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

COMMISSION B

SUMMARY RECORD

of the 27th meeting held at the Palais des Nations,  
Geneva, on Monday, 11 August 1947, at 2.30 p.m.

Temporary Chairman: Mr. E. WYNDHAM WHITE  
(Executive Secretary)

ELECTION OF TEMPORARY CHAIRMAN

Mr. WYNDHAM WHITE (Executive Secretary) said that as the Chairman of Commission B, Mr. Wilgress, was presiding over the Tariff Agreements Committee, and the Vice-Chairman, Mr. Royer, had not yet returned from Paris, he would ask for nominations from the Commission for a Temporary Chairman to preside in the absence of the Chairman and Vice-Chairman.

Mr. COLBAN (Norway), supported by Mr. CAPLAN (United Kingdom), suggested that Mr. Wyndham White should preside over the meeting. This was agreed.

The CHAIRMAN said that the Commission would consider the Report of the Legal Drafting Committee on Chapter VII (document E/PC/T/147), and the notes on Chapter VII submitted by the delegations of Cuba and of the United States of America (documents E/PC/T/W/265 and E/PC/T/W/261).

ARTICLE 46

Mr. SCHWENGER (United States of America) said that members of Commission B would remember that in the Report of the Sub-Committee on Chapter VII, and in the text as approved by Commission B, there was a note saying that it was understood that all forms of intergovernmental arrangements, understandings or any other form of co-ordinated action were intended to be covered by the one term "agreement." The Legal Drafting Committee had decided that the term "agreement" did provide coverage from the legal point of view. He proposed that this fact should be noted in the Record of the Meeting, and this was agreed.

Mr. MOSTIN (Belgium) said his delegation had carefully examined the French text of Article 46 and wished to suggest certain drafting changes.

The CHAIRMAN proposed that the suggested changes in the French text should be circulated and the Legal Drafting Committee requested to study them as a matter of urgency. Subject to there being no objections to the changes suggested, they would in due course be incorporated in the French text.

Mr. MOSTIN (Belgium) said that in addition to the changes proposed by the Legal Drafting Committee his delegation had further amendments to suggest in regard to the French text.

The CHAIRMAN suggested that if the changes proposed by the Belgian and French delegations in the French text were of a minor character and could be disposed of by Commission B, he would prefer that course to be taken as he felt the Commission should adopt the French text simultaneously with the English text.

Decision: Article 46 was adopted subject to treatment of the French text as proposed by the Chairman.

ARTICLE 47

Decision: Paragraphs 1 and 2 of Article 47 were adopted with minor drafting changes in the French text which did not affect the English text.

Paragraph 3

Mr. MOSTIN (Belgium) suggested that the word "des" should replace the word "les" in the first line of paragraph 3; in the thirteenth line the word "établira" should replace the word "stipulera", and in the last line the word "ledit" should replace the word "ce".

Decision: Paragraph 3 was adopted with the above drafting changes in the French text.

ARTICLE 48

Sub-Paragraph (a)

Mr. MOSTIN (Belgium) suggested that the word "viser" should replace the word "atteindre" in the third line.

After a short discussion in which the CHAIRMAN, the representatives of BELGIUM, CHILE, the UNITED KINGDOM, the UNITED STATES OF AMERICA, FRANCE, and NORWAY took part, the representative of BELGIUM withdrew his amendment.

Mr. MOSTIN (Belgium) said his delegation preferred the former wording of sub-paragraph (a) in which the word "adaptation" appeared in the singular in the French text.

Mr. RICHARDS (Canada) said he would prefer the word "difficulties" to be substituted for the word "problems" in the sentence beginning "to prevent or alleviate the serious economic problems...."

Decision: Sub-paragraph (a) was adopted with the changes suggested by the Belgian and Canadian delegates.

Sub-Paragraph (b)

Decision: Sub-Paragraph (b) was adopted subject to amendment of the last three lines of the French text as follows: "des industries trop développées à des utilisations nouvelles et productives."

Sub-Paragraph (c)

Decision: Sub-Paragraph (c) was adopted without comment.

Sub-Paragraph (d)

Mr. DE QUIDT (Belgium) proposed that the words "les protéger d'un épuisement" should be replaced by the words "prévenir leur épuisement...."

Decision: Sub-Paragraph (d) was adopted with the drafting change suggested.

Sub-Paragraph (e)

Mr. DE QUIDT (Belgium) suggested that in Sub-Paragraph (e) the phrase "pour les consommateurs et pour les producteurs" should be replaced by the phrase "des consommateurs et des producteurs."

Decision: Sub-Paragraph (e) was adopted with the drafting change suggested.

Sub-Paragraph (f)

Decision: Sub-Paragraph (f) was adopted without comment.

ARTICLE 49

Paragraph 1

Decision: Paragraph 1 was adopted without comment.

Paragraph 2

Mr. SCHWENGER (United States of America) said that it was at that point that the note by the United States delegation (document E/PC/T/W/261) should be considered.

The CHAIRMAN suggested that, unless any representatives wished to submit objections, Commission B should adopt the suggestion made by the delegation of the United States of America.

Mr. CAPLAN (United Kingdom) considered that the suggested footnote was unnecessary. Paragraphs 2 of Articles 49 and 50 left it to each Member to decide whether it wished to participate or not in a study group or conference.

Mr. LUGUERN (France) also thought that the suggested footnote was unnecessary.

Mr. SCHWENGER (United States of America) said the question was not whether the Organization would invite a country to a commodity conference if that country had rejected an invitation to a study group, but rather whether a country might be advised by its legal authorities that unless it accepted the invitation to a study group there was the danger that the Organization would be in a position where it could legally exercise that discretion. His delegation felt that it should be made clear that no country should feel that it was necessary to participate in the tentative deliberations of a study group in order to assure its right to attend a commodity conference. If that were understood, his delegation would not insist on the footnote. They would be satisfied if it were recorded in the Record of the Meeting.

This suggestion was accepted.

The CHAIRMAN drew attention to the text of paragraph 2 as amended by the Legal Drafting Committee, and said there might be danger of ambiguity arising as the consequence of the words "all members" having been changed to read "each member". It might be possible that the words "it considers" would be taken to refer to the Organization.

Mr. MUÑOZ (Chile) suggested that the words "if it considers" should be replaced by "if the Member considers".

Mr. CAPLAN (United Kingdom) supported the suggestion made by the representative of Chile.

Decision Paragraph 2 was adopted with the amendment suggested.

Paragraph 3

The CHAIRMAN referred to the note by the Legal Drafting Committee drawing attention to what was presumably regarded as an anomaly, although it did not appear to be a serious one.

Mr. CAPLAN (United Kingdom) said there might be a considerable number of non-Members of the Organization in a particular study group, and therefore simultaneous transmission of the report of the group to participating countries and to the Organization was desirable.

Decision: Paragraph 3 was adopted.

ARTICLE 50

Decision: Article 50 was adopted without comment.

ARTICLE 51

Paragraph 1

Decision: Paragraph 1 was adopted without comment.

Paragraph 2

Mr. SCHWENGER (United States of America) pointed out that paragraph 2 was missing in the English text.

The CHAIRMAN said he took it that members of the English-speaking delegations were familiar with the text of Paragraph 2 as previously approved by Commission B.

Mr. SCHWENGER (United States of America) said he had been present when the Legal Drafting Committee considered paragraph 2 and the only change he could recollect was the addition of the word "the" before the word "Members".

The CHAIRMAN asked whether the text of paragraph 2 could be provisionally adopted with the addition of the word "the" in front of the word "Members".

Decision: Paragraph 2 was provisionally adopted with the amendment suggested.

ARTICLE 52

Paragraphs 1 - 5

Decision: Paragraphs 1 to 5 were adopted without comment.

Paragraph 6

The CHAIRMAN pointed out that in the sixth line of the English text a comma should be placed after the word "if".

Mr. CAPLAN (United Kingdom) referring to the deletion of the word "and" and the substitution of the word "or" in the eleventh and twelfth lines, said that he was satisfied that this would not mean that a group of Members concerned only with production, or only with consumption, could frame agreements.

Mr. SCHWENGER (United States of America) agreed that there were specific provisions in the Chapter against such action.

Decision: Paragraph 6 was adopted.

ARTICLE 53

Paragraph 1

Paragraph 1 was adopted without comment.

Paragraph 2

On the proposal of Mr. De Quadt (Belgium) paragraph 2 of the French text was amended to read:

"Les décisions prévues au présent article seront prises dans le cadre de l'Organisation après consultation et entente entre Etats Membres intéressés de façon substantielle au produit de base en question".

Decision: Paragraph 2 was adopted, subject to the above amendment of the French text.

ARTICLE 54

Sub-paragraph (a)

The CHAIRMAN drew the Commission's attention to the note by the Cuban Delegation (E/PC/T/W/265) and suggested that

if there was no objection, the note should be added as an explanatory note to the final text of Article 54(a).

Mr. FRESQUET (Cuba) explained that his Delegation would be unable to accept Article 54(a) if the footnote were not inserted.

Decision: It was agreed to insert the note proposed by the Cuban Delegation.

The CHAIRMAN drew the attention of delegates to the accidental omission of the words "the conclusion and operation of" after the word "governing" in line 3 of the preamble to Article 54.

Decision: The preamble and sub-paragraph (a) were adopted.

Sub-paragraph (b)

Mr. RICHARDS (Canada) pointed out that in line 7, the word "voice" in the English text had been replaced by the words "number of votes", while in line 15 the word "voice" was retained. He asked whether the interpretation was the same in each case.

After a discussion in which the delegates of the United States, the United Kingdom and Australia took part, it was decided that there was no inconsistency since the second reference was meant to be less precise than the first.

Decision: Sub-paragraph (b) was adopted.

The CHAIRMAN drew the Commission's attention to the Legal Drafting Committee's note on the settlement of differences on voting arrangements.

On the suggestion of Mr. CAPLAN (United Kingdom), it was agreed to discuss the matter after consideration of the Legal Drafting Committee's note on Article 57.

Sub-paragraph (c)

Mr. DE QUIDT (Belgium) proposed that the words "souffre d'une diminution anormale" be replaced by the words "rencontre des difficultés anormales".

Decision: The French text was amended as proposed and sub-paragraph (c) was adopted.

Sub-paragraph (d)

Decision: Sub-paragraph (d) was adopted without comment.

ARTICLE 55

Paragraph 1

Decision: Paragraph 1 was adopted.

Paragraph 2

Mr. DE QUIDT (Belgium) proposed that the words "aura le droit d'avoir un représentant" in line 3 of the French text be replaced by the words "aura droit à un représentant".

Decision: The amendment to the French text was accepted and paragraph 2 was adopted.

Paragraphs 3 - 9

Decision: Paragraphs 3 - 9 were adopted without comment.

ARTICLE 56

Decision: Article 56 was adopted.

ARTICLE 57

M. ROYER (France) proposed that the Article be examined after discussion of the Legal Drafting Committee's note.

Mr. SCHWENGER (United States) suggested that the most important part of the text proposed in the note was that part of sub-paragraph (b) beginning with the words "In so far as practicable".

Mr. CAPLAN (United Kingdom) agreed with the United States delegate and wondered whether better wording could not be found.

M. ROYER (France) said that a question of substance was raised. For a legal text the proposed wording was vague. He suggested that the provision be accepted in principle, and

that the Legal Drafting Committee be asked to review the position of non-Members in the light of Chapter VIII.

The CHAIRMAN suggested that the wording might be altered to "with adjustments when necessary to admit participation of non-Members of the Organization".

Mr. COLBAN (Norway) supported this suggestion.

The CHAIRMAN suggested that the words "In so far as practicable" be inserted before the word "apply", and that the words beginning "with appropriate adjustments ..." be deleted.

M. ROYER (France) said that the deletion removed the ambiguity but raised a question of substance. It was not the original intention of the Committee that departures from the procedure set forth in Chapter VIII should be allowed in the case of Members. Two points must be cleared up; whether departures from the procedure in Chapter VIII were allowed, and if so, whether they were allowed in the case of non-Members only.

Mr. SCHWENGER (United States) suggested that the original text be adopted, with the deletion of the last phrase beginning "which shall".

The CHAIRMAN proposed that the original text be prefaced by the words "Each commodity control agreement shall provide that".

Mr. COLBAN (Norway) felt that the question was left unsolved. He preferred the Chairman's original proposal.

The CHAIRMAN proposed that the original text be adopted with the proposed preamble and the last phrase altered to read as follows:

"which will apply the procedure set forth in Chapter VIII with appropriate adjustments to cover the case of non-Members".

This should be referred to the Legal Drafting Committee and their

attention drawn to the desirability of the inclusion in Chapter VIII of provision governing differences arising under Chapter VII.

Decision: It was agreed to put the suggested amendment provisionally in square brackets and refer Article 57 to the Legal Drafting Committee for approval.

LEGAL DRAFTING COMMITTEE'S NOTE TO ARTICLE 54.

In regard to that part of the note to Article 54 whose deletion the Legal Drafting Committee recommended, the CHAIRMAN suggested that the note be re-drafted as a recommendation that the procedure of Article 57 be adopted in the case of differences on voting arrangements arising in a commodity conference.

M. ROYER (France) said that the Note could only recommend that non-Members accept the arbitration of the Organization. It could do no more than state the problem.

The CHAIRMAN proposed that the Note be re-drafted by the Secretariat in consultation with the Legal Drafting Committee. This was agreed.

ARTICLE 58.

M. MOSTIN (Belgium) proposed that the words "se fondant sur celle-ci" in sub-paragraph (c) be replaced by the words "partant de celle-ci".

M. ROYER (France) proposed that the words "l'Organisation de l'Agriculture et de l'Alimentation" be amended to read "l'Organisation pour l'Alimentation et l'Agriculture".

Decision: These amendments to the French text were agreed, and Article 58 was adopted.

ARTICLE 59.

On the proposal of M. MOSTIN (Belgium) it was agreed to

replace "seront" in line 4 of paragraph 1 and "participeront" in line 7 of paragraph 2 by "seraient" and "participeraient" respectively.

Decision: Article 59 was adopted, subject to the above amendments to the French text.

#### ARTICLE 60

The CHAIRMAN drew the Commission's attention to the Report of the Committee on Chapters I, II and VIII, in which it was suggested that Article 60 might require alteration to make it clear that joint representation referred only to bodies set up under Chapter VII.

It was decided that there was no ambiguity, since the Article began with the words "For the purposes of this Chapter".

M. ROYER (France) proposed that the words "sur demande" in the French text be replaced by the words "à la demande de l'Etat intéressé". The alteration was adopted.

Mr. MINOVSKY (Czechoslovakia) suggested that the English wording "where it is so desired" would also require alteration, as it was less specific than the amended French version. After discussion, this suggestion was not accepted.

Decision: Article 60 was adopted subject to the above amendment to the French text.

#### ARTICLE 61

##### Paragraph 1(a)

Mr. TAYLOR (United Kingdom) pointed out that the word "inter-governmental" had been introduced in paragraph 1(a).

He believed it involved a change of substance, since agreements between a State enterprise in one country and private enterprise in another would not be covered.

Mr. SCHWENGER (United States) said that the Chapter dealt with inter-governmental commodity agreements only, and that therefore the agreements mentioned by the United Kingdom delegate did not in any case fall within the scope of Chapter VII.

M. MOSTIN (Belgium) proposed that the word "et" be inserted after "produit" and a similar addition made in the English text.

M. ROYER (France) suggested that "visé par" be replaced by the words "et rentrant dans le cadre de".

Decision: Paragraph 1(a) was adopted subject to amendment of the French text as proposed by the delegate of France.

Paragraph 1(b)

Decision: Paragraph 1(b) was adopted.

Paragraph 1(c)

Mr. SCHWENGER (United States) believed that the substitution of the words "have as their object" for the words "appropriately relate" resulted in a change of meaning.

After a discussion in which the delegates of NORWAY, the NETHERLANDS, INDIA and CHILE took part, it was decided, on the proposal of the UNITED KINGDOM delegate, to delete the words "which have as their object" and insert the words "which are necessary for".

Decision: Paragraph 1(c) was adopted as amended, with a similar amendment to the French text.

Paragraph 1(d)

Decision: Paragraph 1(d) was deleted in view of the Note by the Legal Drafting Committee.

Paragraph 2

Decision: Paragraph 2 was adopted.

Paragraph 3

The CHAIRMAN drew the Commission's attention to the Legal

Drafting Committee's Note on the term "wild life".

Mr. CAPLAN (United Kingdom) said that the examples might be deleted as they contributed nothing to the meaning of the paragraph.

Mr. COLBAN (Norway) said that the words gave concrete content to the paragraph and should be maintained.

Mr. SCHWENGER (United States) proposed that the words "such as" be replaced by the word "including". He pointed out that in a similar reference in Article 37 no examples were given.

M. ROYER (France) suggested that the words "such as fisheries or wild life" be replaced by the words "including fisheries conventions".

The CHAIRMAN suggested that no examples should be included in view of the similar reference in Article 37. He thought, however, that the Norwegian delegate (who had left the meeting) should first be consulted.

Decision: Subject to the approval of the Norwegian delegate, it was agreed to delete the examples mentioned in paragraph 3, it being understood that fisheries and wild life were in fact covered by the phrase "conservation of exhaustible natural resources". If, however, the Norwegian delegate could not accept this decision, it was agreed to conclude the paragraph with the words "including conventions on fisheries". In other respects paragraph 3 was adopted.

NUMBERING OF ARTICLES AND CHAPTERS.

Attention was drawn to discrepancies in the old and new numbering of Articles and Chapters. The Secretariat was asked to ensure consistency.

ARTICLE 46

On the proposal of the CHAIRMAN, it was decided that the French text of Article 46 should be re-drafted by the French-speaking delegations in consultation with the Legal Drafting Committee.

TRIBUTE TO LEGAL DRAFTING COMMITTEE

In conclusion Mr. CAPLAN (United Kingdom) paid a tribute to the valuable work of the Legal Drafting Committee. It was agreed to include a note of the Commission's appreciation in the Record of the Meeting.

The meeting rose at 19.30.