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12 February 1977
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DRAFTING COMMITTEE OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

SUMMARY RECORD OF THE TWENTIETH MEETING HELD AT
LAKE SUCCESS ON 12 FEBRUARY 1977 AT 10:30 a.m.

Chairman: H.E. Erik COLBAN

1. The Chairman directed the attention of the Drafting Committee to the formulation of Article 27 as contained in E/PC/T/C.6/61, and the Committee agreed to this text and decided to mention the Chilean amendment (E/PC/T/C.6/W.61) in its report.

2. Discussion of the Tentatively Agreed Articles (Documents E/PC/T/C.6/52, E/PC/T/C.6/54, and E/PC/T/C.6/60)

On the suggestion of the United States Delegate it was agreed to bring a minor change to Articles 52, 55, and 58. The United States Delegate suggested furthermore certain changes to Article 60; he was of the opinion that the definition of a primary commodity was meaningless and that it should be left to the Organization to decide what a primary commodity was. He proposed therefore, that at least a part of paragraph 1 of Article 60 should be omitted and paragraph 3 of Article 52 should be enlarged to clarify the conditions under which a commodity agreement could be concluded with reference to related, substitute and synthetic products. As to paragraph 3, he was of the opinion that the definition of an inter-governmental commodity arrangement, as it stood, was too broad and therefore dangerous and could be omitted also, the reference to the "purchase and sale of a commodity falling under Section E of Chapter V" could be included among the exceptions contained in Article 59. He also proposed the deletion of paragraph 4, because he considered it redundant as the definition of regulatory agreements was already contained in Section C of Chapter VII.

/The United States

The United-States Delegate thought that in case paragraph 4 was retained the words "export or import of a commodity" should be changed to "trade".

As to paragraph 1, the Committee decided to retain all of it and to include a note in the Report to the effect that the United States Delegate opposed it or parts of it.

As to paragraph 2, the Cuban Delegate was of the opinion that it should be retained because it does not only deal with the territorial application of the provisions, but, also and mainly with the definition of "a Member" as applied to Charter VII and as distinct from the rest of the Charter. The Committee decided to retain paragraph 2.

The CHAIRMAN was of the opinion that paragraph 3 was superfluous and proposed its deletion.

The United Kingdom Delegate was of the opinion that a definition of inter-governmental commodity arrangements should be retained and the Delegate for the Netherlands considered this a matter of substance and objected strongly to the deletion of paragraph 3.

The Delegate for Cuba seconded the Netherlands and United Kingdom's suggestions.

The Delegate for Chile suggested that paragraph 3 be put into brackets and a note be made in the Report.

It was decided by the Committee to establish an ad hoc Sub-Committee to discuss the problem presented by paragraph 3 and the CHAIRMAN nominated the Delegates of Canada, Cuba, the Netherlands, the United States and United Kingdom to participate in the work. Paragraph 4 of Article 60 was left as it stood.

3. Discussion of Paragraph 3 of Article 53 as Drafted by the Informal Group of Delegates from Canada, Cuba and France and the United States.

The Delegate for Canada stated that the Sub-Committee dealt with the following two problems:

/1. The transfer

1. The transfer of the text to Article 53; and
2. The text itself.

As to the transfer of the text to Article 53, the Delegate for Canada stated that the Sub-Committee has unanimously approved of it.

The Delegates for Australia and New Zealand wished to put the paragraph in square brackets to make it clear that in their opinion the transfer represented a change in substance. However, as the majority of the Committee felt that no change in substance was involved, it was decided to include the text in Article 53 without the square brackets and to note in the Report the views expressed by the Delegates for Australia and New Zealand.

As to the second question, namely the change in the text itself, the Delegate for New Zealand asked whether if in a given agreement a country which is primarily a producer-consumer joins as an importer, this fact would mean that all the other importers will have a smaller voice.

The Delegate for Canada answered in the affirmative.

The Delegate for the Netherlands stated that the previous text which stated simply "an appropriate voice" was broader than the present draft which really alters equality between the two categories.

The Delegate for Canada stated that the detailed negotiations concerning this matter should be left to each individual agreement, and suggested the following change in text which would allow a splitting of the votes; i.e., the replacement of the words "within one or the other category" by the words "within one or both categories".

The Delegate for France stated that the representation of producer-consumer countries cannot be settled within the limits of the Charter. The main thing in his opinion was to avoid a third category which might upset the balance in favour of either importers or exporters. The question of including a country like France in either one of the two categories should be left to individual negotiations.

/After some

After some discussion, it was decided to accept the text of paragraph 3, Article 53, as it was presented by the Sub-Committee with the small change suggested by the Canadian Delegate.

4. Discussion of Additional Paragraph of Article 52 for inclusion in the Report

The Cuban Delegate was of the opinion that if this text were to be included in the Report, it should be clearly stated that this would be done upon suggestion of the FAO representative.

The Delegate for the United Kingdom asked whether this additional paragraph was meant to be a substitute or an addition to paragraphs 1 and 2 of Article 52. The FAO Observer answered that it was an addition.

The Delegate for the Netherlands stated that commodity agreements may be necessary even when there is no prospect for a burdensome surplus. He mentioned the case of rice, a commodity now in short supply which nevertheless will be the subject of a Study Group in the near future and a Conference in the latter part of the year. If the paragraph suggested is not included in Article 52 it might necessitate the drafting of a new Charter for FAO.

The CHAIRMAN closed the discussion stating that the Report may include the proposed text of paragraph 3, and the fact that the suggestion from the FAO representative met with sympathy on the part of certain Delegates, but, was not discussed in detail as to the substance by the full Committee.

5. Administrative Sub-Committee

The Committee decided to refer the United Kingdom note on provisions for two-thirds majority in the Draft Charter (E/FC/T/C.6/W.64) to the Administrative Sub-Committee, and to refer also Article 76 to this Sub-Committee. In order to avoid undue overburdening of the Administrative Sub-Committee, the Chairman moved that the Administrative Sub-Committee should deal only with Articles 75, 76 and 77, whilst the full Committee would deal with the other Articles contained in Section E of Chapter VIII.

6. First Reading of Articles 72 to 81, inclusive.

The Committee approved Articles 72 and 73 in the formulation of the London text. With regard to Article 73, paragraph 5, the South African Delegate pointed out that this provision seemed redundant in view of the provisions of Article 81, paragraph 2 and moved, with the support of Australia for the deletion of this paragraph. The United States Delegate felt it advisable to retain this paragraph, and the Observer from the FAO suggested that the Committee include in its report a note with reference to this paragraph and Article 81, paragraph 2, stressing the importance for close working relations between the ITO and FAO.

The CHAIRMAN pointed out that there was no necessity for reference to any specific intergovernmental organization since relations with intergovernmental organizations in general were fully covered in the Charter. The Committee decided to include the note suggested by the FAO Observer in its report with the mention that this note had been suggested by the FAO.

The Committee approved the London text of paragraph 1 of Article 79. With regard to paragraph 2, the Committee discussed the authority of the Director-General to initiate proposals for the consideration of the Organization and decided to substitute for the words "shall have authority to", the word "may". The last sentence of paragraph 2 was changed to read "He shall present through the Executive Board an annual report to the Conference on the work of the Organization and in consultation with the Executive Board prepare the annual budget for submission to the Conference".

The Committee approved the London text of Article 80, paragraph 1, and on the motion of the Canadian Delegate, decided to delete the last three lines of paragraph 2 after the word "agencies".

Article 81. The Australian Delegate moved to delete the words in the second sentence of paragraph 1 "by the Director-General and", because

/it was

it was unrealistic to assume that such negotiations would be conducted by the Director-General.

The Delegate of France expressed the opposite view, pointing out that it must be designated which organ or official of the ITO would have to sign such agreements.

The United States Delegate moved to substitute "agreement with the Economic and Social Council of the United Nations" for "with the United Nations" but withdrew this motion when the Australian and Chilean Delegates argued against the change.

The Committee approved the London text, deleting the word "an" before the word "agreement" in the fifth line of paragraph 1, and decided to note the Australian proposal for deletion of the words "by the Director-General and" in its report.

Paragraphs 2, 3 and 4 were approved in the formulation of the London text with the Committee deciding to transpose the last sentence of paragraph 2 to follow immediately the first sentence of paragraph 2.

The meeting was adjourned until Thursday, 13 February 1947 at 10:30 a.m.