
SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

COMMISSION A

Summary Record

Fifth Meeting held on Friday, May 30,
1947, at 11.25 a.m. at the Palais des
Nations, Geneva

Chairman: M. Suetens (Belgium)

The CHAIRMAN asked the Delegate for South Africa for his observations on the amendment proposed by his Delegation to Article 12 (E/PC/T/W 102), the discussion of which had been postponed from May 28.

Dr. HOLLOWAY (South Africa) stated that his Delegation had submitted this amendment to Article 12 in order to raise the question of principle involved as early as possible in the consideration of the Draft Charter, even though it might have been more appropriately raised in connection with Article 35. In the view of the Delegation of South Africa, the text of the Charter as drafted at present would give to the International Trade Organisation supra-national powers. If it were the intention to create an organisation with supra-national powers, those wishing to join it must clearly examine the substance of the Charter much more closely.

Powers could be entrusted by the principals concerned to a subordinate agency by devolution but as soon as

the principals transferred sovereignty to the subordinate agency, the latter acquired powers of initiation of which the principal body was thereby divested. The powers of a subordinate body acquired by devolution were always exactly circumscribed. The Charter as drafted at present went a great deal beyond that.

He believed there was general agreement that the Organisation should have sanctional powers in certain cases as laid down in Article 35, that is, the power to relieve other Members of their obligations to a defaulting Member. There could be no objection to an agency being entrusted with the task of exercising these sanctional powers in the case of fixed and contractual obligations.

Broadly speaking, the obligations involved in Chapter V, and, to a much more limited extent, in Chapters VI and VII were fixed and contractual obligations. On the other hand, he regarded Chapters III and IV as essentially a "confession of faith", laid down in general terms. If sanctions were to be applied in the case of Chapters III and IV in accordance with the present Draft Charter, the Organisation would indeed acquire sovereign powers from the principals.

But there was another possible approach. He wished to suggest that it would be a big step forward from international relations before the war to provide purely for international consultation with respect to the general matters covered by Chapters III and IV.

Article 35 (2) would give to the Organisation the widest powers to apply sanctions. He did not believe such wording as this could be put into the Charter unless the principle of sovereignty were accepted as the basis of the Charter.

The South African Delegation considered that the Charter should be drafted on the principle of devolution, not on the principle of surrender of sovereignty by the contracting State. This meant that sanctions, whenever provided for in the Charter, should be limited in their application to specific and contractual relations. Doubtful matters should be subject to consultation and not to sanctions.

Dr. COOMBS (Australia) agreed that the issues raised by the Delegate of South Africa were fundamental and therefore worthy of most careful consideration. He did not agree that there was any distinction between the types of obligations embodied in the Charter. All obligations under the Charter were specific and contractual, so far as his Delegation was concerned.

In his opinion, the obligations included in Chapters III, IV, VI and VII of the Draft Charter represented a substantial advance towards realism made in the work of the Preparatory Committee. There was little evidence that past conferences designed to reduce trade barriers had made any significant contribution to the problem. This was because the reduction of trade barriers and the limitation on national freedom in commercial policy was practicable and desirable only in certain circumstances. The theory on which the belief that a reduction of trade barriers would increase world trade was based on certain assumptions:

- (a) that the resources of the world, human and physical, were in any case fully employed;
- (b) that balances of payments between countries were in balance and that any departure from such balance would automatically correct itself;

(c) that the world economy had been subjected continuously to the stimulus of economic development, both intensive and extensive.

(This last assumption was less consistently stated). In the absence of the conditions implied by these assumptions, it could not be said with certainty that the reduction of trade barriers would lead to a better use of the world's resources or even to an expansion of trade. This conference had sought in Chapters III, IV, VI and VII to create conditions in which these assumptions would be realised. This was extremely important to those countries being asked to undertake obligations in respect of their commercial policy.

Unless there were some reasonable assurance that the undertakings given in Chapter V would be implemented in the conditions specified above, it would not be possible for the Australian Delegation to carry out those undertakings. They regarded the commitments in Chapters III, IV, VI and VII on the one hand and those in Chapter V on the other as interdependent. His Delegation was prepared to accept the commitments in Chapter V provided world conditions were such that they could carry them out.

For these reasons, he regarded the procedure provided in Article 35 for complaint and release from obligations as even more important in the case of Chapters III, IV, VI and VII than in the case of Chapter V. Only in this way would it be possible for a country to establish that conditions beyond its power to control were making it impossible for that country to carry out its undertakings. His Delegation would resist bitterly any proposal to modify the right of a country to seek a modification of the undertakings it had

given if, by the actions of other countries, conditions were created in which it could no longer carry out its obligations.

He did not believe the question of national sovereignty entered into this. The Charter provided for consultation and withdrawal, not for sanctions. Therefore there was no interference with national sovereignty. But it did give a country the right of appeal to the international community. If conditions were to develop in which the obligations under Chapters III, IV, VI and VII could not be kept, the obligations under Chapter V would be broken in any case. His Delegation regarded the undertakings in Chapters III, IV, VI and VII as fundamental in order to create conditions in which the reduction of trade barriers and the development of international co-operation in the field of trade would become possible. It was fundamental to the success of the International Trade Organisation and to the acceptability of the Charter to the Governments concerned that the inter-dependence of all obligations under the Charter should be made clear with no distinction drawn in principle between any Chapters from the point of view of obligations or rights of adversely affected countries.

The CHAIRMAN announced that Commission A would meet again on Monday, June 2, at 2.30 p.m. to continue its discussion of this important question.