

United Nations

Nations Unies

**ECONOMIC
AND
SOCIAL COUNCIL**

**CONSEIL
ECONOMIQUE
ET SOCIAL**

RESTRICTED
LONDON
E/PC/T/C.V/34
21 November 1946
ORIGINAL: ENGLISH

PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE
ON TRADE AND EMPLOYMENT

COMMITTEE V

Fifteenth Meeting
held on Tuesday, 19 November 1946
at 11 a.m.

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

Consideration of the Draft Report of the Committee.

The CHAIRMAN drew the attention of the Committee to the Draft Report, prepared by the joint Rapporteurs, which had already been distributed. He suggested that the Secretary read the Report paragraph by paragraph, passing over Section C on Voting and Executive Board Membership, which had already been approved. It would be helpful if the Committee agreed in advance that purely editorial changes be referred to the Secretary, who in consultation with the Rapporteurs, would be authorized to carry out any necessary alterations. The discussion should therefore be confined as far as possible to substantive matters.

Mr. BURY (Australia), one of the Rapporteurs, regretted the absence of Dr. DAD, who was indisposed. The work had been divided between them, and there might therefore be a certain amount of overlapping and repetition. The Report was somewhat lengthy but it covered a large section of the Charter, and it had been felt that unless most of the points raised during the Committee discussions were dealt with, the Report would have little value.

The SECRETARY, Mr. Bruce TURNER, mentioned that there were two documents before the Committee, E/PC/T/C.V/W.7, the Draft Report and a document on plain paper containing the revised text of Chapter VII of the Draft Charter. This latter document would be attached to the final Report as an appendix.

On the invitation of the CHAIRMAN, the SECRETARY read the Report paragraph by paragraph. Part 1, which was purely a factual statement, was approved without comment.

The SECRETARY then read Part 2, on page 4 of the document.

The preamble and paragraphs 1 and 2 of Section A (Membership and Functions) were approved without comment.

Section B (The Conference), paragraphs 1, 2 and 3 were approved without comment.

Paragraph 4 was approved, subject to the deletion, by common consent, of the word "such" in the fourth line.

Paragraph 5 was approved.

Section D (The Executive Board - Procedure, Powers and Duties), paragraph 1 was approved.

Paragraph 2 was approved, subject to the alteration of the word "probably" to the words "almost certainly", in the fourteenth and fifteenth lines on page 15.

Paragraph 3 was approved subject to the phrase "United States Draft Charter" in the last line, but two on page 15 being altered to "The United Nations Draft Charter", and to the suppression of the last sentence of the paragraph, as implying some discrimination on views expressed in the discussion.

The SECRETARY then proceeded to read Section E (The Commissions). Paragraphs 1, 2 and 3 were approved without modification.

In connection with paragraph 4, the CHAIRMAN thought that something more explicit might be added to the effect that the text of the Charter itself left the matter open.

Mr. HOLMES (United Kingdom) suggested that the last sentence on page 17 be redrafted to run "While some anticipated that the work of some of the Commission at any rate would be so heavy" This alteration was approved, together with the addition, proposed by Mr. BURY, of the following sentence at the end of the paragraph: "No need was felt for changing the words of the United States Charter, which did in fact leave the matter to be decided by the Conference".

Paragraph 5 was approved, subject to the substitution of the word "persons" for "men" in the last line but two.

Paragraph 6 was approved without comment.

On paragraph 7, Mr. HOLMES (United Kingdom) wondered whether it was technically possible for the Committee to adopt the statement contained in the last paragraph.

Mr. BURY (Australia) was under the impression that the Joint Committee intended to refer the matter of machinery to the Economic and Social Council. He suggested that the matter be left to the discretion of the Rapporteur.

Mr. ALAMILLA (Cuba) thought that two points were involved. Had the Joint Committee finished in time, Committee V might have been called on to provide for a Commission and draw up the necessary Articles. He suggested that a paragraph be inserted to the effect that as the Joint Committee had finished so late, it was thought better to leave the question to the Interim Drafting Committee.

Mr. BURY (Australia) preferred that any further discussion be postponed until the next meeting of the Preparatory Committee, and that the last sentence be amended to read:

"While sympathy was expressed with the underlying purpose, it was generally felt that detailed discussion of the proposal should be left to the next meeting of the Preparatory Committee, in the light of advice received in the meantime from the Economic and Social Council."

The CHAIRMAN appreciated the point made by the Delegate for the United Kingdom, and suggested that the Rapporteur edit the last sentence of paragraph 7 in the light of the discussion that had taken place, and submit a draft to the meeting to be held later in the day.

The SECRETARY then read Section F (The Secretariat).

The opening words "Most delegates thought" were deleted in favour of the phrase "it was unanimously felt" and, on the suggestion of Mr. KELLOGG (United States) and Mr. NAUDE (South Africa) the phrase beginning at the end of the fifth line, was redrafted to run "and the prevention of any possible separatist tendency might develop in" was approved.

Paragraphs 2 and 3 were approved without comment.

The SECRETARY then read Section G (Miscellaneous Provisions).

Mr. NAUDE (South Africa) suggested that in the interests of brevity, the definition of the functions of the four agencies referred to at the end of paragraph 1, be omitted. It was agreed that the necessary revision of the wording be left to the Rapporteur.

THE SECRETARY then read the paragraphs dealing with "Legal Capacity, Privileges and Immunities" and "Payment of Contributions". These were approved without modification.

The SECRETARY then read paragraph 1 of "Amendments, Withdrawal and Termination".

The CHAIRMAN proposed a revision of the second sentence, to give suitable emphasis to the concept underlying it.

"It was therefore felt that provision should be made whereby the Conference might decide that a non-accepting member would be compelled to withdraw or, in the absence of such a decision whereby such a member might be enabled voluntarily to withdraw from the Organization notwithstanding any general provisions contained elsewhere in the Charter limiting the right of withdrawal."

Paragraph 1 was approved, subject to this amendment.

The SECRETARY then read paragraph 2.

Mr. HOUTMAN wished to know what exactly was the implication of the reference to the United States Trade Agreements legislation.

Mr. HOLMES (United Kingdom) replied that the point had been raised when the terms of Article 79 of the Draft Charter were being considered. Under the Reciprocal Trade Agreements Act of the United States legislature, it was not possible for a longer period of validity than three years to be given at any one time to trade agreements. In view, however, of the interdependence of these general provisions with the result of the tariff negotiations into which countries would enter, five years seemed too long a period of initial validity.

The CHAIRMAN, in order to meet that point, and a further point which might arise on Article 79 at the instance of Committee II, had attempted to recast the paragraph as follows:

"In considering withdrawal and termination, the Committee took into account the necessity of giving the Organization a fair chance at its inception to become firmly established, but it was felt that in view of the fact that the United States Trade Agreements legislation would not permit that country to enter into tariff commitments of more than three years' duration, the period within which no withdrawal should take place immediately following the adoption of the Charter should likewise be three years, instead of five, as proposed in the United States Draft Charter. It was also felt that six months' notice of intention to withdraw rather than one year, as in the United States Draft, would be adequate. Special provision was also made to cover certain overseas territories. Thus, a member would be able to withdraw at the end of three years by giving notice at the end of two and a half years."

The CHAIRMAN, in view of the lateness of the hour, suggested that the discussion be renewed at 3 p.m. that afternoon.

It was agreed that copies of the Chairman's new Draft would be made available at the afternoon meeting.

The meeting rose at 12.50 p.m.

1. The Meeting resumed at 3.p.m.

The CHAIRMAN, in accordance with the agreement made at the end of the morning meeting, circulated the new Draft of paragraph 2, as follows:

"2. In considering withdrawal and termination, the Committee took into account the necessity of giving the Organization a fair chance at its inception to become firmly established. But it was felt that, in view of the fact that the United States trade agreement legislation would not permit that country to enter into tariff commitments of more than three years duration, the period within which no withdrawals should take place immediately following the adoption of the Charter, should likewise be three years, instead of five as proposed in the United States Draft Charter. It was felt that six months notice of intention to withdraw, rather than one year (as in the United States Draft) would be adequate. Thus, a member would be able to withdraw at the end of three years, by giving notice at the end of two and a half years. Special provision was also made to cover certain overseas territories."

He explained that he had worded the new Draft in anticipation of the amendment which would be made to Article 79, as a result of the Memorandum from Committee II.

The Committee accepted the new Draft proposed by the Chairman without amendment.

The Secretary read the paragraphs dealing with Interpretation and Settlement of Disputes.

Paragraph 1 was approved subject to the second sentence being amended to read: "The question of providing also a Russian text did not present itself at this Conference."

On paragraph 2, Mr. HOLLES (United Kingdom) felt that the first sentence did not represent the opinions expressed in the Sub-Committee. He suggested a sentence should be substituted to the effect that attention was called to the fact that Article 26 of the Statutes of the International Court of Justice provided for the possibility of certain matters being decided in a Chamber of the Court rather than in the full Court itself.

Baron van TUYLL (Netherlands) reminded the Meeting that he had suggested a special Chamber for commercial cases. However, he did not insist that such a sentence should be retained in the Report, as his point would be included in his Memorandum to the Interim Drafting Committee, referred to in paragraph 4.

Paragraph 2 was approved.

- (a) With the amendment proposed by the United Kingdom Delegate.
- (b) Subject to the last phrase of the third sentence being amended to read: "and that only legal issues should be referred to independent Courts".

Paragraph 3 was approved without amendment.

Paragraph 4 was approved (a) with the deletion of the words "because in the first place no specific provision had been made for it in the United States Draft Charter, and secondly," and (b) with the substitution for the last paragraph of the following paragraph: "Certain delegations wished the provision in regard to arbitration and the International Court of Justice to be expanded and made more specific. They undertook to prepare a memorandum setting out their views. It was agreed that the interim Drafting Committee should be asked to consider these views in conjunction with the report of Committee V's discussion."

The paragraphs on "Entry into Force" were approved without amendment.

The SECRETARY read out the paragraph on "Interim Tariff Committee".

The paragraph was approved subject (a) to the insertion of the words "or other concessions" after the words "certain reductions", and (b) to the amendment of the final clause of the last sentence to read: "that the implementation of the Tariff and Charter Agreement should be interdependent."

Mr. BURY (Australia) reminded the meeting that during the morning session it had instructed the Rapporteur to elaborate a new draft of the last sentence of paragraph 7 of Section E - The Commissions. He proposed the following sentence: "In view of the fact that the Joint Committee of Committees I and II were referring the question of machinery to the Economic and Social Council for advice, it was agreed that the matter would have to be left over for the present, to be considered later by the Interim Drafting Committee and the next meeting of the Preparatory Committee".

The above sentence was approved without amendment.

The Committee adopted the report as amended for submission to

the Plenary Committee, with the understanding that the revised text of Chapter VII of the Draft Charter would be appended and that the Secretary would be accorded the power to make purely editorial changes.

2. Revision of Article AI (79) of the Revised Text of Chapter VII of the Draft Charter.

The CHAIRMAN drew the attention of the meeting to the memorandum from Committee II on the subject of the revised text of Article 79 - Withdrawal and Termination. He reminded the meeting that this question had already been studied during the consideration of the draft report of the Preparatory Committee, Section G, Amendments, Withdrawal and Termination, paragraph 2.

The text of paragraph 1 of Article AI (79) was amended

(a) by the deletion of the words "give notice of withdrawal", and the substitution of the words "may withdraw", in the first line.

(b) by the addition of the phrase "in accordance with the provisions of paragraph 2" after the words "Secretary-General of the United Nations."

3. Instructions to the Interim Drafting Committee

The SECRETARY stated that Committee V was expected to produce a further confidential document containing such specific instructions as it might wish to give to the Interim Drafting Committee. There had not been sufficient time to circulate such a document for consideration by the Committee at the present meeting. He had a draft before him in which were assembled points that he considered might be brought to the notice of the Interim Drafting Committee. He thought it might be more convenient to members if, instead of calling another meeting to approve these instructions, the document was simply circulated and any changes or additions which any member of the Committee might wish to have made were communicated direct to the Rapporteur or himself.

He further pointed out that all the documents of Committee V would be at the disposal of the Interim Drafting Committee, and that in addition, it was hoped to provide a complete index to all the documents.

The Committee agreed to the procedure suggested by the Secretary.

4. Conclusion of Session

The CHAIRMAN announced the conclusion of the work of the Committee until the following year, unless an emergency should arise. He thanked all those who had participated in the work of Committee V. It had been a great privilege to act as Chairman to a Committee that had worked with such energy and ability and in such a fine spirit of co-operation. An enormous area of agreement had been reached. He paid a personal tribute to the Rapporteurs, Mr. BURY (Australia) and Mr. DAO (China) to the Secretary Mr. TURNER (New Zealand) and his assistants, Mr. Huang and Miss Miller and to the Interpreters.

Mr. BURY (Australia) thanked the Chairman for the honour he had paid him, and explained that the work of the Rapporteurs had been enormously facilitated by the assistance of Mr. KELLOGG (United States).

Mr. HOLMES (United Kingdom) felt that the measure of success attained by the Committee was largely due to the wisdom of its Chairman. He was sure he could speak for all the members of the Committee in expressing appreciation of the way in which the Chairman had conducted the proceedings of the Committee.

Dr. ALAMILLA (Cuba) endorsed the remarks of the United Kingdom delegate.

The Meeting rose at 5 p.m.
