
SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

VERBATIM REPORT

TWENTY-NINTH MEETING OF COMMISSION "B"
HELD ON SATURDAY, 16 AUGUST 1947 AT 10.30 A.M.
IN THE
PALAIS DES NATIONS, GENEVA.

The Hon. I. D. WILGRESS (Chairman) (Canada)

N.B. It was not possible to provide verbatim records of the Twenty-seventh and Twenty-eighth Meetings of Commission "B" (11 and 15 August). Please refer to Summary Records E/PC/T/B/SR/27 and 28.

Delegates wishing to make corrections in their speeches should address their communications to the Documents Clearance Office, Room 220 (Tel. 2247).

Delegates are reminded that the texts of interpretations, which do not pretend to be authentic translations, are reproduced for general guidance only; corrigenda to the texts of interpretations cannot, therefore, be accepted.

CHAIRMAN: The Meeting is called to order.

This Meeting of Commission B is for the purpose of approving the Reports of the sub-Committees on Chapters I, II and VIII. The procedure I propose to follow is first of all to call upon the Chairman of the standing sub-Committee on Chapters I, II and VIII to present his Report, then to take up Chapters I and II and afterwards we will deal with Chapter VIII, commencing with the first Article of that Chapter, and going on to what used to be known as Article 64 "Voting", whereupon I will call upon the Chairman of the ad hoc sub-Committee to present his Report on Voting and Membership of the Executive Board, and after that we will dispose of all the remaining Articles of Chapter VIII. I should like to know if this procedure meets with the approval of the Commission. Is the procedure agreed?

Approved.

As our Working Papers, we will find the Reports of the sub-Committee on Chapters I, II and VIII in Document E/PC/T/139. The Report of the Legal Drafting Committee on Chapters I, II and VIII is given in Document E/PC/T/159, and the Report of the ad hoc sub-Committee on Voting and Membership of the Executive Board is given in Document E/PC/T/163. There have also been a number of other papers circulated with regard to this Report which I will refer to when we come to deal with it.

I will now call upon Dr. Naudé of the South African Delegation, the Chairman of our standing sub-Committee on Chapters I, II and VIII to present his Report.

Dr. W.C. NAUDÉ (South Africa): Mr. Chairman, I think I can be very brief, in the first place because the Report has been available for a considerable time, and, in the second place, because I do not want to share any responsibility for a protracted discussion

which might prevent some of us from attending the festivities of Geneva tonight.

The Report of the sub-Committee drew attention to a few of the outstanding difficulties which were settled and I shall not refer to them. I just want to draw your attention to one or two of the other points that were settled.

In Article 1 the link between what we might call economic peace and military peace was established - to my mind a most desirable principle to have incorporated in the Charter.

I might also draw attention to a principle which was established in the Committee, namely the establishment of the Conference of the International Trade Organization as the sovereign organ of the Organization. There had been some doubt in the draft as it emerged from New York on that point, but now it is clearly established in the new Article 71.

I might also mention that provision has now been made in the Charter for a review within ten years. As you will know, it is a concept which was placed in the United Nations Charter and it will now be found reflected in the International Trade Organization Charter.

You will further recall that in the full Commission there was some discussion on the problem of authentic or authoritative languages. The solution found and incorporated in the Charter is to have the original text of the Charter in all five official languages of the United Nations; but for the purpose of interpretation English and French will be authoritative. It is a happy solution which I hope will be accepted by the full Commission.

The other matter to which I would like to address a few remarks is mentioned in the Report of the Sub-Committee in the covering commentary, and that is the matter of the settlement of differences. You will observe that the Sub-Committee pointed out, with some considerable emphasis, that it did not have enough time to explore the whole problem thoroughly, and to present a solution of which the Committee could feel proud.

The subject is quite a complicated one. The ramifications, once you start talking about it, seem to have no end. But the main problem that emerged was on the types of question which could be referred for review to the International Court of Justice. There you will find that Alternatives A and B in Article 88 were put forward. Since then, some Members of the Committee have been extremely active in attempting to find an agreed version, doing away with the alternatives, and this document was circulated this morning, document W/299. I take it that the United States Delegation would expound the principle incorporated there in due course.

While discussing the alternatives A and B, I might mention that the preferences as reported in the Sub-Committee Report were of a varying degree of firmness. A number of Delegates expressed their preference for one or the other, but they did so with a degree of timidity, because they felt that their

Governments should have a further look at them.

At the same time, I should mention the proposal put forward by the Belgian, French and Netherlands Delegations, which relates to the possibility of incorporating in the Organization structure some device which would be the equivalent of the Belgian Conseil des Contentieux, and a formal proposal was put forward in which the equivalent in the I.T.O. would be called "The Claims Board".

The proposal was carefully examined, and in the end, in an effort to reach reconciliation, those Delegations were willing to pursue the possibility of finding common ground on the procedure of advisory opinions from an international court. I think that we owe those three Delegations our gratitude and respect for their willingness to sacrifice their idea in the hope of finding common ground.

While I am on the subject, I think it would be legitimate to place before the Commission the view that any attempt today to find an agreed version for the new Chapter VIII would lead to discussion which quite certainly would never end today. My recommendation would be that the work of the Sub-Committee has brought out the main issues involved, and I should imagine that a number of Delegations would like to have their lawyers in their capitals look at the issues involved, and then, by the time Havana meets, to have their Delegations fully instructed on the subject.

There is one small point that I would like to mention before I conclude, and that is the possibility of the settlement of differences by arbitration. You will find that, on Article 87(2), the Sub-Committee did not exhaustively discuss that type of machinery. The idea, however, is incorporated in the Charter, and I take it that Governments would perhaps like to look at it a little further. One of the delegations.- I think it was the Delegation that actually introduced the idea of arbitration-itself reserved its position for further consideration.

CHAIRMAN: I wish to thank Mr. Naudé for the very able manner in which he has submitted his Report. Also I hope that his example will be followed by the other Members of the Commission. We have to get through a very heavy programme to-day, and I think it is desirable we should see at least part of the Fetes de Genève taking place to-day. I would like to extend to Mr. Naudé, and through him to the Sub-Committee, congratulations on the very interesting Report which he has submitted.

The Sub-Committee on Chapters I, II and VIII had assigned to it more Articles than any other Sub-Committee at this Conference, and yet, by working steadily and hard, they were able to produce a Report in what really was a very remarkably short space of time, and I may say we are all, therefore, very indebted for the work this Sub-Committee has done.

I hope the Members of the Commission will not take too seriously one of the suggestions of Mr. Naudé. I am a little appalled at the prospect of Government lawyers in 17 countries going over the Text of Chapters I, II and VIII and thinking up Amendments which they might submit to the World Conference. These 17 lawyers would not be fully conscious of the delicate balance of compromise necessary to obtain here, in order to reach unanimous agreement, and therefore I trust that all Delegations here will at Havana support fully the Text upon which we have been able to reach unanimous agreement in Geneva.

Before we take up Article I, would any Members of the Commission like to comment on the remarks of the Chairman of the Sub-Committee?

We then pass directly to Chapter I Article I. Any

comments on Article I? Approved.

The Delegate of France.

Mr. ROYER (France) (Interpretation): Mr. Chairman, I would like to submit a few remarks on the French Text. We have looked at this French Text for twenty-four hours more than the Legal Drafting Committee have done, and there are some points we want to raise.

As pointed out by the Chairman of the Sub-Committee which linked closely the economic and military peace, we would like to point out that in the French Text, in the second line, we have the word "paisible", and we would prefer the word "pacifique".

Now on Point 4, the French Text says "toute discrimination" and we would prefer "les discriminations"; and at the end of the French Text, "En consequence ils instituent par les présentes L'Organisation Internationale du Commerce", instead of "grace a laquelle".

CHAIRMAN: Any comments on the proposed modifications of the French Text?

M. THILTGES (Belgium) (Interpretation): Mr. Chairman, I would like to draw the attention of the Commission to a word which appears both in the English and the French text; that is the word "balanced" in Paragraph 1 on Page 2 of Document E/PC/T/159, a word which has its equivalent in French in the word "équilibre". These words have been included here to replace the words of sub-paragraph (b) in the New York Draft, which read: "To avoid excessive fluctuations in world trade and contribute . . ."

The idea which is embodied in the word "balanced" is extremely important. We have not changed the idea from New York, which was incorporated in the New York text, but this idea has great repercussions on the provisions of Chapter III and also on Article 30 on Subsidies.

CHAIRMAN: Are there any objections to the proposed modification to the French text moved by the Delegates of France and Belgium?

Dr. Gustavo GUTIERREZ (Cuba): Mr. Chairman, is there any amendment suggested by the Belgian Delegate?

CHAIRMAN: No, there is no change. He just drew attention to the importance of the word.

Are there any objections to the proposal of the French Delegate?

(Agreed)

Are there any other comments on Article 1?

Mr. Erik COLBAN (Norway): Mr. Chairman, I would just like to mention the proposal we made to the Sub-committee concerning the title of the Organization we are setting up. We suggested "International Trade and Employment Organization".

That would be in conformity with the title used on all our documents, but the Sub-committee, after having considered the question, found that for practical reasons it was agreed to retain the original title. I just wanted this to go into our Minutes.

CHAIRMAN: Due note will be taken in the Minutes of the Norwegian Delegate's remarks.

The Delegate of Czechoslovakia,

H.E. Mr. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, we are in favour of the title "International Trade and Employment Organization" because it is the title given to the Conference by the Economic and Social Council.

CHAIRMAN: I take it the Czechoslovakian Delegate is not making a proposal to that effect, but simply wishes to have his view recorded?

Mr. AUGENTHALER (Czechoslovakia): No, Mr. Chairman, I make it as a proposition.

CHAIRMAN: The Delegate of Czechoslovakia has proposed that the title of the Organization be changed to "International Trade and Employment Organization."

The Delegate of the Netherlands.

Mr. A. B. SPEEKENBRINK (Netherlands): Mr. Chairman, as we have a formal proposal before us, I should like it very much if we could now hear the reasons why the title "International Trade Organization" was retained by the Sub-committee.

CHAIRMAN: Will the Chairman of the Sub-committee give us an explanation?

Mr. W.C.NAUDE (South Africa): Mr. Chairman, I will do my best to interpret the motives of the Sub-committee. They were, first, that if employment were to be specified in the title of the Organization it might equally well be argued that commercial policy, cartels, economic development and a number of other aspects of the ITO Charter should be covered in the title. Moreover, if the word "employment" were to be used in the title of the Organization it would give the impression that all the employment activities of the Economic and Social Council, through its various Commissions, would be lost and be covered by the International Trade Organization. Those were primarily the motives.

As regards the point just made by Mr. Augenthaler, it is true that the Economic and Social Council decided to call it the International Conference on Trade and Employment, but the instruction of the resolution was not to draw up a Draft Charter for the International Trade Organization; that is, it merely quoted from the resolution itself.

CHAIRMAN: The Delegate of the United States.

Mr. Clair WILCOX (United States): Mr. Chairman, as I recall the discussion in the Sub-committee, it was suggested that a complete specification of the Conference of the Organization in its title would require some such title as "International Employment, Economic Development, Commercial Policy, Restrictive Business Practices and Inter-governmental Commodity Arrangements Organization," and it was concluded that, on balance, it would be simpler to retain the title "International Trade Organization."

CHAIRMAN: Are there any other comments?

Mr. S.L.HOLMES (United Kingdom): Mr. Chairman, I find it very difficult to follow the Delegate of Czechoslovakia, who says that the title as determined by the Economic and Social Council is the "International Trade and Employment Organization." Looking at the text of the Resolution regarding the calling of an international conference, which is reproduced on Page 42 of the London Report, one will see that the Economic and Social Council - I leave out some of the stuff at the beginning - suggests, as a basis of discussion for the Preparatory Committee, that the agenda include the following topics: "(e) Establishment of an international trade organization, as a specialized agency of the United Nations . . .".

CHAIRMAN: Are there any other comments.

Dr. J.E. HOLLOWAY (South Africa): Mr. Chairman, I think that if we want to put in more than just the word "Trade", we certainly should follow up the consequences of the discussions at this Conference and make provision for the words "under-developed countries", and also, I would suggest, "for the protection of students."

Dr. H.C. COOMBS (Australia): Mr. Chairman, I think the delegate of South Africa for his desire that necessary action be taken by Australia when it is faced with a critical shortage of 80,000,000 sheep. I can assure you that such a shortage will be looked after by my Government. But on the proposition which has been put forward, as the delegates are probably aware, the contents of the Charter which relate to employment are of very great importance to my delegation. At the same time we do not think that the activity of the Organisation is likely to be affected one way or the other. It would not be more or less effective in relation to employment if there is a change in the title, and since we have been accustomed to speaking of this prospective Organisation as the I.T.O. I think it would be merely awkward at this stage to call it the I.T.E.O., merely because I.T.E.O. is difficult to pronounce consecutively without confusion, and therefore I am content that the Organisation should continue to be called "The International Trade Organisation."

Dr. GUSTAVO GUTIERREZ (Cuba): Mr. Chairman, the Cuban delegation is in great sympathy with the idea of the Czechoslovakian delegate, but we find that from the Czechoslovak point of view there is no consistency between the title when adding the word "Employment" and the Charter as it is. The title of "Conference on Trade and

Employment" has been one of the very nice flags that we have seen in Geneva in these Fêtes de Genève, and as we are coming to the end of this carnival we are correct, in my opinion, in throwing away the mask that we have used.

CHAIRMAN: I take it that the Commission is not in favour of the Czechoslovakian proposal. Does the Czechoslovakian delegate agree that we pass on without formally putting his proposal to the vote of the Commission.

Are there any other comments on Article I? Agreed.

Article 65 which takes the place of former Chapter II: "Membership, Structure and Functions." We will take this Article paragraph by paragraph commencing with paragraph 1. Are there any comments on paragraph 1? I would call the attention of the Commission to an amendment of the Czechoslovakian delegation which consists of adding paragraphs 6 and 7 to this Article. This amendment has been circulated both in English and in French to the delegations. We will now deal with paragraph 1.

Dr. GUSTAVO GUTIERREZ (Cuba): Mr. Chairman, before going into the examination of Article 65, paragraph 1, I only want to bring to the attention of the Commission a small question which perhaps either the Chairman or the Secretariat could answer. We have all seen that Chapter II has been eliminated, and that there are new Articles inserted in the new text. I would like to know if, before going to the Plenary Session, we are going to have a full text with all the re-arrangements of the Chapters and of the Articles and what opportunity we would have of seeing it.

Mr. WYNDHAM-WHITE (Executive Secretary): Mr. Chairman, it is the intention of the Secretariat to issue at least 48 hours before the beginning of the Plenary Session a complete revised text of all the chapters as they have emerged from the Commission with a complete revision of the numbering and cross references. I might say that that is one of the reasons why delegates are being asked to work late into the night because the Secretariat needs about 24-hours to do this Paper in order that it should be done by Tuesday next week.

CHAIRMAN: Are there any comments on paragraph 1 of Article 65?

MR A. RAIVOVICH (Chile) (Interpretation): It is only detailed information that I want to have, Mr. Chairman. We have decided to approve the new title "International Trade Organization" and we have suppressed the word "Employment". Now, this word comes in paragraph 1 and we should probably suppress it too.

CHAIRMAN: That is the name of the Conference set up in the resolution of the Economic and Social Council. Therefore we have to retain the word "Employment" here.

DR. W.C. NAUDE (South Africa): Mr. Chairman, I entirely agree with what you have just said. It would, however, be of interest to record that a decision has actually been taken here to call the Havana Conference the "United Nations Conference" and not the "International Conference", although the Economic and Social Council wishes it to be called the "International Conference".

Whether that has any significance I do not know, but I merely wish to have it placed in the records.

CHAIRMAN: Thank you.

The Delegate for France.

(M. ROYER (France) made a remark which applied to the drafting of the French text only)

MR. S.L. HOLMES (United Kingdom): Mr. Chairman, on the question of the name of the Conference, I should like to recall a certain discussion, which took place about a fortnight ago, that the Economic Committee of the Economic and Social Council directed to the title of the Conference.

It was claimed by some of the opponents to the according of voting rights at the Conference to non-Members of the United Nations that it was the United Nations Conference, and that had some bearing on that issue. It was pointed out by others that, in the Resolution of the Economic and Social Council, the Conference was there described as an International Conference. In fact, the point was made there corresponding to the point made by the representative of South Africa who has just spoken.

I do not know whether a good deal of importance need be attached to the name, that is, I do not know whether it very much matters whether this is an International Conference for which the United Nations have accepted responsibility, or whether it should be called a United Nations Conference, but I should like to make it quite clear that, in the view of the United Kingdom Delegation, the description of the Conference, that is, the United Nations Conference on Trade and Employment, has no bearing whatever on the granting of rights of voting at that Conference to countries which are not Members of the United Nations.

If it is felt that on that issue, on which I think all Delegations here are agreed, we are on dangerous ground, let it appear in the Draft Charter that we have adopted this name, and then people may, perhaps, feel differently on this point.

At any rate, the view of the United Kingdom is that, whatever the name, it should not be allowed to affect the issue of voting rights of non-Members of the United Nations.

CHAIRMAN: I understand that, in the recent resolution of the Economic and Social Council regarding the Havana Conference, the term "United Nations Conference on Trade and Employment" has been used. Therefore I think it is proper that in the Charter we should use that title for the Conference, as that is the latest title used by the Economic and Social Council.

CHAIRMAN: The Delegate of France.

M. ROYER (France) (Interpretation): This question has certainly been discussed several times in the Economic and Social Council, but I must say that there have been two different official documents. One has used the title of "United Nations Conference" and the other has used the title "International Conference". Therefore, I wonder whether it would be simpler to say "Conference on Trade and Employment".

I would like also to add, Mr. Chairman, that in the French text it is a little misleading to put it the way it is now, because it looks as if the Trade and Employment would only apply to the United Nations and not to the other Governments.

CHAIRMAN: Are there any comments on the suggestion of the Delegate of France that the words "United Nations" be deleted?

Baron P. de GAIFFIER (Belgium) (Interpretation): I would propose that we say "Conference on Trade and Employment" and not "Trade and Employment Conference" as it is now put in the French text.

CHAIRMAN: The Delegate of the United States.

Mr. Clair WILCOX (United States): All that we are doing in this Article is referring to the Conference. We are not giving it its name. The Conference is to be named by the Economic and Social Council. They will issue invitations in the name of their latest resolutions, and all that we have to do here is to refer to whatever name they call it, in order to identify it.

CHAIRMAN: The Delegate of Belgium has suggested that the words "seront admis" should come out, which gets over the difficulty in the French text referred to by the Delegate of France. I take it that is acceptable to the Delegate of France. I do not think we need discuss further the relative English and French texts. We can confine our remarks now to the substance of the suggestion of the French Delegate that the words "United Nations" should be omitted. I wonder if the Delegate of France insists on that?

M. ROYER (France): No, I do not insist.

CHAIRMAN: The Delegate of Czechoslovakia.

H.E. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, I am afraid that we cannot give a title to this Conference, because we are not convoking the Conference but, as Mr. Wilcox says, the Economic and Social Council is doing so. If we do not know what title to give to the Conference, we can simply say "the Conference convoked by the Economic and Social Council under Resolution so-and-so". We do not know under what name the Economic and Social Council will convoke this Conference.

CHAIRMAN: The Delegate of France does not insist on this suggestion. I think we can leave this matter by adopting the latest title given to the Conference in a resolution of the Economic and Social Council, and we will also look up the French text of the Economic and Social Council resolution, and adopt that French text in describing the Conference in this Article. I take it that will be satisfactory to Members of the Commission?

Dr. J.E. HOLLOWAY (South Africa): Mr. Chairman, may I

raise a point of order? It has nothing to do with the discussion which is just taking place. I must make that clear, because there was no doubt a question of substance in the discussion which has just taken place.

To save time, I want to suggest that a number of points such as we have already had this morning, which involve purely wording, should not go through the elaborate process of a speech here, which is to be translated sometimes twice and then decided on by eighteen Members. I think the Legal Drafting Committee is very much more competent to deal with that, and I would suggest that we agree that when it is purely a matter of wording, it should not be raised here; but the Delegations should raise it with the Legal Drafting Committee.

It is, of course, possible that when the matter comes before the Legal Drafting Committee it may be found by them to contain a point of substance, although the Delegation considered it to be a point of form. In that case, of course, they would refer it back. I think we would save quite a lot of time that way.

CHAIRMAN: On a point of order raised by the South African Delegate, I wish to thank you for having referred to the lot of time taken up in purely verbal charges. We have, however, the Report of the Legal Drafting Committee before us, and it is formally for our approval.

I think the point raised by the South African Delegate could be met if Delegates would draw the attention of the Secretariat to what they consider to be verbal inconsistencies not giving rise to a point of substance, and the Secretariat could then discuss it with members of the Legal Drafting Committee, who have already disposed of this particular Chapter, and see if we could get their consent to the changes. It would, at the same time, be in order, during the course of the discussion, for any Member of the Commission to raise a drafting point which he thinks gives rise to some points of substance in a divergence between the French and English texts.

CHAIRMAN: Is that agreeable to the Members of the Commission? Agreed.

Any other comments on paragraph 1? Approved.

Para. 2. Any comments? Adopted.

Para. 3. Any comments?

The Delegate of Belgium.

BARON DE GAIFFIER (Belgium) (Interpretation): I would like, Mr. Chairman, here to clarify the position of the Belgian Delegation concerning this paragraph.

We have very clearly before Commission "A" stated that we are in favour of the inclusion of "customs territories, though not responsible for the formal conduct of their diplomatic relations", but we do not like here the sentence which follows, "on such terms as may be determined".

We do not believe that some countries should be asked to become Members accepting obligations "on such terms as may be determined," and therefore we do think this question should be studied further between now and the Havana Conference.

Mr. AUGENTHALER (Czechoslovakia): In the light of discussions which took place in the Economic and Social Council, I think we should change the wording of this Article may be in this way. "The following separate customs territories, though not responsible for the formal conduct of their diplomatic relations, shall be or may be admitted to the work on the Organisation on such terms as may be determined, after prior consultation with the Economic and Social Council".

I think we would be introducing here a great improvement. I went through all the Agencies and so on, and as there are

actual dispositions for other territories in the International Labour Charter - there are provisions to this effect - that is why I think we should proceed in this way.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. HOLMES (United Kingdom): Mr. Chairman, once again I am not really clear as to ^{what} part of the discussions which took place between 28th July and 1st August in New York at a place called Lake Success the Delegate of Czechoslovakia is referring to. The main question that was debated there was the question of voting rights for countries which are not Members of the United Nations at the Conference at Havana. Another question was the position of Indonesia. But whether I am right or not, I would support the proposition which is now being put forward. It seems to me that it is entirely a matter for this Preparatory Committee to draw up the proposed Charter in the form in which it considers it best to do so; and the whole subject to which the Representative of Czechoslovakia has now referred has been considered by the Preparatory Committee on various occasions. I would feel that we are in perfect order in drafting this part of the Charter as it is now drafted.

CHAIRMAN: The Delegate of the Netherlands.

Mr. SPEEKENBRINK (Netherlands): I also have objections to raise against the proposal by the Delegate of Czechoslovakia. For me it is not very clear whether the Economic and Social Council can decide certain questions which are questions as to whether they are States or whether they are autonomous in that way. I think that in any case we should mention an appropriate Body of the United Nations, but I do not think we should mention the Economic and Social Council here.

There is another question I should like to ask with regard to Paragraph 3 (ii), if I may deal with it at the same time. I see that a portion of the first sentence - "proposed by the competent Member having responsibility for the formal conduct of its diplomatic relations" has been deleted. Later on we only speak of "which is prepared (I presume this word should be 'proposed') by the competent Member." We speak there only of "the competent Member." I should like to know the reason why we have deleted the second part of that phrase which I mentioned.

CHAIRMAN: The point just raised by the Netherlands Delegate is, I think, quite clear. The phrase should be "which is proposed by the competent Member" - the error will be rectified.

The "competent Member" in this case could only be the Member who has responsibility for the formal conduct of diplomatic relations, and therefore I do not think any doubt will arise on the way the text is at present drafted. I think we should first of all endeavour to settle the proposal made by the Czechoslovak Delegate, which is to change the word "shall" in the opening paragraph to "may," and later on add the words, after "Conference" in sub-paragraph (ii), "after consultation with the Economic and Social Council", and, add the words "after consultation with the Economic and Social Council," in the opening paragraph, after the words "as may be determined".

The Delegate of Czechoslovakia,

Mr. JUGENTHALER (Czechoslovakia): Mr. Chairman, I see no difficulty in saying, instead of Economic and Social Council", "United Nations Organization", because our decisions here may be extremely prejudicial to all kinds of organizations and agencies of the United Nations. That is why it can be quite rightly said: "With the prior approval of the United Nations Organization" instead of "Economic and Social Council."

I think Mr. Holmes appealed to me as to which discussion in the Economic and Social Council I referred. It is, I think, the declaration of Mr. Thorp of the United States, when he said: "The first point in the statement of the representative of the United Kingdom is an underlying assumption which goes through his entire statement that somehow we can isolate this problem and separate it from the general problems of the United Nations; that this is a special case; that this is sui generis and that we can deal with it only in consideration of the International Trade Organization."

That is a promise with which I am forced to disagree very substantially. I do not think we can act on this matter in this way and regard it as a final determination that we shall deal with it as a separate problem. It is very difficult, it seems to me, to argue in one body that a particular country, for some reason, is qualified to be a Member of the United Nations, and in another body that it is not qualified to vote. It is true that it is a question of words, but I think the question of Membership is even more important than the question of mere voting.

CHAIRMAN: I should like to point out that we have a great number of Articles to deal with today and therefore we cannot afford to spend too much time on one paragraph of a particular Article. I would like to know if there are any other Members of the Commission who support the proposal of the Czechoslovak Delegation.

M. ANGEL FALIVOVICH (Chile) (Interpretation): When we discussed this question at the Chairman's meeting I expressed my doubts and my lack of satisfaction regarding the inclusion of these "territories." I gave my reason at the time and I will not repeat it here, but I consider that after the discussion which took place at the Economic and Social Council the Czechoslovakian proposal seems to me to be the only one that can give me satisfaction.

DR. GUSTAVO GUTIERREZ (Cuba): Mr. Chairman, we second the motion of the delegate of Czechoslovakia to change the word "shall" to "may", and that the meeting be subjected to the approval of the appropriate organs of the United Nations.

M. ROYER (France) (Interpretation): Mr. Chairman, we agree with the idea which was expressed by the delegate of Czechoslovakia. We are not going to insist on the draft of the final text as it may be essential to change it and make it more precise. Therefore we are not going to insist on the modification of the text.

M. ERIK COLBAN (Norway): Mr. Chairman, I am in favour of the text as it stands and I will certainly not be able to agree to the mention of the Social and Economic Council. As to the other organs of the United Nations, I think their collaboration is covered by paragraph 1 of Article 81. We shall make a formal agreement with the United Nations concerning the relationship between our Organisation and the United Nations, and that should be sufficient.

M. ROYER (France) (Interpretation): Just a word, Mr. Chairman. I would like to say to the delegate of Norway that we have discussed several days ago the question of agreement with specialised agencies, but it would not be possible to include in such agreements with specialised agencies a question of principle as important as that which has been raised here by the delegate of Czechoslovakia.

CHAIRMAN: In order to make progress I think it would be desirable that we obtain the sense of the Commission on the Czechoslovakian proposal by taking a vote.

I take it that the Czechoslovakian proposal is that the opening paragraph should be made to read as follows. Commencing with the present word "shall" which should be changed to "may", it would read: "may be admitted to the work of the Organisation on such terms as may be determined after consultation with the appropriate organs of the United Nations". And then the same change takes place in sub-paragraph (1) after the words: "whose admission is approved by the Conference." The Czechoslovakian delegation would propose the addition of the words: "after consultation with the appropriate organs of the United Nations."

Mr. S.L. HOLMES (United Kingdom): I would just like to say, before you take the vote, that it is only indifference to the Chairman that I do not propose an extensive remark in reply to some of the points made. I have already made our position clear, and if there were to be a full debate on this - the sort of debate that we have already had in other bodies here - there is a great deal that could be said.

Mr. D.Y. DAO (China): With your permission, Mr. Chairman, I would request that the Czechoslovakian amendment be divided into two parts. The first amendment is to change the word "shall" into "may", and the second part will consist of the addition of the words "with prior consultation with appropriate organs of the United Nations."

CHAIRMAN: The delegate of China has asked that the vote be divided. I will therefore first of all put the first part of the

Czechoslovakian proposal to change the word "shall" to "may" to the vote.

Will all those in favour of this change please raise their hands.

Those against?

The motion is carried by 9 to 6.

The United Kingdom delegation has asked for a roll call.

BARON P. de GAIFFIER (Belgium) (Interpretation): Mr. Chairman, I would like to be quite sure that the vote here for the substitution of the word "may" for "shall" does not mean that, by that fact, we accept the whole amendment. There is a little clarification needed here, because I might not be opposed to the whole of the amendment, but still be against this alteration, so I want to be quite sure that, in voting on this first part it is understood that we are not voting on the whole amendment.

CHAIRMAN: The Rules of Procedure provide that if any motion is put, any Member may ask that that motion be divided into two parts and a vote taken on the separate parts. The decision on each part would depend on the votes as they are taken. There is no necessity that Members voting on the first part should vote in the same way on the second part.

BARON P. de GAIFFIER (Belgium) (Interpretation): Mr. Chairman I am not quite clear and would like to know whether, if we vote now for the substitution of the word "may" for "shall", we vote on "shall be admitted to the Organization on such terms as may be determined", as the text is now, or whether it would be the text of the second part of the amendment?

Dr. E. COLBAN (Norway): Mr. Chairman, I would like to make my position entirely clear. As far as I am concerned, "may" and "shall" are of equal value as long as the text of the Legal Drafting Committee is maintained, that is, I am prepared to vote for the word "may", but on the understanding that the text of the Legal Drafting Committee is maintained.

CHAIRMAN: The Delegate for Czechoslovakia.

H.E. DR. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, I think we are involved here in voting on something which may be a question of the general policy of the United Nations, and I think that the best way would be to take advice on this matter from the appropriate Organs of the United Nations and have no further voting.

CHAIRMAN: I would like first to deal with a point of order which has been raised. I would say that the only question before the Commission at the present time is that of substituting the word "may" for "shall" in the text presented by the Legal Drafting Committee.

BARON F. DE GAIFFIER (Belgium): Then, Mr. Chairman, I am in favour of "shall".

CHAIRMAN: The United Kingdom Delegation has asked for a roll-call in order that the voting shall be quite clear. I will therefore ask the Executive Secretary to call the names of the various Delegations. As their names are called, those Delegations who are in favour of the substitution of the word "may" for the word "shall" shall answer "yes", and those against shall answer "no".

(A vote was then taken by roll-call)

AUSTRALIA	No
BELGIUM AND LUXEMBOURG	No
BRAZIL	Yes
CANADA	No
CHILE	Yes
CHINA	Yes

CUBA	Yes
CZECHOSLOVAKIA	Yes
FRANCE	Yes
LEBANON	No

MR. D.P. K. K. K. (India): Mr. Chairman, just at the moment I happen to represent both India and Pakistan, so I prefer to be neutral on this point.

CHAIRMAN: The Delegate of India can say "yes", "no" or "abstention".

INDIA	Abstention
NETHERLANDS	Yes
NORWAY	Yes
NEW ZEALAND	No
SOUTH AFRICA	No
UNITED STATES	No
UNITED KINGDOM	No

CHAIRMAN: The result of the vote is 8 for and 7 against, with one abstention. *

We will now vote on the other part of the Czechoslovak proposal, which is to change the last part of the paragraph to read "to the work of the Organization on such terms as may be determined after consultation with the appropriate Organs of the United Nations"; and to add, in sub-paragraph (ii), after the words "approved by the Conference" the words "after consultation with the appropriate Organs of the United Nations"

*See correction on page 29

Mr. S.L. HOIMES (United Kingdom): Mr. Chairman, some question seems to have arisen as to whether the counting is accurate.

Mr. WYNDHAM WHITE (Executive Secretary): We have had a re-count, and the result is eight for, eight against, with one abstention.

CHAIRMAN: I am sorry for the confusion over counting the votes. As the voting is eight to eight, I am afraid we will have to rule that the motion is lost.

H.E. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, a point of order. Rule 36 of our Rules of Procedure states that if the Preparatory Committee is equally divided on a vote taken on a question, a second vote shall be taken at the next meeting. If the Preparatory Committee is again equally divided, the proposal is to be regarded as rejected.

CHAIRMAN: We will take another vote on this question first thing this afternoon.

We shall now proceed to take a vote on the second part of the Czechoslovak proposal. All those in favour of the Czech proposal?

Mr. J. TORRES (Brazil): Mr. Chairman, I would just like to say a word to clarify the position of Brazil in this matter. In voting for the word "may", I did it for the sole reason that it looks to me more logical to say "may", taking into account the conditional manner in which this paragraph is proposed.

CHAIRMAN: The Delegate of Czechoslovakia.

H.E. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, I would request that, if the Commission agrees, we should decide first on the second proposition I made, that is, we should seek the advice of the appropriate organ of the United Nations.

Mr. Clair WILCOX (United States): Mr. Chairman, what we are doing here is recommending a draft of a Charter to a Conference called by the United Nations, and we will get the advice at that Conference.

CHAIRMAN: The second part of the Czechoslovak proposal is before us now, and it will be necessary for us to arrive at some decision on that part before dealing with the other part of the Czechoslovak proposal, unless the Czechoslovak Delegate wishes to withdraw the second part of his proposal.

H.E. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, in the light of what has been said by Mr. Wilcox, that before the Conference we will have the opinion of the organ of the United Nations, I withdraw my proposal.

Mr. Clair WILCOX (United States): Mr. Chairman, I am not sure that the Delegate of Czechoslovakia correctly interpreted my remark. I said that the proceedings of the World Conference would constitute an expression of the opinion of the Members of the United Nations, all of whom are invited to that Conference.

CHAIRMAN: Does the Czechoslovak Delegate wish to withdraw the second part of his proposal?

H.E. Z. AUGENTHALER (Czechoslovakia): Yes, Mr. Chairman. I do not insist on this amendment, because it could be interpreted as a kind of unfriendly feeling on the part of Czechoslovakia for the countries concerned. On the contrary, we would wish to have them among us.

Mr. S.L. HOLMES (United Kingdom): Mr. Chairman, may I just say how very inspired I am to hear the remarks of the Czechoslovak Delegate, and the friendly sentiments that he has expressed towards the countries affected by this part of the draft Charter.

CHAIRMAN: Can we now approve -paragraph 3, subject to a re-voting taken on the words "may" or "shall" first thing at this afternoon's meeting?

Dr. J. HOLLOWAY (South Africa): Mr. Chairman, I would like to make a statement about the South African Delegation on paragraph 3. It is as follows: "In accepting in Article 65(3) the words "shall be admitted to the Organization on such terms as may be determined", the South African Delegation does not accept this phrase to mean that lesser rights in regard to a representation or voting may be given to these territories than to other Members. The South African delegation considers that it is quite unrealistic to expect a territory to accept all the obligations of the Charter while denying it certain rights". It is purely a unilateral declaration on our part.

CHAIRMAN: The remarks of the South African Delegate will be recorded in the Minutes of this Meeting.

Is paragraph 3 approved?

CHAIRMAN: The Delegate of the Netherlands.

Mr. SPEEKENBRINK (Netherlands): I propose that we retain the words of the Sub-Committee here regarding the change made by the Drafting Committee in paragraph 3 (ii).

CHAIRMAN: The Netherlands Delegation has proposed that in sub-paragraph (ii) the words in square brackets, "proposed by the competent Member having responsibility for the formal conduct of its diplomatic relations and" should be retained in place of the words "which is proposed by the competent Member" as put by the Drafting Committee.

The Delegate of France.

Mr. ROYER (France): I would simply like to second the proposal made by the Delegate of the Netherlands.

CHAIRMAN: Are any Delegations opposed to the proposal of the Netherlands Delegate? If not, the proposal of the Netherlands Delegation is approved. Is paragraph 3 approved, with the changes made by the adoption of the Netherlands proposal?

Agreed.

A vote on the word "shall" will be taken first thing this afternoon.

We now come to the footnotes which are to be found on page 6 of the Report of the Drafting Committee. Are those notes approved? Approved. Adopted.

Paragraph 4. Any comment? Approved.

Paragraph 5.

Mr. AUGENTHALFR (Czechoslovakia): I am sorry, Mr. Chairman, but I would like to say here that the question of mandatory territories means territories which are under some "tutor", and

in the Conference we want conditions without asking a "tutor", so I think there should be "after consultation with the Trusteeship Council", or if there is no Trusteeship Council say "the United Nations Organization".

CHAIRMAN: I take it the Czechoslovak Delegate is proposing that the words after consultation with the Trusteeship Council should be added in an appropriate place in this paragraph.

Mr. AUGENTHALER (Czechoslovakia): Yes.

CHAIRMAN: Those words will be inserted, "The Conference shall, after consultation with the Trusteeship Council of the United Nations, determine conditions", etc.

Any objections to the proposal of the Czechoslovak Delegation.

Mr. HOLMES (United Kingdom): Would you read the whole of the paragraph again, Mr. Chairman?

CHAIRMAN: If the Czechoslovak Amendment is adopted, the paragraph would read as follows:- "The Conference shall, after consultation with the Trusteeship Council of the United Nations, determine the conditions upon which Membership rights and obligations shall be extended to trust territories administered by the United Nations, and to the free territory of Trieste".

After reading that over I notice that it cannot be applied to the free territory of Trieste, because the Trusteeship Council have no authority over that territory. So that, if the Czechoslovak Amendment is adopted, I am afraid the paragraph would have to be split into two parts.

Mr. AUGENTHALER (Czechoslovakia): Mr. Chairman, I have said

that the Trusteeship Council at this moment does not exist, so that is why I think it would be better to say "after consultation with the appropriate organ of the United Nations". That covers the case of Trieste.

Dr. COOMBS (Australia): Mr. Chairman, it does seem to me to be somewhat unnecessary to seek to cover all points of this kind in the text of the Charter.

There is specific provision in the Charter which makes it mandatory on the International Trade Organisation to enter into an agreement with the United Nations. It seems to me that the most obvious thing that that agreement would cover would be arrangements for consultation on matters within the competence of the Organization which were to a greater or less extent the concern of the United Nations and it would seem to me to be natural that when that agreement comes into being the United Nations would ask that the agreement should provide for consultation on matters such as those if in their opinion their interests include or were such as to make such consultation necessary; and while we have provision for that - in fact while it is necessary for the Organization to enter into such an agreement - it does not seem to me necessary for us to anticipate the matters upon which such consultation would be required by the United Nations.

CHAIRMAN: After the explanation given by the Australian Delegate, does the Czechoslovak Delegate wish to have his proposal formally put to the Commission?

Mr. AUGENTHALER (Czechoslovakia): Mr. Chairman, I do not insist. I was only thinking that when we are consulting the

Economic and Social Council and appropriate Organizations on all kinds of matters, for instance, technical help (and I do not know what else) we should consult them also on matters of this importance.

CHAIRMAN: I think we can be sure that the United Nations, in negotiating agreement with the International Trade Organization, will take particular care to protect the interests of the appropriate organs of the United Nations in matters covered by the Charter. Therefore I hope it will be possible for the Czechoslovak Delegate to withdraw his proposal.

Withdrawn? Thank you.

CHAIRMAN: . Is Paragraph 5 approved?

(Agreed).

We now come to the new paragraphs proposed by the Czechoslovak Delegation. The text of this Czechoslovak amendment has been circulated both in English and in French. Paragraph 6 reads as follows: "Members of the Organization which are suspended from the exercise of the rights and privileges of Membership of the United Nations shall, upon the request of the latter, be suspended from the rights and privileges of this Organization."

Would the Czechoslovak Delegate like to speak on his proposal?

H.E. Mr. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, I would like to give a very brief explanation of the reason why we proposed this amendment. (I will deal with both Paragraph 6 and Paragraph 7 at the same time). It is that our Charter has no provision for the expulsion of Members and we may be faced with a situation where the Assembly of the United Nations takes steps against some country and proceeds to the expulsion of that country from the United Nations Organization. We would have no means at all of dealing with this matter.

I have taken for our amendment the wording as it is in the Constitution of the United Nations Educational, Social and Cultural Organization. That is Article 2, on Membership. This Constitution was, as far as I know, approved by the United Nations, so it would only be putting in here something which is already in the Constitution of another specialized agency.

CHAIRMAN: The Delegate of Chile.

Mr. Angel FAIVOVICH (Chile) (Interpretation): I would like to ask for some explanation and clarification from the Delegate of Czechoslovakia. We know that, in the United Nations, if the Assembly pronounces the exclusion of a Member, ~~that~~ Member is excluded, but in our future Organization we shall have Members who will not be Members of the United Nations and we shall, moreover, have customs territories which cannot be considered as Members of the United Nations. Therefore, in the event that we accept the Czechoslovak proposal, what will be the exact situation of these non-Members of the United Nations and of these customs territories?

CHAIRMAN: The Delegate of Australia.

Dr. H. C. COOMBS (Australia): Mr. Chairman, this is a fairly difficult question but personally I think the Australian Delegation would be inclined to support the general idea underlying the inclusion of these two paragraphs.

It does seem to me to be proper that it should not be possible for the International Trade Organization to defeat the purposes or intentions of the United Nations if they wish to take action against a recalcitrant Member; therefore it would appear to be reasonable that, upon the request of the United Nations, we should suspend Membership, and so on, from a Member.

At the same time, it does seem to me dangerous to suggest that expulsion from the United Nations should automatically require expulsion from the ^{International} Trade Organization. It may not be unlikely that expulsion of a Member may be a sanction which would operate more to the detriment of the ones remaining than to the one excluded. For that reason, the United Nations, whilst wishing itself to expel a Member, might not require that Member's expulsion from all the international organizations, and perhaps the International Trade Organization might be one of the possible exceptions.

This is, as I say, Mr. Chairman, a fairly difficult question and it is a matter about which my Delegation would like to think a little more. I would suggest, therefore, that some time might be given to Delegations to look at this more carefully before a decision is made upon it.

In the meantime, I would like to draw attention to the point I have raised: that at any rate we ought not to preclude the possibility that the United Nations itself might wish to expel a Member but not require its expulsion from the International Trade Organization. That would, in any case, require an alteration in the second paragraph of the Czechoslovak amendment; to delete the word "automatically" and to insert some such words as the Czechoslovak Delegation has used in the first paragraph: "upon the request of", so that the second paragraph would then read: "Members of the Organization, which are expelled from the United Nations, shall upon the request of the latter, cease to be Members of this Organization."

That does seem to me to be a minimum change, but, as I say, Mr. Chairman, I would like time to think about the implications of these two paragraphs before giving final judgment upon the matter.

Mr. CLAIR WILCOX (United States): Mr. Chairman, I regret that these points were not brought before us at an earlier stage in our deliberations. I should not desire to take a position on them without further reflection as to their implications, and perhaps instructions from my Government on what may be involved. I think that other delegates will find themselves in the same position of not having sufficient time for adequate consideration of these points. I wonder therefore if the situation might be met by the insertion in the record of the meeting, perhaps in the footnote appended to the Charter of these proposals, "for the consideration of the Conference at Havana" without requiring us to take a vote on them at this time.

CHAIRMAN: Does the suggestion of the United States delegate meet with the approval of the Czechoslovakian delegate?

H.E. Z. AUCENTHALER (Czechoslovakia): Yes, Mr. Chairman. I have no intention of delaying our discussion with this matter. I agree with the proposal of Mr. Wilcox, and I think we should add there that it is proposed also to study further the situation of the States which are not Members of the United Nations in those cases.

Mr. S.L. HOLMES (United Kingdom): I would only like to say, Mr. Chairman, that in any case it would obviously be very difficult for us to consider the two paragraphs here and now, while we are still in a state of uncertainty with regard to Article 36, "The Relationship With Non-Members Article" which is not likely, I think, to be put in a final form here. It is almost impossible to consider with any degree of certainty that one is coming to the right conclusion on these two new paragraphs without any relationship to that other Article in whatever may be its final form.

(Interpretation):

M. ROYER (France):/ The French delegation, Mr. Chairman, agrees with the spirit of this proposal, but it also agrees with what has been said by the delegate of the United States that it is not possible on such a delicate problem to express the position of the French delegation. I would just like to draw the attention of the Commission to one fact: that arrangements are provided as has already been mentioned this morning between the Economic and Social Council and the different specialised agencies, and that there are a series of Articles which are in existence concerning the relations between the Organisation and the Security Council. One of them is that a special agency must enforce and implement a decision taken by the Security Council. This has given rise to quite a number of discussions, for instance, the Health Organisation states that it does not think that it is always in the interests of the United Nations to implement automatically and enforce a decision taken by the Security Council, and one of the arguments mentioned was that if the Security Council does enforce a sanction, it is not in the interests of the United Nations to deprive those countries to which sanctions are applied, of information on epidemiology because that would spread epidemics in those countries. Therefore I would like the Commission not to forget that even if there are no special clauses in the Charter on this matter it is dealt with in Article 56.

CHAIRMAN: I propose that we adjourn now for the lunch interval. The Secretariat will prepare a draft note covering this point and will submit it to the Commission after we have taken the vote. I would ask the Members to be back here at 2.30 sharp because it is important that we should not lose any time.

(The Meeting rose at 3.15 p.m.)