

EXECUTIVE COMMITTEE

Second session

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Item 10 of the Provisional Agenda

Note by the Executive Secretary

1. Paragraph 2 (h) of its terms of reference requires the Interim Commission to enter into consultations with the Secretary-General of the United Nations regarding the expenses incurred by the Preparatory Committee of the United Nations Conference on Trade and Employment and by that Conference, and in the light of such consultations, to present a report to the first regular session of the Conference. This question was discussed in a preliminary way at the first session of the Executive Committee which instructed the Executive Secretary to make known to the Secretary-General its view that the expenses of the Preparatory Committee and the Conference should be borne by the United Nations (ICITO/EC.1/SR.2). Following these instructions, the Executive Secretary, on 24 May 1948, addressed to the Assistant Secretary-General for Administrative and Financial Services, who had been designated by the Secretary-General to represent him in this matter, a detailed statement of the considerations supporting the view of the Interim Commission. A copy of the Executive Secretary's letter is attached as Annex A.
2. After this letter had been received, the Executive Secretary was invited to consult with representatives of the United Nations Secretariat. The latter, without traversing the various specific arguments put forward by the Executive Secretary, urged that this matter be considered by the Interim Commission on a practical basis and as a special case. They pointed out that whereas it was true that the United Nations had borne the expenses incident to the formation of other specialized agencies up to the establishment of an interim commission for the body concerned, in all these cases the expenses had not been heavy. In the case of the ITO, the outlay had been very large and had been substantially increased by the holding of tariff negotiations in connexion with the second session of the Preparatory Committee. There was, in their view, considerable doubt whether the tariff negotiations properly fell within the scope of preparations for the Conference. They should more appropriately be considered as an anticipation of the work  
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of the Organization, the expenses of which should, therefore, appropriately lie with the Organization. The Executive Secretary pointed out that the tariff negotiations had been regarded by the Preparatory Committee as an essential part of its work and, moreover, the intention to conduct the negotiations on this basis at the second session had been communicated to the Economic and Social Council and the Council had not objected.

3. The representatives of the Secretary-General also pointed out that Mr. Lie, in making financial provision for the Preparatory Committee and the Conference, had always proceeded on the assumption that the moneys advanced would eventually be repaid. Hence the usual strict accounting procedures had not been insisted upon and the moneys had been provided out of the Working Capital Fund, which made it necessary that the Fund should in some way be replenished. In the Secretary-General's view, this should be done by way of reimbursement by the International Trade Organization.

4. The matter was again discussed at a meeting of the Advisory Committee of the General Assembly on Administrative and Budgetary Questions on 17 June 1948. The Executive Secretary attended these discussions by invitation of the Advisory Committee.

5. At this meeting, there was a discussion of the general principles concerning expenses which may properly be borne by the United Nations in connexion with the creation of any new specialized agency, and expenses which should be regarded as a proper charge to the new organization. It is understood that the principles by which the Secretary-General will be guided in future are as follows:

6. The expenses of meetings of technical preparatory committees established by the Economic and Social Council in accordance with the terms of Article 59 of the Charter should be borne, as a general rule, on the United Nations budget. All other expenses, including the expenses of the first World Conference called to frame the constitution and the expenses of the preparatory or interim commissions created by the constitutional conferences should be borne by the new specialized agency or by the participating Governments.

7. The Secretary-General pointed out that these principles, if applied to ITO, would require the financing of all costs of the London, New York and Geneva meetings but would continue to consider the costs of the Havana Conference as reimbursable advances. The Secretary-General, however, gave it as his opinion that the principle whereby the United Nations would bear the expenses of preparatory bodies of a specialized agency which is being sponsored by the United Nations should not be applied retroactively to the case of the International Conference on Trade and Employment and its

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preparatory body in view of the length, complexity and scale of the governmental negotiations leading to the creation of the proposed ITO.

8. The Executive Secretary, invited to give his views to the Advisory Committee, reiterated the arguments advanced in the letter attached as Annex A and added that the administrative decision of the Secretary-General as to the method of financing did not seem to him to be relevant to the question of principle which was under discussion.

9. After a full discussion of the many difficulties involved in this question, the Advisory Committee decided that it was not a matter on which it would be appropriate for that Committee to make any recommendation. They therefore suggested that the Secretary-General should continue his discussions with the Interim Commission.

10. The Executive Secretary, in a final statement, said that he had been impressed with the practical difficulties confronting the Secretary-General and the Advisory Committee and would bring these points to the attention of the Executive Committee of the Interim Commission. He was confident that the Interim Commission would approach the question in a practical manner and would take full account of the practical difficulties which had been brought to the Executive Secretary's attention.

11. In its further examination of this question, the Executive Committee may wish to take into account the following observations of the Executive Secretary:

(a) In the Executive Secretary's view, there is a strong legal case for maintaining the position that all the expenses should be borne by the United Nations.

(b) If this extreme position were not insisted upon, there would be a strong case for insisting that the ITO should not be more unfavourably treated than any other agency and therefore any general rules, such as those referred to in paragraph 6 above, should apply retroactively to this case.

(c) It is clear that the Secretary-General cannot on his own authority agree to any solution other than reimbursement by the ITO to the United Nations of sums advanced out of the Working Capital Fund. If he cannot arrive at any agreement with the ITO to this effect, the matter will have to be submitted for a ruling by the General Assembly.

(d) The submission of the matter to the General Assembly may appear on the surface an attractive solution. On the other hand, it would undoubtedly raise a considerable public debate over a dispute between the United Nations and one of the specialized agencies which might prove harmful and embarrassing. In such an event, there would undoubtedly be Members of the United Nations who, not having participated in the ITO

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work and having no immediate intention of joining the Organization, would strenuously object to any supplementary estimate to meet the preparatory expenses of the ITO. These nations would no doubt also point to the apparent inequity of absolving non-members of the United Nations who participated in the Havana Conference, and who may be members of the Organization, from any share in the cost of the preparatory work from which, as members of the ITO, they would benefit.

(e) The Secretary-General's claim does not relate to the whole expenses of the Preparatory Committee and the Conference. A sum of \$557,114 was borne on the United Nations' budget for 1946 and 1947. For this amount, no claim is presented. The claim relates to the balance of \$954,830 advanced from the Working Capital Fund.\*

(f) If the Secretary-General's claim were met, it would mean that the International Trade Organization would start its operations with a debt which, taking into account the expenses of the Interim Commission, would be over \$1,000,000. This would have to be met out of the early budgets of the Organization. Having regard to the increasing burdens on Governments for provisions to international organizations, it must be anticipated that the need to budget for debt redemption in the early years might handicap the Organization in securing adequate funds for its operations. On the other hand, the United Nations Members of the Organization would in any event be called upon to contribute to any supplementary budget approved by the United Nations for replenishing the Working Capital Fund if the financial liability were determined to rest with the United Nations. Their share of the debt might, it is true, be somewhat larger if it were liquidated through the ITO. On the other hand, this is by no means certain as it is likely that the absence of certain Members of the United Nations among the membership of the ITO will be offset by the presence of nations non-members of the United Nations.

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\* There is attached as Annex B to this paper an extract from a report by the Secretary-General of the United Nations on the financing of the Preparatory Committee and of the Conference.

ANNEX A

LETTER DATED 24 MAY 1948 FROM THE EXECUTIVE SECRETARY OF THE INTERIM  
COMMISSION FOR THE INTERNATIONAL TRADE ORGANIZATION TO THE ASSISTANT  
SECRETARY-GENERAL FOR ADMINISTRATIVE AND FINANCIAL SERVICES

With reference to the last paragraph of my letter of 19 May, I am writing to inform you that I am at your disposal to begin discussions on the question of the expenses of the Preparatory Committee of the Conference on Trade and Employment, the expenses of the Conference itself and the repayment of loans to the Interim Commission.

I think it may be useful if, in advance of these discussions, I were to indicate to you the preliminary views of the Interim Commission on these questions.

In the first place, the terms of reference of the Interim Commission clearly separate the question into two parts, namely, the expenses of the Preparatory Committee and the Conference, and the question of advances to the Commission. As regards the latter, the resolution establishing the Commission provides as follows:

The expenses of the Commission shall be met from funds provided by the United Nations, and for this purpose the Commission shall make the necessary arrangements with the Secretary-General of the United Nations for the advance of such funds and for their reimbursement.

On this point, I think little difficulty should arise as I am confident that the Interim Commission would accept the position that any advances to the Commission should be reimbursable to the United Nations by the International Trade Organization when established and that the first budget of the Organization should make provision for such reimbursement.

The other aspect of the problem raises a more difficult question. At the request of the Secretary-General, I arranged for this matter to be discussed in a preliminary way at the Conference on Trade and Employment at Havana. It was the subject of discussion in a representative working party set up to consider the establishing of the Interim Commission. The working party was strongly opposed to the thesis that the expenses in connexion with the Preparatory Committee and the Conference should be reimbursable to the United Nations, but in view of the complexity of the question and the short time available in Havana recommended that the matter should receive further consideration by the Interim Commission. The Commission was, therefore, authorized "to enter into consultations with the Secretary-General of the United Nations regarding the expenses incurred

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by the Preparatory Committee of the United Nations Conference on Trade and Employment, and by that Conference and in the light of such consultations, to present a report to the first regular session of the Conference". The question was again taken up by the Executive Committee of the Interim Commission which met at the end of the Havana Conference and after an exchange of views, the Committee instructed me to make known to the Secretary-General its view that the expenses of the Preparatory Committee and the Conference should be borne by the United Nations (ICTIO/EC.1/SR.2).

In support of the view of the Interim Commission, I should like to invite your attention to the following considerations:

Paragraph 4 of Article 62 of the Charter of the United Nations gives the Economic and Social Council the power to call international conferences on matters within its competence in accordance with rules prescribed by the United Nations. The supplementary rule of procedure of the General Assembly authorizes the Council to call such conferences until the adoption of definite rules on the subject, including conferences on international trade and employment.

Pursuant to the supplementary rule of procedure, the Economic and Social Council at its first session resolved to call an International Conference on Trade and Employment and constitute a Preparatory Committee of nineteen members to recommend to the Council the agenda for the Conference, a time and place and what States non-members of the United Nations should be invited to attend (resolution 1/13).

It is clear, therefore, that the Conference and the Preparatory Committee were sponsored as part of the programme of the Economic and Social Council.

Accordingly, provision was made in the budget of the Department of Economic Affairs for the financial year ending 31 December 1946, for the expenses expected to be incurred by the Preparatory Committee. In fact, it proved impossible for the Preparatory Committee to conclude its work at the first session held in October 1946, and it was necessary to arrange for a Drafting Committee and a second session.

In previous correspondence on this subject, there has been some suggestion that the arrangement for these further meetings represented an expansion of the programme of the work of the Preparatory Committee, presumably beyond the mandate given it by the Economic and Social Council. It is somewhat difficult to follow this suggestion. The Council established the Committee to carry out certain specific functions on its behalf. It did not impose any limitation as to time or expenses upon the Committee and the Committee was, therefore, justified in carrying on its work until  
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it considered that it had performed its task. Moreover, the Council was kept fully informed of these developments through the publication and distribution immediately after the conclusion of the first session of a report by the Preparatory Committee on the work done at London. It is clear that the Council took cognizance of this report as the document is referred to in three of the resolutions adopted by the Council at its fourth session. In the absence of any decision of the Council to the contrary, the Committee could only assume the Council approved of the decision to hold a second session and to appoint a Drafting Committee and no question would be raised as to additional expenses involved.

It might perhaps be said that the Council did not envisage that the Preparatory Committee would decide to sponsor the Geneva tariff negotiations and that, therefore, part at least of the expenses involved in the second session was incurred by action outside the terms of reference of the Committee. The tariff negotiations were, however, an integral part of the overall work of the Preparatory Committee and were sponsored by it as part of the preparation for the Conference. The Council was fully informed of the intention of the Preparatory Committee to sponsor the negotiations by the report of the first session and in the absence of any advice to the contrary, the Committee could only assume the Council approved of this course of action.

As regards the expenses of the Conference itself, the Economic and Social Council decided to call the Conference as early as February 1946, and to hold the Conference pursuant to that decision cannot conceivably be regarded as an expansion of the programme laid down by the Council.

The reasons why it appears appropriate for the United Nations to bear all the expenses of the Preparatory Committee and of the Conference are the following:

- (a) It can only be assumed that the Economic and Social Council, in the absence of any specific decision to the contrary, intended to assume the financial responsibilities of its decision. This is borne out by rule 30 of the rules of procedure of the Council which reads as follows:

"Before any proposal which involves expenditure from United Nations funds is approved by the Council, the Secretary-General shall prepare and circulate to Members: (a) a summary report of the financial implications of the proposals; and (b) estimates of the costs involved in each proposal."

This rule is based directly upon Regulation 38 of the Provisional Financial Regulations of the United Nations approved by the General Assembly. No decision to the contrary was taken in the case of the /resolution

resolution by which the Council resolved to call the Conference and to establish the Preparatory Committee.

(b) As regards the expenses of the Preparatory Committee, the Committee was a subsidiary organ of the Economic and Social Council established to perform a specific task on behalf of the Council and directed to report back to the Council. The correctness of this fact can hardly be contested but if it is doubted, reference can be made to the report of the Economic and Social Council to the second session of the General Assembly in which the sessions of the Preparatory Committee are listed among "the sessions of the Council and its subsidiary bodies." No instance is known of the Council not meeting the expenses of subsidiary bodies created by itself.

(c) All available precedents support the view that these expenses should not be charged to the International Trade Organization. The cases of the World Health Organization and the International Refugee Organization are particularly in point; in both of these cases all expenses up to the establishment of an interim commission for the body concerned were borne by the budget of the United Nations. The case of the International Maritime Conference is also relevant. It is understood that no suggestion has yet been made that the expenses incurred by the work done to date in this respect will be charged against the Maritime Organization when established.

(d) No policy appears to have been laid down regarding the payment of expenses of conferences called by the United Nations at which new inter-governmental organizations are set up. The Advisory Committee on Administrative and Budgetary Questions has, I understand, asked the Secretary-General to formulate a general principle on the subject for its consideration.

(Signed) E. WYNDEHAM WHITE  
Executive Secretary

ANNEX B

HOW THE PREPARATORY BODIES AND THE CONFERENCE WERE FINANCED

The sessions of the Preparatory Bodies and the Conference were financed by the United Nations from the regular United Nations budget and also, in the form of loans, from the Working Capital Fund, as follows:

	<u>Financed From</u>	
	<u>United Nations Budget</u>	<u>Working Capital Fund</u>
	\$	\$
<u>1946:</u>		
1. First session of the Preparatory Committee (London, October to November 1946). Direct expenses of the session (temporary assistance, supplies, etc.)	213,114	
2. Salaries and allowances of United Nations personnel furnished to the Preparatory Committee during 1946	34,000	
<u>1947:</u>		
3. Drafting Committee of the Preparatory Committee (Lake Success, January to February 1947). Travel of delegates, local transportation and entertainment		9,430
4. Second session of the Preparatory Committee (Geneva, April to October 1947) Direct costs (temporary assistance, supplies, postage, etc.) and indirect costs (common temporary assistance shared with other conferences, and common services - on a pro rata basis)		769,525
5. Salaries and allowances of United Nations personnel furnished to the Preparatory Committee during 1947	160,000	
6. International Conference on Trade and Employment (Havana, November 1947 to March 1948)		
(a) Direct costs (temporary assistance supplies, material, equipment, etc.)		175,875
(b) Salaries of United Nations staff furnished to the Conference	150,000	
Total:	557,114	954,830
	<u>\$1,511,944</u>	

#### BACKGROUND OF THE FINANCING

The costs of the first session of the Preparatory Committee in London (October - November 1946), in the amount of \$213,114, were financed by the United Nations from its regular budget. In December 1946, the Secretary-General decided to make advances from the Working Capital Fund to finance the expenses of the subsequent sessions of the preparatory bodies of the Conference on Trade and Employment on the assumption that such advances would be reimbursed to the United Nations from the first budget of the International Trade Organization.

The expenses of the Drafting Committee of the Preparatory Committee, which met in New York (January - February 1947), in the amount of \$9,430, were financed by the United Nations from the Working Capital Fund. The funds advanced by the United Nations from the Working Capital Fund for the second session amount to \$769,525.

The plenary Conference on Trade and Employment, held in Havana (November 1947 to March 1948), was financed by the United Nations from the Working Capital Fund to the extent of about \$175,875. In addition, the salaries and related allowances of United Nations staff loaned to the Conference, which have been absorbed by the United Nations budget, amount to about \$150,000. By agreement, the Cuban Government absorbed a substantial part of the costs of the Conference in its capacity as the host nation.

The total amount loaned by the United Nations from the Working Capital Fund for the financing of the preparatory bodies and the Conference is \$954,830. In addition to this, the United Nations loaned staff to the preparatory bodies in 1946 and 1947 whose salaries and related allowances, about \$34,000 and \$160,000 respectively, were absorbed in the United Nations budget. The total amount thus involved is \$1,511,944, of which \$557,114 represents costs financed by the United Nations from budgetary appropriations and \$954,830 represents costs financed by the United Nations in the form of loans to the International Conference and its preparatory bodies.

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