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RESTRICTED

E/PC/T/C.6/89
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ORIGINAL: ENGLISH

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

MINUTES OF THE TWENTY-THIRD MEETING

Held at Lake Success, 15 February 1947

CHAIRMAN: Mr. Erik COIBAN

1. Articles 54 to 59, inclusive.

The Committee reviewed Articles 54 to 59, inclusive, in the formulation of document E/PC/T/C.6/76 and approved the new wording.

2. Report of the Drafting Committee.

The CHAIRMAN directed the attention of the Committee to the suggestions of the Secretariat regarding the form of the report of the Drafting Committee, document E/PC/T/C.6/82.

The Committee approved Item (a) of the Secretariat suggestions and clarified with regard to Item (b) that square brackets would be used to enclose texts left for further consideration at the Second Session and neither approved nor disapproved by the Drafting Committee.

With regard to Item (c) it was agreed that in general alternative texts should be shown in the commentary except in cases in which the Committee expressly decided otherwise. The CHAIRMAN remarked that so far the only case in which the printing of an alternative text within the context of the Charter had been approved by the Committee was the alternative text to Article 13 proposed by the Delegation of India, with the support of the Delegation of Cuba.

Regarding Item (d), the Delegate for the United Kingdom suggested to arrange the report in a manner similar to the one in which certain textbooks

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of Greek classic literature are arranged, namely, to show on top of the page the text and below the commentary referring to this text. The Delegate for the United States seconded this motion and the Delegate for Canada, also seconding this arrangement, suggested that different types of print be used for the text and the commentary. The EXECUTIVE SECRETARY suggested printing in the mimeographed copy the text on one page and the commentary on the opposite page, while in the printed report the arrangement suggested by the Delegate for the United Kingdom and different types of print would be employed. The CHAIRMAN requested to make sure that a too small type of print should not be used, and remarked that in his opinion the print of the London Report was too small.

The EXECUTIVE SECRETARY raised the question of the publication of the printed report. The Delegate for the United States expressed himself against publication because the Drafting Committee was merely a sub-committee of the Preparatory Committee, and in view of the fact that at present the London Report is being studied by a great number of governments it might be confusing to publish this new report. He suggested, however, to release for publication an ample press release on the scope of the work of the Drafting Committee, to which possibly the text of Articles 15 to 23, inclusive, might be added. The Delegates for Canada and Brazil seconded this motion but stressed that there ought to be enough copies for the needs of all governments concerned. The Delegate for India pointed out that in addition to copies for his government he would need sufficient copies for the Indian Chambers of Commerce, which very likely will participate in the tariff negotiations in Geneva.

The question was raised whether the report should be accessible to the governments of all Members of the United Nations or only to those who are members of the Preparatory Committee.

/The EXECUTIVE

The EXECUTIVE SECRETARY suggested publication for distribution to all member governments of the United Nations. The CHAIRMAN, with the approval of the Committee, ruled to print the report for restricted circulation to all member governments of the United Nations. He pointed out that the question of ultimate publication of this report should be left to the decision of the Second Session of the Preparatory Committee and that at least temporarily the report should be restricted. The Committee also decided that the text of articles should not be included in the press release. It was pointed out that this should hold true also of the articles dealt with by the Technical Sub-Committee.

The EXECUTIVE SECRETARY asked all delegations to inform him in writing how many copies of the report they required for their governments and the Delegate for Cuba informed the SECRETARY orally that he required twenty-five English and twenty-five French copies of the text.

3. The CHAIRMAN directed the attention of the Committee to the report of the Economic and Employment Commission document E/255, and announced that the Committee at its next meeting would engage in a discussion of those parts of this report which are pertinent to the Committee's work.

4. Discussion of the Report of the Technical Sub-Committee,
Document E/PC/T/C.6/55, Rev.1, continued

Continuing its discussion on the Report of the Technical Sub-Committee, the Committee made the following comments by articles:

Article 22. Information, Statistics and Trade Terminology

Page 40, text, 22:1: The Delegate for Canada stated that the introductory phrase of this paragraph envisaged the Organization as the sole collection agency of trade statistics, etc., whereas at a future date this function might be vested in the Secretariat of the United Nations or a separate central statistical agency. Accordingly, he suggested the following addition to the first sentence after the word "Organization", "or to such agency as may be designated for the purpose by the Organization".

/It was

It was pointed out that Article 81 of the Charter provides for the co-operation of the ITO with the United Nations and other agencies. As the Canadian amendment received little support in the Committee, the Chairman stated it should be incorporated in the commentary of the Report.

Article 23. Boycotts

Page 44, comment: The Delegate for India pointed out that his reservation on Article 23 was tied very closely with his reservation on Article 37 and asked that his reservation be worded as follows:

"The Delegate for India suggests that a Member should be allowed temporarily to discriminate against the trade of another Member when this is the only effective measure open to it to retaliate against any discrimination practiced by that Member in matters outside the purview of the International Trade Organization, pending a settlement of the issue through the United Nations Organization."

The Delegate for China withdrew his comment on this Article.

Article 37. General Exceptions to Chapter V

Page 45, last line of introductory phrase of text of Article 37: "or measures" should read "of measures".

Page 45, text, 37(b): replace "consist" by "exist".

Page 46, line 1, text, 37(g): delete "state monopolies". It was decided that sub-paragraph 2(g) of Article 25 should be retained.

Page 46, comment, 37, introductory part: delete the second paragraph of the comment and replace it by:

"As it seemed to be generally agreed that electric power should be classified as a service and not as a good, the Delegates for Canada and Chile did not find it necessary to reserve the right for their countries to prohibit the export of electric power."

Page 47, line 3 of comment on 37(b): delete the word "shorter".

Page 47, comment, 37(f): this comment should be re-worded as follows:

The Delegates raised the question whether this item should refer to silver which is an ordinary commodity in world trade."

Page 47, comment, 37(g): to be deleted.

Pages 47 and 48, comment, 37(j): the Delegates for India stated that his Government attached great importance to this suggestion.

Page 48, lines 10-14, referring to an additional item of the corresponding Article in the original United States Draft Charter that was not included by the Sub-committee in Article 37: The Delegates for the Netherlands wished that this item be included, feeling that specific mention of the exceptions for commodity arrangements under Article 52 should be made in Chapter V as it might come into conflict with Article 30. The Delegates for the United States stated that Article 52 was especially provided for in Chapter V in Article 30 and cross-reference in Article 37 to Article 66 would be redundant.

The Delegates for the Netherlands will submit a full statement regarding his position on these points for inclusion in the commentary of the Report.

5. The CHAIRMAN, remarking that the text of Article 18, paragraph 2, sub-paragraph (a), was still not settled, proceeded to the debate of the first report of the Administrative Sub-Committee, document E/PC/T/C.6/62. He invited the Chairman of the Sub-Committee, Dr. G. Alamilla, to take the seat next to the CHAIRMAN and to give the Drafting Committee the benefit of his comments on a number of points in this report.

SECRETARIAT

/Dr. ALAMILLA

Dr. ALAMILLA explained to the Committee the distinction in the report between "scheduled" and "elected" Members. He pointed out that the term "scheduled" had been used in lieu of the term "permanent" Members in order to indicate even by the wording that no permanency of any seats on the Executive Board was contemplated, but merely the right to a seat on the Board for the economically most important countries as long as their preponderant economic importance warranted this position. He stressed that the formula elaborated under Item 2 on pages 2 and 3 of the Report constituted a formula for the objective rating of the economic importance of countries and not a formula for weighted voting.

The Delegate for the United States suggested to report to the Second Session of the Preparatory Committee Alternatives A and B of Article 68, and the United Kingdom proposal on weighted voting.

It should be stressed that this constituted the personal, expert opinion of the members of the Drafting Committee but without committing their respective countries. The various individual drafts appended to the Sub-Committee report should not be attached to the Report of the Drafting Committee, but all delegations should be free to re-submit their individual drafts to the Second Session of the Preparatory Committee.

The Delegate for the United Kingdom felt that the United Kingdom statement on the Executive Board, Appendix XI of the Sub-Committee Report, should, on its own merits, also be presented to the Second Session of the Preparatory Committee; Alternatives A and B were very elaborate and trying somehow to pre-determine future developments slightly too rigidly. The United Kingdom draft, being far more flexible, should therefore be retained as an additional alternative.

/The Delegate

The Delegate for India stated that although his Government preferred "one country - one vote", and no permanent seats on the Executive Board, it would stand ready to consider some type of permanent seat arrangement. This, however, raised the question of how economic importance should be determined. India felt that the formula of the Administrative Sub-Committee does not give adequate weight to population and the potentialities inherent in large population. The United Kingdom formula in this respect, though not giving quite adequate weight to this factor, is far more acceptable to India than the Sub-Committee formula. He also queried the source for the national income figures of India used in Appendix X, stressing that he had not been able to procure for his own use any reliable figures on Indian national income for a period later than 1933. He suggested an Executive Board comprised of not more than a total of 18 seats, 8 of which should be permanent seats on the basis of the United Kingdom formula, while the rest of the seats should be allocated on the basis of geographical and other considerations.

Dr. Alamilla explained that the Sub-Committee had given very long and thorough consideration to all the questions broached by the Delegate for India. The Sub-Committee had felt that population as such should not constitute a preponderant factor in the weighting formula; but merely insofar as population involved future potentialities. For this reason the Sub-Committee had decided on the inclusion of the national income factor because this factor considered the potentialities of large populations adequately. He also pointed out that the ratio between scheduled and non-scheduled seats, as suggested by the Delegate for India, would mean giving the presently highly developed countries an undue advantage over presently less developed countries.

The Delegate for China requested to discuss first the contents of the alternatives before going into the question of how many alternatives should be reported to the Second Session. He was of the opinion that the

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alternatives presented by the Sub-Committee constituted changes in substance and consequently were outside the terms of reference of the Drafting Committee. He, furthermore, pointed out that the data for Chinese trade were incorrect because they did not take into account the large scale unofficial trade that had been conducted during the Japanese occupation.

The Delegate for Brazil took issue with the elements used in the Sub-Committee's formula. Whereas the Sub-Committee agreed on the importance of the foreign trade factor, there had been no agreement on the national income factor, because it must be kept in mind that the data underlying national income figures are in the case of many countries pure guesswork. Also, in regard to the population factor there had been a substantial lack of agreement in the Sub-Committee, and he was therefore of the opinion that the Brazilian draft, Appendices VI and VII, presented the best solution.

Above all, it should not be forgotten that at the First Session of the Preparatory Committee the majority of delegates favoured the first alternative of the London Report on the basis of "one country - one vote" and no permanent seats. He suggested to report to the Second Session one alternative for each type of solution discussed in the Sub-Committee.

The Delegate for France remarked that the use of quantitative criteria for the determination of economic importance was unsatisfactory; basic data for the figures on national income were quite unreliable and also population figures would have to be accepted with a great deal of caution. The French proposal not only eliminated the purely quantitative aspects but also paid due regard to adequate representation of less developed countries, and for that reason the French proposal should be submitted to the Second Session as an additional alternative.

The Delegate for the United Kingdom suggested, in view of the predominant feeling in the Drafting Committee, to submit the whole report of the Administrative Sub-Committee with all appendices as a working paper to the Second Session of the Preparatory Committee. In this case he requested to include Appendices I and XI regarding the United Kingdom suggestions.

The Delegate for Cuba suggested using in the Drafting Committee Report Alternative I of Article 68 as Charter text, and submitting the whole of document E/PC/T/C.6/62 as a working paper for the Second Session. The United States and Canada seconded this motion, but suggested instead of inserting the first alternative of the London draft to leave this part of the Charter blank.

The Delegate for Czechoslovakia stated that his country favoured "one country - one vote" and an Executive Board composed of permanent and elected members, with between 15 to 18 seats. There should be in no case more than 18 seats. In his opinion the Drafting Committee would go beyond its terms of reference in trying to solve the problem of composition of the Executive Board and voting. If he were allowed to present his personal views, without committing his Government, he would say that he agreed to the foreign trade criterion in the Sub-Committee formula, but that the statistical data for national income were too dubious and the criterion of foreign trade per capita tends to underestimate the importance of population. He seconded the motion to submit document E/PC/T/C.6/62 as a working paper to the Second Session of the Preparatory Committee.

The Delegate for Chile supported Cuba's motion to show in the Charter text the first alternative of the London text but to make it clear in the Report that this text should be altered to allow for an increase in the number of seats on the Board to 18.

The Delegate for the United States suggested to show in the Charter text the first alternative of the London text, with a note referring to

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document E/PC/T/C.6/62 and adding this document, with all its appendices, as an appendix to the Report.

Dr. ALAMILLA seconded the motion of the United States but suggested that as a further addition to this Report the second, third and fourth alternatives of Article 68 in the London Report should be attached.

With the approval of the Committee the CHAIRMAN ruled to adopt this course and that the Report of the Drafting Committee should stress that the Drafting Committee did not feel authorized to pass on the substance of the Sub-Committee report but handed it on for substantive consideration to the Second Session of the Preparatory Committee.

The Delegate for the United Kingdom suggested to put the first alternative of the London text into square brackets, and this motion was carried.

The Committee adjourned until 17 February at 10:30 a.m.
