

DRAFTING COMMITTEE OF THE PREPARATORY COMMITTEE OF THE  
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

SUMMARY RECORD OF THE EIGHTEENTH MEETING  
10 February 1947

Chairman: Mr. ADARKAR (India)

1. Papers Submitted

The CHAIRMAN introduced the following papers:

- (a) E/PC/T/C.6/W.48. United States tentative draft of the general agreement on Tariffs and Trade which was referred to the Sub-Committee on Tariff Negotiations.
- (b) White Paper of the United Kingdom Delegation (6 February) on Articles 16 and 25 which was referred to the Technical Sub-Committee to be considered in conjunction with Articles 21 and 27.
- (d) White Paper of the ad hoc Sub-Committee on Article 52.

2. Article 52

Mr. ALAMILIA explained the considerations which lead the ad hoc Sub-Committee to make certain changes in the wording of paragraphs 1 and 2 of Article 52. He also stated that the Chilean proposal (document E/PC/T/C.6/W.42) was discussed at length and the conclusion reached was that insofar as the hardships referred to in the Chilean text were due to under-employment the point raised by the Chilean Delegation was covered by the present wording of paragraph 2 of Article 52, which includes the words "or under-employment" after the word "unemployment".

To the CHAIRMAN's question as to whether he was satisfied with the conclusions of the ad hoc Sub-Committee, the Delegate of Chile answered in the affirmative, on condition that both the text of the Chilean Delegation and the explanations given by the ad hoc Sub-Committee be included in the Report.

/The Committee

The Committee passed then to the discussion of Chapter VIII of the London Charter.

3. Article 61

After the CHAIRMAN read the Article, the Delegate for SOUTH AFRICA pointed out the necessity for a drafting change: the words "It shall be the function of the Organization" should precede paragraph 1. because they apply to the whole of Article 61. The Committee agreed, and referred the problem to the Legal Drafting Sub-Committee. To the CHILEAN Delegate's query as to whether the words "international organizations" in paragraph 2 included private international organizations, the CHAIRMAN and the UNITED STATES Delegate answered that they referred only to inter-governmental organizations.

The UNITED STATES Delegate was of the opinion that certain parts of Article 61 stated in a general way what has already been stated specifically in the other Chapters. He was therefore of the opinion that all of paragraphs 2 and 3 could be suppressed, and the introductory part of the Article might read: "In addition to the functions provided for in other parts of the Charter, the Organization shall have the following functions:"

The FRENCH Delegate referred to an amendment to Article 8 proposed by the FRENCH Delegation and asked that this should be considered in connection with the discussion of Article 61.

The Delegate of CUBA moved to defer discussion of Article 61 and the Delegate of CANADA suggested that the Administrative Sub-Committee's draft of Article 1 (E/PC/T/C.6/31) should be considered in discussing Article 61.

4. Article 62

The Committee approved the London draft of Article 62.

5. Article 63

Paragraph 2. The Delegate of NEW ZEALAND suggested the deletion of the word "advisers" in this paragraph because such a reference was unnecessary. When the Delegates of the UNITED KINGDOM, CANADA and INDIA pointed out that the principle of admission of advisers should be expressly stated to eliminate doubts in this respect, the Delegate of NEW ZEALAND withdrew this proposal.

/The Committee

The Committee changed the words "or the Conference" in paragraph 3 to "to the Conference" and with this change the article was approved.

6. Article 64

The Delegate of the UNITED KINGDOM announced that his Delegation was about to submit proposals on the reformulation of this paragraph which would be in the hands of the Committee within short notice.

The Delegate of FRANCE pointed out that any modification of paragraph 2 would involve a change in substance. He felt it necessary, however, to direct the attention of the Drafting Committee to a discrepancy in voting procedure under the Charter; whereas the Charter called for a two-thirds vote on procedural questions such as in Article 66, paragraph 2, all most important decisions on substance would be subject only to a simple majority vote. He suggested to direct the attention of the Second Session of the Preparatory Committee to this paradox.

The CHAIRMAN pointed out that notwithstanding these observations, Article 64 could remain unchanged if the provisions for voting in other articles would be changed accordingly. The UNITED KINGDOM seconded this view.

The Delegate of AUSTRALIA raised the question whether a two-thirds or a simple majority of votes was necessary for the waiver of obligations under the Charter. The CHAIRMAN declared that it was up to the Conference to decide under Article 66, paragraph 2, what kind of a majority would be required for such waivers. The Conference might decide for more or less stringent voting requirements.

The Delegate of the UNITED KINGDOM moved to change the wording of Article 64 because in its present form the wording was too narrow.

The Delegate of the UNITED STATES explained that no majority vote beyond a two-thirds majority should ever be necessary, because only a two-thirds majority was required for amendments to the Charter. Article 66, paragraph 2, should be amended in this sense. He moved to insert the word "for" between the words "provided" and "in", in the first line of paragraph 2 and the Committee agreed to this amendment, referring the question of the final wording of this clause to the Legal Drafting Sub-Committee.

/The Delegate

The Delegate of FRANCE stressed again that Article 64 ought to state that a two-thirds majority was required on all major substantive issues. The Delegate of the UNITED KINGDOM suggested that the Committee should first analyze the specific Charter provisions according to which a vote is to be taken and then, in the light of this analysis, decide whether the rule should be a two-thirds or a simple majority vote.

The CHAIRMAN reserved the final decision of the Committee in this respect until after the UNITED KINGDOM proposals will have been distributed.

(The CHAIRMAN, H.E. Mr. Colban, had arrived during this discussion but insisted that the Vice-Chairman should continue to hold the chair throughout this meeting, and Mr. ADARKAR remained in the chair throughout the session.)

7. Article 65

The Delegate of SOUTH AFRICA suggested to change the wording of paragraph 1 as follows:

"The Conference shall meet in regular annual sessions and in such special sessions as may be convoked by the Director-General at the request of the Executive Board or of a majority of the Members". The Committee agreed to this.

8. Article 66

Paragraph 1. The Delegate of the UNITED STATES explained that the words "international organizations" was intended to cover both private and public international organizations. The question whether the word "Members" should be substituted for "Members of the Organization" was referred to the Legal Drafting Committee.

Paragraph 2. The Delegate of the UNITED STATES suggested that a clause should be added that no greater majority than a two-thirds majority should be required for any decision. The wording would have to be supplied by the Legal Drafting Committee.

The Delegates of CANADA and SOUTH AFRICA felt that such a change was unnecessary and that, in order to preserve the necessary flexibility, the possibility of a more highly qualified majority vote should not be excluded.

/The Delegate.

The Delegate of the UNITED STATES warned that not all "procedures", referred to in this paragraph should be viewed as voting procedures. Upon the query of the Delegate of AUSTRALIA whether the term "procedures" included voting procedures, the CHAIRMAN decided to refer this question to the Legal Drafting Sub-Committee which should decide whether the wording in paragraph 2 reflected correctly the intentions of this paragraph. The CHAIRMAN also remarked that the texts as contained in the London draft had been acceptable to the First Session of the Preparatory Committee.

Paragraph 3. The Delegate of the UNITED KINGDOM suggested to ask the Legal Drafting Sub-Committee whether the words "may" in paragraphs 2 and 3 should be used in view of the word "shall" in paragraph 1. The Delegate of AUSTRALIA suggested to include in this paragraph a catalogue of those powers which may be delegated by the Conference to the Executive Board. The Delegate of FRANCE seconded this motion and suggested that the Administrative Sub-Committee should deal with this question because the Legal Sub-Committee was already over-burdened and there was danger that the work progress in the Legal Drafting Sub-Committee might delay the work of the full Drafting Committee if too heavy a burden were to be placed in the Legal Sub-Committee.

The Delegate of the UNITED KINGDOM pointed out that this question was actually a matter for the consideration of the full Drafting Committee and the Delegate of the UNITED STATES suggested to replace the word "Conference" in the third line of this paragraph with the word "Organization"; furthermore, he suggested to add the words "under the provisions of this Chapter" after the last words of the paragraph. The AUSTRALIAN Delegate queried whether it would not be possible for the Conference to take away powers from the commissions and transfer them to the Executive Board and the UNITED STATES Delegate pointed out that since commissions were anyway under the supervision of or responsible to the Executive Board, this was a purely academic question. To the question of the Delegate of AUSTRALIA how the provisions on membership would be affected by the UNITED STATES amendment, the CHAIRMAN pointed out that Article 2 on Membership will be transferred into Chapter VIII.

/ The CANADIAN

The CANADIAN Delegate proposed to instruct the Secretariat to report to the Committee whether the Charter contained any references to decisions of the Conference in any other Chapter than Chapter VIII.

The CHAIRMAN requested the Secretariat to submit a list of references to the Conference in other Chapters of the Charter and pending receipt of this list the United States amendment was approved.

Paragraph 4. The UNITED STATES Delegate moved to amend paragraph 4 by addition of the following words: "No one Member shall be required to bear more than one-third of the total expenses of the Organization for any given budgetary period". The Delegates of AUSTRALIA, CUBA and CHINA expressed themselves against any such amendment which would involve a definite change in substance, with the Delegate of CUBA especially explaining that he felt this was not the time to propose such an amendment, since at present it was not known how many countries would join the Organization.

The CHAIRMAN suggested to put this amendment as an alternative into square brackets and the Delegate of the UNITED KINGDOM seconded this motion with the Delegate of the UNITED STATES stating that this solution would be acceptable to him. The AUSTRALIAN Delegate moved to refer to this amendment only in the report of the Drafting Committee, while the Delegate of CANADA seconded the motion to put it as an alternative into square brackets, explaining that he considered that the ceiling of one-third was definitely a generous one.

The CHAIRMAN ruled provisionally that in view of the objections raised the amendment should be included in the report. The Delegate of CANADA pointed out that this would constitute an inconsistency with the procedure hitherto adopted, since minority proposals were generally ruled to be presented as alternatives in square brackets and only not seconded motions mentioned in the report.

The Delegate of CHINA suggested to leave the percentage to the Conference, and the SOUTH AFRICAN Delegate referred to the report of the First Session of the Preparatory Committee which provided for treatment of contributions parallel with contributions to the United Nations; he nevertheless seconded the motion of the United States to establish a maximum ceiling. The UNITED STATES Delegate moved to

/include

include the amendment as an alternative in square brackets; provided the ceiling principle were acceptable to a majority.

With the Delegates of AUSTRALIA, CUBA and CEYNA going on record with the reservation against any ceiling principle as such, the CHAIRMAN ruled to refer to the United States amendment in the report of the Committee.

Paragraph 5. The Delegate of AUSTRALIA moved to delete the word "develop" in the first line and to change the word "recommend" to "adopt"; also to substitute the words "failure to take action" for "rejection". The Delegate of the UNITED KINGDOM suggested to retain the word "recommend". He explained that the Organization could in no case bind its members in respect to adoption of conventions and agreements. The Delegate of FRANCE, reading the text of the paragraph in the French version, suggested that the FRENCH formulation was expressing the intentions more correctly than the English version, and moved to retranslate the French wording into English by substituting "in case that Members do not comply with the recommendations". The Delegate of CANADA suggested the words "sponsor", "initiate" or "promote" in lieu of "develop", but moved to retain some wording with a similar connotation to the word "develop".

The Delegate of CHILE suggested to use the words "other conventions and agreements" in the third line of the paragraph. The Delegate of the UNITED KINGDOM suggested the following text: "prepare and promote and, by the affirmative votes of two-thirds of its Members, recommend for their acceptance".

The Delegate of AUSTRALIA queried why in this context, in distinction from Article 64, the reference was simply to "Members" and not to "Members present and voting". The Delegate of the UNITED KINGDOM explained that his Delegation had given some thought to this question and come to the conclusion that for reasons of expediency, when quick decisions will be needed, the clause "Members present and voting" should apply, so as to avoid the necessity of cabling to non-present Members for their decision. He felt, however,

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that the case of paragraph 5 was one where the clause "Members present and voting" should apply. The Delegates of CANADA and the UNITED STATES seconded the re-wording of the UNITED KINGDOM and this was adopted by the Committee.

The meeting was adjourned until Tuesday, 11 February, at 2:45 p.m.