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PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE
ON TRADE AND EMPLOYMENT

COMMITTEE V.

Seventh Meeting

Held on Tuesday 5 November 1946 at 10.30 a.m.

Chairman: Mr. L. R. EDMINSTER (United States)

The CHAIRMAN opened the meeting by recalling that at the close of the last session, he had suggested that the Delegate for the United States might be invited to make some clarifying statement with reference to the assumptions which lay behind the proposals embodied in Article 62 on the composition and procedure of Commissions. He therefore called upon Mr. KELLOGG (United States) who made the following statement which the Committee subsequently requested should be incorporated in full in the summary record.

COMMITTEE V (ADMINISTRATION AND ORGANIZATION)

STATEMENT OF UNITED STATES POSITION
WITH REGARD TO COMMISSIONS

1. General Status of Commissions

The Commissions should be autonomous bodies on a high level, subject only to the supervision and co-ordinating authority of the Executive Board. They draw their authority from the Charter itself and from their appointment by the Board. It is hoped that the Members will be men of the highest calibre and prestige - for example men of the outstanding ability of our Chairman, M. Suetens, - and it is hoped that the great responsibility and important position of the Commissions will appeal to these men.

The job of the Commissions would be to draw the conclusions and to make the recommendations on which the Executive Board would act.

2. Relation of Commissions to Executive Board

The Commissions would be subordinate to the Board. Their recommendations as experts will be subject to the political judgment of the government representatives on the Board. The Board will also have responsibility to co-ordinate the Commissions as among themselves with a view to keeping them from working at cross purposes. The Executive Board would, under the United States draft, be able to refer to the Commissions any matters it considers suitable.

3. Relation of Commissions to Director-General and Secretariat

The functions of the Director-General and Secretariat would be different in nature from those of the Commissions. The Secretariat would assemble the facts and evidence on the basis of which the Commissions would reach conclusions and make recommendations. The Secretariat would be ready to assist the Commissions, to gather and marshal information and to make the studies which the Commissions require. The Director-General should consult with the various Commissions in setting up the corresponding divisions of the Secretariat concerned with their work.

The Director-General and Secretariat will be able to maintain intimate contact with, and full cognizance of, the work of the commissions at all times. The original United States draft made the Deputy Directors-General ex officio members of each of the commissions, and the present draft still provides for participation in their work by the Director-General or his deputy. If the Director-General should foresee the likelihood of conflict among the commissions, his right to participate in the meetings of the Board would give him a chance to express his fears in an effective way. He might also initiate proposals in any organ of ITO, including the commissions.

In short, the Director-General and the Secretariat are to render to the commissions, on their request, the indispensable assistance in personnel, preparation and administration, without which the commissions cannot operate.

ANSWERS TO QUESTIONS RAISED

(1) Should the Director-General direct the Commissions?

Answer. This provision would tend to prevent the commissions from having the high level status they require and which is needed in order to appeal to top-level experts. The conclusions of the best experts in the field should be channelled directly to the Executive Board rather than to the decisions of any one man.

To put this duty on the Director-General would burden him with responsibilities (many of them semi-judicial) which no one man should assume. As a result, all or some particular segments of the work of the ITO might suffer. If the capacities and interests of the Director-General should be weighted in a particular direction, it would have serious consequences upon the work of the organization.

(2) Who would raise problems for the consideration of the Commissions?

Answer. The Executive Board, under Article 60 would refer matters to the commissions and supervise their work. The Director-General has the right, also, under Article 63 (2) to initiate proposals in any commission. The commissions can also study matters and make recommendations on their own initiative.

(3) Are there precedents for this arrangement?

Answer. Yes. The Air Navigation Commission of ICAO is composed of experts appointed by the Executive Body of ICAO and it makes recommendations to that body. The parallel is close but is not exact.

(4) What is relation between Director-General and Chairman of a Commission?

Answer. The Chairman of a Commission would be the head of a semi-judicial body, whereas the Director-General or his deputy on the Commission would be concerned with the administrative and investigate work of the Body. In the opinion of the US semi-judicial matters should not be assigned to an administrative officer.

(5) What is the status of the Commission Members?

Answer. They must be men of the highest qualifications. The status of the Commissions has been so conceived as to attract these men. It is impossible at this time to foresee whether these jobs will be full-time or part time. It may well be that some of the work may be such as to require almost full time appointments, but it would be unwise now to lay down any set rule. The US draft leaves this to the Conference to determine in the light of operating experience.

It is to be hoped that the Organization will get top men to start with. These men should be persuaded to serve on whatever basis can be worked out. If experience then shows that these men should serve full-time, it is hoped that the prestige then built up will be such as to attract the right kind of people to do the work on that basis.

Mr. ERASMUS (South Africa) foresaw a difficulty in attracting highly qualified men on a permanent basis. If an international civil service was built up in the Commissions, the members would in the course of years tend to lose their practical points of view. On the other hand, the necessary continuity could be ensured by appointing a permanent whole-time Chairman who would co-operate with a division of the Secretariat permanently attached to the Commission.

H.E. Mr. COLBAN (Norway) expressed general agreement with the remarks of both previous speakers and suggested two drafting amendments:

That in paragraph 1, line 1, "appointed" be replaced by "invited" and that in paragraph 2, line 2, "office" be replaced by "service". These changes would, he thought, ensure a sufficient measure of elasticity and at the same time would enable the Conference to arrange for the appointment of a full-time Chairman to each Commission, if it is so desired.

Mr. BURY (Australia) considered that the functions of members of Commissions should be similar in nature to those of company directors. Their service should be on a distinctly part-time basis to permit them keeping in close touch with their own countries and with outside affairs. Commissions composed of whole-time members might become too detached from the main stream of activities which they were administering. An over-elaborate structure permanently employing first-class men would also add enormously to cost. Any tendency to give the Commissions "semi-judicial" functions, in any wider sense than that of strict impartiality; in relation to matters with which the Board is competent to deal, should, he believed, be strongly resisted. He wished to support the amendments proposed by the Delegate of Norway and agreed that at this stage the position should be left as flexible as possible.

Mr. HOLMES (United Kingdom) found himself very generally in agreement with the United States Delegate and as well as with others who had spoken. He questioned however, "semi-judicial" which suggested that the Commissions would be endowed with rather more of a judicial character than was really intended. In the view of his Delegation, they would be advisory bodies. On the whole, the Charter made it clear that their character was essentially an advisory one although this tended to be some what slurred over in Article 65 and to a limited degree in Article 66. He agreed with the Australian Delegate that members and Chairman of Commissions would benefit greatly from close contact with outside affairs. Nevertheless, in the

case of particularly Commissions for example concerned with Commodity Arrangements and Commercial Policies, it had to be recognized that the work would be fairly arduous and of a continuous nature. Circumstances would vary from one Commission to another and the question of full-time or part-time service would have to be determined in the light of actual experience.

H.E. Mr. COLBAN (Norway) stated that the amendments he had proposed were expressly intended to meet the points raised by the Australian and United Kingdom Delegates - namely, to avoid the creation of expert bodies in competition with the Director-General and the Secretariat. He had thought of suggesting, by way of emphasizing the independent and advisory status which these world experts should have, the addition after the words "conditions of service" of the following: "including stipulations concerning fees and indemnities".

Mr. QURESHI (India) considered that the Commissions should form a permanent or quasi-permanent organization. Their duties would be more onerous than those of any commercial board, and they would have to cover a much wider field and should be full-time experts of the highest calibre. Economy should not outweigh efficiency. There was a real need for continuity and this could not be achieved by occasional ad hoc meetings of experts, who, if they were real experts, would not have much time to spare. A possible compromise might be to appoint members for three years, sitting in rotation, and maintain the Commissions in permanent establishment. Adequate representation should be given to the less industrialized countries.

Mr. DAO (China) suggested that in the selection of members the precedents of the Economic and Social Council be followed: Governments should be consulted and their consent obtained. No country should have more than one representative on any Commission.

Mr. HOUTMAN (Belgium) supported the South African Delegate. It would be necessary to rely on temporary though highly qualified advisers serviced by a permanent secretariat. He proposed that paragraph 3 be amended on the following lines: "That each commission should elect a Chairman and a Secretary and should adopt its own rules of procedure. The functions of the Secretary should be of a permanent character."

Mr. PALTHEY (France) expressed general agreement with the Delegate of Norway.

The CHAIRMAN suggested that the points raised should be referred to a Sub-Committee. He invited discussion on each of the paragraphs of Article 62.

Baron Van TUYLL (Netherlands) agreed with those who had argued that members of Commissions should serve only temporarily. He, therefore, proposed, in paragraph 1, to delete "appointed" and substitute "invited", and to insert words such as "from time to time", or "as may be required".

Mr. LAURENCE (New Zealand) questioned the use, in paragraph 5, of the words "public international", which he thought might be deleted.

Mr. KELLOGG (United States) considered that the word "inter-governmental" should be used to correspond with Article 71 (2).

The CHAIRMAN suggested that a distinction might be drawn between wording which would involve on the one hand "consultation" and on the other hand, active participation in the work of a commission.

Mr. BURY (Australia) expressed the personal opinion that the position of non-governmental organizations was sufficiently covered in Article 71 which applied to the whole organization. If, however, it was desired to provide a link between the commissions and other inter-governmental bodies, the wording should be precise. The work of some of the commissions would clearly be most intimately related with the activities of such inter-governmental organizations as the Food and Agricultural Organization or the International Monetary Fund; but to subject the commissions to pressure by organizations of every kind might react unfavourably on the International Trade Organization.

Mr. COLBURN (Norway) thought that the amendment to paragraph 1 suggested by the Netherlands Delegate would make the Article too loosely worded. It was sufficiently elastic as it stood.

Article 2. Membership (except last part of paragraph 1)

Mr. HOUTMAN (Belgium) observed that the French translation of the first paragraph did not correspond correctly with the English text. For example, the first words should be "Les membres originaires" instead of "Les membres originels", whilst the date, which was left blank in the English text was specified in the French text as 1 December 1946.

Mr. HOLMES (United Kingdom) desired that no doubt should remain as to whether membership of the organization was or was not subject to some procedure in the Executive Board. Articles 60 (3) as amended allowed, instead of obliging, the Executive Board to recommend to the Conference the admission of new members to the organization.

Mr. TURNER, Secretary, stated that the Sub-Committee would be recommending that the word "may" should replace "shall" in Article 60 (3) and had foreseen the need for a consequential alteration in Article 2-2.

Mr. BURY (Australia) proposed that the words "on recommendation of the Executive Board" be deleted.

On the proposal of the Chairman, it was agreed that Article 62 should be added to the terms of reference of the First (General) Sub-Committee, appointed at the last meeting.

Mr. TURNER, Secretary, said that the Sub-Committee had met at 5 p.m. on the previous day, and had unanimously agreed on a redraft of the Article submitted to it (Articles 52, 54, 55, 59 and 60). He suggested that the Sub-Committee should hold a further meeting to discuss Article 62, and should report on all the Articles together.

The Committee adjourned at 12.41 p.m. until 3 p.m. on Wednesday, 6 November 1946.