

SUMMARY RECORD OF THE TWELFTH MEETING OF THE
GENERAL COMMITTEE

Held at the Capitol, Havana, Cuba,
Tuesday, 2 March 1948 at 10.30 a.m.

Chairman: Mr. Max SUETENS (Belgium)

1. INTERPRETATIVE NOTES. (NOTE BY THE EXECUTIVE SECRETARY - E/CONF.2/BUR/32)

Mr. COLBAN thought it more suitable to place the Interpretative Notes under each Article. Mr. HOLMES saw no objection to their being grouped in an Annex, but suggested that Articles to which there were Interpretative Notes should be so indicated by an asterisk. Mr. WAERUM and Mr. WILGRESS felt that since the Notes would be used only in connection with interpretation, the appearance of the Charter would be improved by including them in an Annex.

It was agreed that the Interpretative Notes should be grouped together in an Annex to the Charter, and made an integral part thereof by a suitable article to be inserted into Chapter IX.

2. CHINESE, RUSSIAN, SPANISH TEXTS OF THE CHARTER. (NOTE BY THE EXECUTIVE SECRETARY - E/CONF.2/BUR/34)

Mr. HOLMES stated that because of the technical problems involved a period of six months should be allowed, rather than the two months indicated in paragraph 3 (b) of the Note by the Executive Secretary.

The EXECUTIVE SECRETARY replied that the shorter period had been suggested in order that the Charter could be presented to Legislatures for ratification without an undue lapse of time.

Mr. COLBAN, replying to a question of the Chairman, said that the general terms of the Mexican proposal were approved by Committee VI.

Mr. PHILIP suggested a three months period. Mr. GUTIERREZ suggested eliminating the time element and considering the text official, subject to any changes called to the attention of the First Conference. Mr. WUNSZ-KING thought three months was sufficient time and expressed his willingness to continue collaboration with the Chinese Section of the United Nations Secretariat; perhaps the latter thought should be included in the Note. Mr. COLBAN preferred the two months period and pointed out that collaboration between the Interim Committee and the various governments would continue until the Executive Secretary decided the texts were ready for official approval.

/Mr. GUTIERREZ

Mr. GUTIERREZ said that under the procedure outlined, a year would elapse before the official Spanish text reached the Parliaments.

The EXECUTIVE SECRETARY thought it not too necessary to include Mr. Wunsz-King's suggestion though he had no objection to doing so. Would it be satisfactory to Mr. Gutiérrez if sub-paragraph (c) were deleted, since it either implied considerable delay or the convening of a special session of the Executive Committee of the Interim Committee which would be expensive and unjustified.

Mr. HOLMES noted that the procedure under (d) and (e) did not allow for comments - a government would signify its approval or disapproval. However, the deletion of (c) would eliminate the required consultation between governments and the Interim Committee.

The EXECUTIVE SECRETARY replied that the necessary consultation would occur between the Secretariat and governments. The Executive Secretary moreover might, for example, seek advice from the members of the Central Drafting Committee what he was anxious to avoid was the necessity for calling a special meeting of the Executive Committee.

Mr. WAERUM wondered whether the procedure for ratification and the official languages procedure could not be considered separately; possibly the English or French texts could be used for ratification. The CHAIRMAN thought the latter was an internal matter for the governments concerned.

Mr. WUNSZ-KING had no objection to the deletion of sub-paragraph (c) but suggested that (d) would have to be amended.

The text of document E/CONF.2/BUR/34 as amended was approved.
(Amendments: change two months to three months in sub-paragraph 3 (b); delete sub-paragraph 3 (c); amend, as a consequence, sub-paragraph 3 (d) to complete the procedure.)

3. THE FINAL ACT (DOCUMENT E/CONF.2/BUR/24)

Mr. AUGENTHAULER (Czechoslovakia) suggested the substitution of the word "resolution" for "agreement", as if there was a question of entering into an international agreement, he would require special power from the President of Czechoslovakia.

Mr. WINDHAM-WHITE (Executive Secretary) said that a number of representatives had expressed their fears concerning the use of the word "agreement". That was why the Secretariat had always emphasized the word "arrangement". A new proposal was now before the Working Party concerned to establish the Commission by resolution of the Conference. In either case he saw no reason to refer specifically to the arrangement or resolution in the Final Act.

/Mr. NASH (New Zealand)

Mr. NASH (New Zealand) felt that it would be useful to include a reference to the Interim Commission, since this would be the most important resolution of the Conference.

On the suggestion of Mr. Wilcox (United States of America), the Committee decided to consider the Executive Secretary's note concerning the maintenance of reservations (document E/CONF.2/BUR/35) simultaneously with its consideration of the text of the Final Act.

Mr. WYNDEHAM-WHITE (Executive Secretary) said that he considered it desirable that in submitting to the Conference a draft of a Final Act, the General Committee should also give some indication of the significance to be attached to its signature.

A second problem presented itself in connection with the fact that some delegations might wish to sign subject to maintaining reservations on specific points in the Charter. On reflection he had come to the conclusion that whatever view was taken of the significance of signature of the Final Act, it would be preferable for representatives to record their reservations in their final speeches rather than insist that they should be attached to the text of the Charter or of the Final Act.

The CHAIRMAN expressed the view that the General Committee had already reached a conclusion in favour of a literal interpretation of the Final Act, viz. that it merely authenticated the text approved by the Conference for submission to Governments.

Mr. WILCOX (United States of America) proposed that any delegation could have its reservations recorded in the reports of the Sub-Committees and Committees, in the records of the Plenary Sessions and in speeches at the Plenary Sessions. No reservations, however, should be attached to the text of the Charter or to signature of the Final Act. Any such reservations would place other delegations in a difficult position, for their parliaments would want to know why they had not reserved their position if other delegations had so done. Also, any implication that a country would be committed to accept the reservations of another, would be completely unacceptable. To ensure that no final reservations would be necessary, he was prepared to accept the deletion of the words "to be submitted to the governments represented".

Mr. HAKIM (Lebanon) supported the remarks of the United States representative, and expressed the view that the text of the Final Act as it now read was sufficient to ensure that no final reservations would be needed.

Mr. HOLMES (United Kingdom) drew attention to the fact that he had not assumed as extreme a position as had attributed to him by the Chairman.

/His signature

His signature would certainly involve an undertaking to submit the Charter to his Government. He fully agreed with Mr. Wilcox that there should be no reservations to the Final Act and he hoped that the text of the Act could remain unchanged.

Mr. WILCOX (United States of America) explained that he was not urging the suppression of the words "to be submitted to the governments represented" but that he would accept their suppression in preference to the addition of several pages of reservations.

Mr. PHILIP (France) also supported the remarks of Mr. Wilcox and said that he planned to make only the customary general reservation on the text of the Charter, that is to say that its acceptance was subject to ratification by the French Parliament. If certain delegations insisted on recording reservations in an Annex to the Final Act or in the Charter, however, his Government would fail to understand why he had not done the same. Since the Geneva discussions he had felt himself committed to defend the Charter before his Government and therefore he was prepared to accept, with Mr. Wilcox, the deletion of the words "to be submitted to the governments represented", if that would prevent the maintenance of final reservations.

Mr. NASH (New Zealand) pointed out that the Final Act did not refer to any undertaking on the part of representatives to the Conference to submit the Charter to their governments in their personal capacity. The Secretary-General of the United Nations would make the submission to the various Ministries of Foreign Affairs and he, therefore, was the only individual personally committed. For his part, he considered himself under an obligation to present the case for the Charter to his Parliament.

Mr. STUCKI (Switzerland) said that he accepted Mr. Wilcox's proposal. The signature of the Final Act put no legal responsibility either on the signatories or on governments or on parliaments and written reservations would for that reason be a legal absurdity. As to the moral aspect, the Executive Secretary had pointed out that there were two possible approaches. If the signature of the Final Act carried no moral obligation, then clearly reservations would be superfluous; if on the other hand, as Mr. Stucki himself believed, the signature did involve a moral obligation, then reservations would also have a moral significance, but it would be entirely sufficient to make the reservations either in the records of a Sub-Committee of a full Committee or of a Plenary Session.

Mr. CHARLONE (Uruguay) agreed with Mr. Wilcox's view. He did not think it necessary for the General Committee to pronounce on the two interpretations offered by the Executive Secretary.

/The CHAIRMAN

The CHAIRMAN stated that it was unanimously agreed to adopt Mr. Wilcox's proposal but not to make any decision on the scope of the signature. A signature would thus recognize only the accuracy of the text and the text would be presented to the governments concerned. On the other hand, if a delegate wished to attach a greater significance to his signature, he was perfectly free to do so and to explain his signature. Reservations would be expressed in Sub-Committee reports, in the Committee reports, or in statements in Plenary Sessions. In the last paragraph of the Final Act the phrase "to each of the signatories" would be replaced by "to each of the Governments represented at the Conference".

4. TIMETABLE FOR THE CONFERENCE

The Executive Secretary withdrew document E/CONF.2/BUR/33.

Mr. HOLMES (United Kingdom) said that it would be useful if progress reports could be submitted by the Central Drafting Committee, as the preparation of the final text might delay the completion of the Conference.

The CHAIRMAN stated that another document would be submitted to replace the one withdrawn by the Executive Secretary.

5. REPORTS OF COMMITTEES TO THE CONFERENCE

The Executive Secretary stated that a clear ruling must be given on the way in which statements in Sub-Committee Reports were to be incorporated in the records of the Conference.

Mr. HOLMES (United Kingdom) said that he was in full agreement with the observations by the delegation of Chile in document E/CONF.2/41/Add.1.

Mr. TORRES (Brazil) suggested that a third annex be included in the Committee Reports indicating any changes that had been made in the Sub-Committee Reports by the full Committee, otherwise, he agreed with the note submitted by the Executive Secretary.

Mr. WILGRESS (Canada) agreed with the views expressed by Mr. Holmes. The Committee Reports should contain a full record of the adoption of the Sub-Committee Reports together with changes thereto. He did not agree with the suggestion of Mr. Torres.

Mr. WUNZ-KING (China) pointed out that many delegations had withdrawn amendments on the understanding that certain statements would appear either in Sub-Committee Reports or in the Summary Records. He proposed that sub-paragraph (d) be amended to read "any provisional reservations and statements which individual delegations have asked to be inserted in the records....."

Mr. WAERUM (Denmark) said that if Mr. Wilgress' suggestion were adopted for the report of Committee I, some delegations who had raised matters in
/full Committee

full Committee would have a recognition of this in the records, while others would be less fortunate in that their points might be dealt with only in the Sub-Committee Reports.

Mr. NASH (New Zealand) suggested that the seventh line of the fourth paragraph of document E/CONF.2/41/Add.1 be amended to read "....plenary sessions, the recommendations of the Reports shall be deemed to...."

Mr. HOLMES (United Kingdom), in answer to Mr. Nash, called attention to the first sentence of the second paragraph of the Chilean note.

The CHAIRMAN stated that minor drafting changes would be taken into account in preparing the final draft.

Mr. TORRES (Brazil) thought that there should be uniformity in the structure of all the Committee Reports.

Mr. WILGRESS (Canada) withdrew his suggestion.

Documents E/CONF.2/41 and E/CONF.2/41/Add.1 were approved.

The meeting rose at 1.10 p.m.