

SIXTH COMMITTEE: ORGANIZATION

SUMMARY RECORD OF THE THIRTY-SECOND MEETING

Held at the Capitol, Havana, Cuba,
Monday, 1 March 1948, at 2.30 p.m.

Chairman: Mr. E. COLBAN (Norway)

1. DISCUSSION OF THE AMENDMENT TO THE ANNEX TO ARTICLE 95 PROPOSED BY THE DELEGATION OF THE UNITED KINGDOM (DOCUMENTS E/CONF.2/C.6/83 and E/CONF.2/C.6/83/Add.1)

The United Kingdom amendment to the Annex to Article 95 (document E/CONF.2/C.6/83/Add.1) was accepted.

It was agreed to establish a Working Party consisting of the representatives of New Zealand, Australia, Egypt, France and the United Kingdom to consider the proposed New Zealand amendment to Article 68, (document E/CONF.2/C.6/W.88) which would include under paragraph 5 "any other special regime in which two or more countries are concerned as parties to an inter-governmental agreement whether or not all countries party to such agreement are actively engaged in the administration of the regime." The report should be submitted by 3 March.

2. REPORT OF THE SUB-COMMITTEE ON ARTICLES 95, 96, 98, 99 AND 100 UPON THE AMENDMENT TO ARTICLE 99 PROPOSED BY THE DELEGATION OF THE UNITED KINGDOM (DOCUMENTS E/CONF.2/C.6/12/Add.13 and E/CONF.2/C.6/82)

Mr. DAO (China) was concerned with the effect the amendment might have upon tariff negotiations concluded in Geneva, as well as whether certain negotiations on behalf of non-self-governing territories would later be resumed. He suggested that an explanatory note similar to paragraph 2, page 2 of the Notes of the sixteenth meeting of Sub-Committee J (E/CONF.2/C.6/W.114) should be included to the effect that the provisions of paragraph 1 of Article 99 in no way affected rights or obligations under or pursuant to paragraph 4 of Article XXVI of the General Agreement.

The CHAIRMAN stated that legally that was a correct interpretation. There was no objection to inserting such a note in the Report of the Committee, but the General Agreement was a treaty which could not be

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over-ridden by the Charter and would remain in force unless altered by mutual consent.

Mr. MARTEN (United Kingdom) said that Article 99 was not one of the Articles which would supersede certain Articles of the General Agreement. There was an agreement between the United Kingdom and China that in due course tariff negotiations affecting Malaya would be considered; there was no necessity for making reference to that in the Charter; confirmation could be obtained through normal diplomatic channels. Moreover, as long as the United Kingdom was a contracting party to the General Agreement it was bound by certain undertakings, whether or not it accepted the Charter; non-acceptance of the Charter would preclude obligations to Article 17.

Mr. DAO (China) thanked the representative of the United Kingdom, but said that the new Article 99 could give rise to doubt as to whether the separate customs territories could legally be expected to carry out negotiations under Article 17.

It was agreed that a note should be included in the Report of the Committee.

Paragraphs 1 and 2 were approved.

Paragraph 3 was approved.

3. EXPLANATORY NOTE TO ARTICLE 99 PROPOSED BY THE DELEGATION OF GUATEMALA
(DOCUMENT E/CONF.2/C.6/12/Add.22)

The CHAIRMAN stated that on 28 November 1947 the President of the Conference had said that the Conference was of an economic and technical nature and representatives should refrain from statements of a political character. The proposed explanatory note did not seem to come within the competence of the Conference.

Mr. GOMEZ-ROBLES (Guatemala) stated that the purpose of the amendment was to exempt the Organization from any possible political implications. One of the objectives of the Charter of the United Nations was to maintain peace and security. Without neutrality, settlements became difficult and peace wavered; Mutual understanding and faith were necessary. The Organization should not at any time depart from neutrality; it should put any political dispute aside in order not to endanger its impartiality; its obligation was to watch over the economic well-being of all.

The proposed Note would state the principle of American International Law that the provisions should not be applicable to territories subject of claim or dispute between States of the American Continent and non-American States. Article 99 and the principles of the Charter should be complementary; such a note would safeguard neutrality. The anachronism of
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colonialism in the Western Hemisphere was against American law and against international trade.

If it were the wish of the Committee, a more general wording of the Note would be acceptable.

The CHAIRMAN said that the exposition of the representative of Guatemala clearly indicated the political purpose of the Note, and in accordance with the ruling of the President of the Conference, it was necessary to rule that the matter was outside the competence of the Conference. In so ruling, no word was spoken against the substance of the suggestion.

Mr. MUNOZ (Chile) accepted the Chairman's ruling but expressed full sympathy for the views of the representative of Guatemala.

Mr. OTANEZ (Venezuela), Mr. LAMBOGLIA (Argentina) and Mr. JIMENEZ (El Salvador) would also respect the decision of the Chair but supported the Guatemalan proposal, Mr. Jiménez suggesting that a note be added to the effect that the application of Article 99 should not pre-judge cases involving disputes over territories.

Mr. GOMEZ (Colombia) supported the representative of El Salvador.

Mr. GARCIA-SERRATO (Uruguay) supported the representative of Guatemala. Although the note did trespass on political ground, it did not refer to any special case but to a general principle and the text reflected the existence of a problem. It would not be in contradiction to the principles of trade and employment to redraft the note in the spirit of the language of the Charter in order to safeguard the reign of law.

Mr. MACHADO (Cuba) said it was difficult to define the clear line between politics and economics. Perhaps a Working Party could study the subject from an economic point of view and present a note for inclusion in the Report of the Committee.

Mr. ALAYZA (Peru) supported the Note and its purpose that acceptance of Article 99 should not intend the pre-judging of disputes regarding territories; he supported the proposal of the representative of Cuba for a Working Party.

Mr. AGUILAR (Mexico) supported the Guatemalan proposal, and, subject to the ruling of the Chair, supported the Cuban proposal.

The CHAIRMAN could not agree to the proposal for further study. The San Francisco Charter dealt with political aspects; technical organizations would interfere with the work of the United Nations, without furthering their own purposes, were they to look for the complications which might arise from political considerations. The ruling that the matter was outside the competence of the Conference must be maintained.

/Mr. MUNOZ (Chile)

Mr. MUNOZ (Chile) protested the decision and thought the Cuban suggestion the proper procedure.

Mr. GOMEZ (Colombia) accepted the decision but stated that his delegation would reserve its position regarding Article 99; he supported the Cuban proposal for a Working Party.

Mr. GARCIA-SERRATO (Uruguay) agreed with the representatives of Chile and Colombia. The Guatemalan note involved a problem of economic relations as well as political and legal aspects.

Mr. MACHADO (Cuba) accepted the ruling of the Chair, and proposed that discussion be suspended and that without including the question on the agenda, perhaps an unofficial working party might be able to bring in a non-political solution.

The CHAIRMAN replied that it was the duty of the Chairman to submit to a Committee any suggestion presented in proper form, but it was impossible for the Chair to make any compromise on its ruling. Since a number of delegations had expressed keen sympathy for the proposal, but had accepted the ruling of the Chair, the general sense of the Committee seemed to be to close the discussion and make proper record in the minutes of the meeting.

Mr. GOMEZ-ROBLES (Guatemala) could not agree with the decision to reject an amendment the purpose of which was to safeguard the interests of third parties. It was not his intention to introduce political questions, but political and economic problems were interdependent. The Organization should not by its actions permit a dispute to be pre-judged. A formula as suggested by the representative of El Salvador should answer the problem.

Mr. JIMENEZ (El Salvador) said he had not accepted the decision of the Chair, although the arguments were strong and valid, and felt that the Cuban suggestion for an informal working party would solve the problem.

The CHAIRMAN said his ruling must stand; it was neither necessary nor desirable to create a working party.

Mr. GOMEZ-ROBLES (Guatemala) reserved his position as to Article 99; none of the provisions of that Article could influence the position of his government or the territories under its sovereignty which were the object of claim or dispute, even if they were being held by another government.

Mr. MUNOZ (Chile) accepted the decision of the Chair, but reserved the position of his delegation to Article 99 pending consultation with his government.

Mr. AGUILAR (Mexico) and Mr. LAMBOGLIA (Argentina) also reserved their positions.

On the point of order by the representative of Cuba, the CHAIRMAN stated that the ruling of the Chair had priority.

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On taking the sense of the meeting, the ruling of the Chair that the matter was not within the competence of the Conference was upheld.

Mr. GOMEZ (Colombia) stated that the reservation of his delegation was not to Article 99 as such but that by approving the Article his government could not be regarded as reflecting its views upon the issue of any territory subject to dispute.

The CHAIRMAN requested the representative of Colombia to submit the text of his reservation in writing for inclusion in the Report of the Committee. He remarked that the Charter obviously could not pre-judge anything outside the competence of the Conference.

The representatives of Uruguay, El Salvador and Venezuela made reservations similar to that of the representative of Colombia.

Mr. AGUILAR (Mexico) replying to a question by the Chairman, stated that the Mexican amendment to paragraph 3 of Article 99 contained in document E/CONF.2/C.6/12/Add.18 was a new amendment, but because some countries could not for administrative reasons accept it, the amendment was withdrawn.

4. REPORT OF THE WORKING PARTY ON PARAGRAPH 2 OF ARTICLE 98
(DOCUMENT E/CONF.2/C.6/79)

The CHAIRMAN stated that the Working Party appeared to have solved the problem of how many ratifications were required to put the Charter into force. He pointed out that the Working Party recommended that the first Conference should not be convened within the first four months following the entry into force of the Charter, and that the Working Party of the Interim Committee had suggested that the date should be not later than six months.

Mr. MARTEN (United Kingdom) felt that if both suggestions were adopted, there might be technical difficulties in supplying services of the Secretariat of the United Nations should the two-months period occur at a time other than important conferences were taking place. He agreed a Conference should not be held before four months but some consideration should be given to the six months rule.

The CHAIRMAN agreed to present this point to the Working Party.

Mr. GARCIA-SERRATO (Uruguay) said that his delegation maintained its original point of view regarding the effective date of the Charter. He reviewed previous discussions concerning the number of ratifications, the volume of trade represented and the effective date, and suggested that the original proposal of Colombia, supported by Cuba and agreed to by the United Kingdom might still be a reasonable solution.

/The CHAIRMAN

The CHAIRMAN said it was inconceivable that if there were twenty ratifications after one year they would not represent from 75-90 percent of world trade. The point, so rightly brought up, was implicit in the text.

Mr. GOMEZ (Colombia) said that his delegation had accepted the text as a compromise.

Mr. MARTEN (United Kingdom) agreed with the Chairman and stated that a figure had been omitted because of the technical difficulties which would arise in computing a precise percentage. It was recognized that the first twenty acceptances would have to include the important trading nations. Even five of the greatest trading nations would represent 50 percent of world trade, and it was considered that the first twenty would represent over 66 percent.

Mr. GARCIA-SERRATO (Uruguay) appreciated the explanations but felt that his original amendment to paragraph 2 of Article 98, submitted with the delegation of Mexico, was a step forward from the Geneva text. He agreed that the first twenty would represent a large percent of world trade, but doubted, if there were only twenty ratifications, whether under Article 63, the Organization could be recognized as a specialized agency. It was to be hoped that the work of the Co-ordinating Committee together with the constructive support of all delegations would cause ratification by the majority of those countries represented at the Conference.

The delegation of Uruguay reserved its position provisionally to Article 98.

Mr. MACHADO (Cuba) stated that the compromise was acceptable since it provided the safeguard, not only a simple majority, but of a majority plus volume of trade.

The CHAIRMAN stated that the attention of the Central Drafting Committee would be called to a drafting point raised by the representative of Ireland concerning paragraph 2 (b).

Article 98 was approved, subject to the reservation of Uruguay and to the drafting point mentioned.

5. SECOND READING OF PARAGRAPHS 3, 4, 5, 6 and 7 OF ARTICLE 74 (POWERS AND DUTIES OF THE CONFERENCE) (DOCUMENTS E/CONF.2/C.6/20, E/CONF.2/C.6/25 and E/CONF.2/C.6/86)

The CHAIRMAN noted that paragraphs 1 and 2 could not be established until the results of the study of the Tariff Committee were known.

Paragraph 3 was approved subject to the reservation of Chile pending the final text of Article 15.

Paragraphs 4 and 5 were approved. (Paragraph 5 text as contained in document E/CONF.2/C.6/12/Add.19).

/Paragraph 6

Paragraph 6

Mr. KELLOGG (United States) suggested deletion of the word "a" in the next to last line of paragraph 6. Accepted.

Mr. MacLIAM (Ireland) asked whether any study of the question of a maximum budget of the United Nations had been undertaken. The CHAIRMAN replied to his knowledge no such study had been made.

Paragraph 6 was approved.

Paragraph 7

Paragraph 7 was approved.

Article 74, with the exception of paragraphs 1 and 2, was approved in second reading.