The next item on our agenda is consideration of Article 2, except the last part of paragraph 1. As was pointed out in the statement distributed to the committee yesterday, the committee may wish to defer consideration of the latter part of paragraph 1, in view of its relationship to paragraph 3 of Article 78 which has not yet been considered; or, alternatively, it may wish to take up consideration of paragraph 3 of Article 78 at this point. I think it might be better to skip paragraph 3 of Article 78 at this moment and go ahead with all of Article 2 except the latter part of paragraph 1.

Let us first take up the first part of paragraph 1. Are there any comments or suggestions with reference to that,

MR. HOUTMAN (Belgium) (interpretation): I should like to draw the attention of the committee to the fact that the French translation is different from the English text. In the French translation, which is before me at the moment, it says:

"The original Members of the Organization shall be those countries represented at the United Nations Conference on Trade and Employment which accept the provisions of this Charter by December , 1946."

This year which is mentioned in the French text is not mentioned in the English text, which says, "December 31, 194--." Also in the French text it should be "originals," not "originels." I shall have further comments to make in due course.

THE CHAIRMAN: Are there any further comments on paragraph 1?

MR. VAN TUYLL (Netherlands): What is the distinction between "original Members" and "subsequent Members"? Does that have any point anywhere else in the Charter than in Article 2?

MR. KELLOGG (United States): The only significance of the distinction is that an original Member can, of course, join or adhere to the organization without being cleared by the conference. Once any nation becomes a full Member of the organization it is a full Member without any distinction whatever.

MR. VAN TUYLL (Netherlands): Am I right in assuming that an original Member, who has accepted the provisions of the Charter by a certain date but who has not agreed to bring the Charter into force pursuant to paragraph 3 of Article 78, can only become a Member subject to the approval of the conference on the recommendation of the Executive Board according to paragraph 2 - the original Member who accepted the Charter but who did not agree to bring the Charter into force according to paragraph 3 of Article 78 would not be an original Member after that?

MR. KELLOGG (United States): There are two ways in which the Charter can be brought into force: either by having 20 of the nations represented at the conference agreeing to accept the Charter, and thus becoming Members; or else, failing 20 such nations, separate steps taken by the nations which we hope will participate in the negotiating meeting this spring coming together, under their own steam as it were, and bringing the Charter into force as for themselves alone. There are two alternative ways of bringing the Charter into force; and if one takes place the other does not. They are mutually exclusive; you do not have both.

MR. VAN TUYLL (Netherlands): There is the possibility that a Member agrees to bring it into force according to the first condition but that he will not agree to bring it into force according to the second condition. He may not want to join that group of countries who bring it into force between themselves, while he may have accepted the provisions of the Charter because he thought it was going to be brought into force by 20 Members before that certain date.

MR. KELLOGG (United States): Under the first alternative means of bringing the Charter into force you would presumably have, either 20 or less than 20 nations agreeing to the Charter. If you had 20, then the Charter starts to operate, and there is no further question; anyone who wants to do so can adhere under those terms. In the case that only 15

Members have adhered by the time this state comes, then of course the Charter would not come into force. Then you would have the alternative means of putting the Charter into force becoming a possibility. I take it you are thinking of the case of a country which is not a Member of the original negotiating meeting, but which is, however, a country which will go to the international conference. There you have a country which wants to adhere but is not one of the nucleus of countries. I take it you are assuming the situation where this country "X" is not willing to join up with the negotiating countries in their following out of the second alternative. I cannot see any other way in which your question can be raised.

MR. VAN TUYLL (Netherlands): I am afraid I have not made myself quite clear. It may be a country which has decided to accept the Charter finds itself in the position of having only 12 Members who have accepted it. In that case the Charter will not come into force. Now, those 12 Members may between themselves put the Charter into force, subject to their agreement.

MR. KELLOGG (United States): That is not precisely true. The 12 Members who may put the Charter into force under the second alternative must be countries which have actually gone ahead and negotiated tariff reductions. In other words, the second alternative applies only to countries which have actually negotiated reductions of trade barriers.

MR. VAN TUYLL (Netherlands): Even then a country may deem it inadvisable to be party to the Charter if the membership is limited. If the Charter does not come into force merely because of the rule that 20 Members must accept it before it comes into force, the country may decide that the number is too small and will perhaps withdraw his acceptance.

THE CHAIRMAN: There is a very interesting colloquy going on between the United States Delegate and the Netherlands Delegate, but we have a problem of interpretation, and some of the other members of the committee would like to know what is going on. I suggest that first of all we have the interpretation, and secondly that if the two Delegates cannot meet in their views very shortly that they should continue their discussion after our committee meeting to see whether they can iron out their difficulties.

MR. KELLOGG (United States): The country would be a member of the conference of next fall, but not a country which has negotiated reductions of its trade barriers at the negotiating meeting of this spring.

E/PC/T/C/V/FV/7.

THE CHAIRMAN: Do you gentlemen wish to continue this colloquy?

MR VAN TUYLL (Netherlands): I think it will be best to discuss this further,

Mr Chairman, after the meeting.

THE CHAIRMAN: Thank you. If you need a referee I will volunteer my services!

Is there any further discussion on paragraph 1 of Article 2?

MR HOLMES (UK): Mr Chairman, I am not quite sure - it is a very small point -

whether paragraph 2 of Article 2 entirely fits in with the idea of

Article 60, paragraph 3 as amended.

THE CHAIRMAN: You are taking up paragraph 2 now?

MR HOLMES (UK): Yes.

THE CHAIRMAN: I take it there is no further comment on paragraph 1 and

that paragraph 2 is in order? (Agreed)

MR HOLMES (UK): Thank you. It is a very small point. Do we not want to

be clear beyond doubt whether membership in the Organization is subject

to some procedure on the part of the Executive Board or is not so sub-

ject? We have altered Article 60, paragraph 3, to say: "The Executive

Board may recommend to the Conference" instead of saying "it shall re-

commend to the Conference the admission of new members to the Organ-

ization." Do we feel that the approval of the Executive Board is a

pre-requisite to the approval of the Conference in the case of the ad-

mission of a new member?

COMMITTEE SECRETARY: May I make it plain that the sub-committee considered

that point, which I think was substantially agreed in the full Committee,

anyhow, and the sub-committee is intending to recommend definitely to

this Committee that the word "may" shall replace the word "shall" in

Article 60, paragraph 3; and it was the feeling of the sub-committee that

that would involve some consequential change in paragraph 2 of Article 2.

MR BURY (Australia): Mr Chairman, for reasons previously stated, I would

like to propose that the words "on the recommendation of the Executive

Board" be struck out from paragraph 2.

THE CHAIRMAN: Are there any further comments on paragraph 2? If not, we will

proceed to a consideration of paragraph 3. In the absence of comment on

paragraph 3, I take it that it is agreed to. (Agreed)

O/T 11 4

THE CHAIRMAN: Gentlemen, it is now 12.37. I do not think it would be practicable this morning to take up another article for discussion. Before we adjourn, the Secretary wishes to say a word.

COMMITTEE SECRETARY: Mr Chairman, my understanding is that the Committee wish to meet tomorrow to resume its consideration of those Articles dealing with voting, membership of the Executive Board and voting on the Executive Board, that is to say, Articles 53, 57 and 58. It was also the wish of the Committee to receive in advance a copy of the proposal which had been promised by the United Kingdom delegate. That proposal has been received, is at present in the "works" being translated and reproduced, and it will be available, I am told, by three o'clock this afternoon. The Secretariat of this Committee will undertake to see that copies are delivered to every delegation office in Church House. I believe, however, there are some delegations which do not have offices in Church House. I presume that most members of the Committee would like to get that paper in order that they can give it some consideration overnight, and tomorrow morning, assuming that we arranged our meeting for tomorrow afternoon at three o'clock. Would it be asking too much if those members of the Committee who wish to do so could call at my office in Room 133 or in Room 136 in the latter part of the afternoon to collect the papers, that is to say, other than those who have delegation offices in Church House?

One last announcement. Would it be convenient for the members of the two sub-committees appointed yesterday to confer with me for a few minutes at the end of this meeting?

THE CHAIRMAN: This Committee will meet again tomorrow afternoon at three o'clock and will take up the provisions on voting. The meeting is adjourned.

(The Meeting rose at 12.40 p.m.)