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

COMMISSION A

Summary Record of 30th Meeting
held on Wednesday, 16 July, 1947 at 3.00 p.m.
in the Palais des Nations, Geneva.

CHAIRMAN: Mr. Eric Colban

The CHAIRMAN commenced by reminding the Commission that the following points relating to the technical articles had been referred at a previous meeting to the Legal Drafting Committee or to some other appropriate committee:

(a) Certain points relating to the drafting of Articles 16, 19, 20 and 22 which had been referred to the Legal Drafting Committee.

(b) The question of the appropriate location of Article 37, which had been referred to the Sub-committee on Articles 34, 35 and 38.

(c) The transfer of sub-paragraphs (c),(d),(e) and (k) of Article 37 to some place nearer the end of the Charter, which would be considered by the Preparatory Committee in connection with the drafting of the last chapter of the Charter.

The Commission then proceeded to consider the various points relating to Articles 21 and 37 which had been scheduled for discussion.

1. The New Zealand Proposal for an addition of a Sub-paragraph (b) to Paragraph 3 of Article 21

Mr. JOHNSON (New Zealand), at the invitation of the CHAIRMAN, introduced the following text which he had prepared in consultation with the United States delegation and certain other interested delegations:

> "(b) The provisions of sub-paragraph (a) of this paragraph shall not require the elimination or substitution of procedures in force in a Member country on the day of the signature of this Charter which in fact provide for an objective review of administrative action even though such procedures are not fully or formally independent of the agencies entrusted with administrative enforcement. Any Member employing such procedures shall, upon request, furnish the Organization with full information thereon in order that the Organization may determine whether such procedures conform to the requirements of this sub-paragraph."

Mr. JOHNSON pointed out that under this proposal the arrangements in question were brought under the purview of the Organization. The text of the additional sub-paragraph proposed by the New Zealand delegation was adopted.

2. Suggestion by the United Kingdom Delegation for the addition of a new sub-paragraph in Article 37

The United Kingdom delegation proposed that the new sub-paragraph should read as follows:

> "(1) undertaken in pursuance of obligations under inter-governmental commodity agreements concluded in accordance with the provisions of Chapter VII."

The CHAIRMAN observed that this proposal in its present form, together with the consequential deletion of sub-paragraph 2 (d) from Article 25, had been reported favorably by the Sub-Committee on Chapter VII in Document E/PC/T/W/228. Mr. CATUDAL (United States) indicated that his delegation was prepared to accept the proposal. The proposal was adopted.

3. The Proposal of the Brazilian Delegation for the Deletion of the words "are taken pursuant to international agreements on ..." from sub-paragraph (j) of Article 37.

The CHAIRMAN pointed out that the Sub-committee on Chapter VII had also recommended acceptance of this proposal (E/PC/T/W/228). Mr. RODRIGUES (Brazil) observed further that Commission B had also approved the deletion of those words (E/PC/T/W/239). The proposal for the deletion of these words was adopted.

4. The Deletion or Transfer of the Reference to "fissionable materials" in sub-paragraph (c) of Article 37.

The CHAIRMAN drew attention to the related observation by the Sub-committee on Chapter VII concerning sub-paragraph (d) in paragraph 1 of Article 62. The CHAIRMAN observed that presumably sub-paragraph (d) would be deleted and that in a similar manner sub-paragraph (c) of Article 37 could also be discussed more appropriately in connection with a later part of the Charter. He suggested that the Secretariat draw the attention of the Drafting Committee to the fact that there is no objection on the part of Commission A to the deletion of sub-paragraph (d) in view of the related changes contemplated elsewhere in the Charter.

Dr. COOMBS (Australia) pointed out that the inclusion of the present provision in Article 37(c) would have an unfortunate effect in the event that atomic energy became an important or major source of industrial energy. He suggested accordingly that if the retention of such a provision were contemplated it should be placed in square brackets for the time being and that the Preparatory Committee should advise the appropriate international organization that there are trade problems associated with fissionable materials and that, accordingly, the Preparatory Committee would welcome advice from the appropriate international

body regarding the way in which this item should be treated, having in mind the security aspect. Mr. CATUDAL (United States) remarked that in his view this matter did not require further discussion at the present time but could be considered more appropriately when the question of its inclusion at a later point in the Charter came up for discussion. The CHAIRMAN agreed that this question could be discussed at a later stage in connection with the decision on the inclusion of such a provision in one of the later articles of the Charter, but that the Secretariat in submitting the question of this sub-paragraph to the Preparatory Committee should draw attention to the observations made by the Representative of Australia.

Mr. HEYES (Australia) agreed with the Chairman's proposal which was then accepted by the Commission.

5. The Proposal to add an Interpretive Comment Concerning Sub-paragraph (b) Relating to the Protection of Human, Animal or Plant Life or Health.-

The CHAIRMAN introduced the proposed comment which had appeared as paragraph 1 in Document E/PC/T/W/245.

Mr. CATUDAL (United States) observed that the draft comment indicated the difficulties in formulating the provision of this paragraph in specific terms. He suggested that rather than attempt to agree on an interpretive note the meaning of the sub-paragraph might be clearer if the text were abbreviated and all interpretation omitted. He suggested that the sub-paragraph should read merely "for the purpose of protecting human, animal or plant life". He doubted that the rest of the phrase contributed anything to the meaning of the sub-paragraph, particularly in view of the fact that its sense appeared to be adequately covered already in the preamble to the article and in Article 35. M. ROUX (France) suggested that the substance

of the explanatory note might be incorporated in a redraft of the sub-paragraph, omitting, however, the obligation to furnish proof. After further discussion, BARON DE GAFFIER (Belgium), Dr. KORTEWEG (Netherlands) and M. ROUX (France) agreed that the text of the sub-paragraph might be modified as suggested by the Representative of the United States, but questioned the advisability of omitting the explanatory note. Mr. CHERRY (South Africa) expressed his agreement with the proposal by the Representative of the United States to abbreviate the text and to omit any explanatory note. The CHAIRMAN inquired whether in the light of the discussion any other DELEGATIONS cared to speak in support of the proposal by the Representative of Belgium to insert some explanatory comment on the meaning of the sub-paragraph. In the absence of any further statements in support of the Belgian proposal, the CHAIRMAN declared that he interpreted the sense of the Commission as agreeable to the proposal of the United States Representative that the sub-paragraph should read "necessary to protect human, animal or plant life or health" and that the explanatory note should be omitted.

In answer to a question from M. ROUX (France) the CHAIRMAN confirmed that the word "necessary" had been retained in the text and that the French equivalent of that word should appear in the French version of the text.

6. Proposal by the Delegation of Australia relating to Sub-paragraph (j).

Dr. COOMBS (Australia) indicated that his Delegation was in general sympathy with the object of the sub-paragraph but had some doubts about the proviso that restrictions imposed on exhaustible material resources should be associated with restrictions on domestic production or consumption, as there

might be cases in which the rate of domestic production or consumption was restricted by technical factors. In such cases he thought it should not be necessary to impose further limitations on the exploitation of those resources. Dr. COOMBS remarked that he had no specific proposal to present but that he wished to raise the point in order to ensure that some time would be given for further thought on this question with a view to the possible submission, either to a sub-committee or to the Commission, of any proposal that might be developed to cover the type of case which he had in mind.

The CHAIRMAN remarked that before the text is to be finally considered by the Preparatory Committee all Delegations would have an opportunity to consider the present draft and formulate any amendments or reservations which might still appear to be necessary. He remarked that since the Commission expected to meet shortly for a discussion of Article 18 the Australian Delegation might at that meeting, or subsequently, wish to present any necessary amendment to sub-paragraph (j) for consideration by the Commission.

7. Proposal by the Sub-committee on Article 15, with the Concurrence of the Sub-committee on Article 25, to Transfer Sub-paragraph 2(a) of Article 25 to Article 37.

The CHAIRMAN drew attention to the note on this matter appearing as paragraph 2 in Document E/PC/T/W/245. He observed that in connection with the discussion of the proposed transfer it would be necessary to consider also whether the new paragraph should remain in Chapter V or be removed to a later part of the Charter. He remarked that the Commission would also wish to consider in what form the three sub-paragraphs should appear, if their transfer to Article 37 is approved. The three sub-paragraphs might be added as a separate paragraph, with a separate preamble, in Article 37 or they might be added to the series of sub-paragraphs already in Article 37.

Mr. CHERRY (South Africa) noted that the section proposed for transference to Article 37 might reasonably appear as a separate paragraph in view of the fact that the three exceptions referred to therein are of a temporary nature. If, however, a separate paragraph were to be drafted to cover these temporary exceptions he felt that the proviso at the beginning of Article 37, starting with the words "subject to the requirement that such measures" down to the words "international trade" should, in some manner, apply with equal force to the exceptions in the new sub-paragraph. The CHAIRMAN suggested that this purpose might be accomplished if the proposed new paragraph 2 were to begin with the words "subject to the requirement mentioned in paragraph 1 ...". Mr. CHERRY observed that the point might be covered in the manner proposed by the CHAIRMAN or the preamble to the entire article might be confined to the words "subject to the requirement" down to "international trade" and paragraphs 1 and 2 might each begin with the words "nothing in Chapter V ...".

Concerning the principle of including these exceptions in some form in Article 37, Mr. IMMS (United Kingdom) suggested that the proposal would have to be considered further and the discussion on the point of principle might be resumed at a later date. Mr. MELANDER (Norway), while expressing his agreement in principle to the proposed transfer, agreed with the United Kingdom Representative that certain aspects of the proposed transfer required further consideration. In particular, he was in some doubt as to whether the general introduction in Article 37 should apply to the new paragraph which related to temporary exceptions quite different in character from the exceptions at present in the article. Mr. CATUDAL (United States) and BARON DE GAFFIER (Belgium) expressed their agreement with the principle

of transferring the indicated provisions from Article 25 to Article 37.

In the light of the discussion the CHAIRMAN proposed that preparation for the next discussion of this subject in the Commission should proceed on the assumption that the Commission will agree finally to accept the suggestion made by the two sub-committees to incorporate these points in an appropriate manner in Article 37.

8. Adjournment of Meeting.

The CHAIRMAN mentioned that as the Australian Delegation was now in a position to discuss Article 18 a meeting of the Commission would be arranged shortly to consider the remaining points relating to that article. Mr. HEYES (Australia) indicated that his Delegation would like to have the discussion of Article 18 resumed early next week.

The CHAIRMAN expressed the hope that at the next meeting it would be possible to complete the remaining points relating to the technical articles and in particular to complete consideration of Article 18.

The meeting rose at 6.10 p.m.