

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.COMMISSION B.SUMMARY RECORD

Seventh Meeting held on Tuesday, 10th June,
at 2.30 p.m. at the Palais des Nations,
Geneva.

Chairman: Hon. L.D. WILGRESS (Canada)

CHAPTER VIISub-Committee on Chapter VII

M. PETER (France) stated that the Drafting Sub-Committee appointed yesterday had held its first meeting this morning, and had already made some progress with its work. He raised the question of the possibility of adding the delegate of the Netherlands to the Sub-Committee, because the experience of Mr. de Vries in connection with this Chapter of the Charter would be valuable.

This proposal was supported by a number of delegates.

Mr. MARTINS (Brazil) warmly supported the proposal of the French Delegate. He recognised that the rule of the Steering Committee limiting the membership of sub-committees was being infringed, but suggested that, in order to provide a proper balance, the Indian delegate should be asked to join the Sub-Committee.

The CHAIRMAN said that although the rule limiting the membership was not rigid, to make the Sub-Committee too large might defeat the purpose for which it was designed

He pointed out that every member of the Commission would have an opportunity of expressing his point of view on any particular point to the Chairman of the Sub-Committee, and he therefore urged that membership should be restricted to a workable number.

Mr. GUERRA (Cuba) stated that, while he had no criterion for judging the right number of members to serve on any particular sub-committee, he supported the inclusion of the representatives of the Netherlands and India.

Dr. ADARKAR (India) expressed his gratitude to delegates. As it was undesirable to have a large Committee, he would be content as long as there was an opportunity of attending the meetings of the Sub-Committee.

The Commission approved the increase in the membership of the Sub-Committee to eight by the inclusion of Mr. de Vries.

ARTICLE 48

Paragraph 1.

Mr. WHITE (New Zealand) outlined the reasons for the suggestion of his delegation to delete "primary" in the third line of the first paragraph. Although Article 52(c) limits the field for regulatory agreements for non-primary commodities, there was nothing, he thought, to prevent a non-regulatory agreement for non-primary products, provided such an agreement were governed by the general principles applicable to all agreements as set out in Article 51. If that were so his delegation did not see any reason to limit to primary commodities the procedure for study groups and commodity conferences. In the case of non-primary commodities consideration by such bodies might lead to a non-regulatory agreement or, in the

more limited circumstances of Article 52(c), to a regulatory agreement. If such arrangements are permitted, it seemed illogical to exclude non-primary commodities from Articles 48 and 49 which dealt with the setting up of study groups and commodity conferences.

Mr. CHANG (China) supported the deletion of the word "primary".

Mr. DEUTSCH (Canada) felt that the New Zealand proposal would make a fundamental change in the whole conception of this Chapter, which was an exception from the other provisions of the Charter. Arrangements made under the Chapter could use certain controls and regulations which are prohibited elsewhere in the Charter. The exceptions are made, according to the Chapter, because primary commodities are subject to particular difficulties. The New Zealand proposal would seem to alter the purpose of the Chapter, and introduce another very large escape clause.

Mr. J. GUERRA (Cuba) supported the views expressed by the Canadian Delegate, but nevertheless thought the substance of the New Zealand amendment justified in relation to Article 52(c). He thought it desirable to make some reference to the procedure by which the Organization would make determinations regarding the exceptional cases contemplated in Article 52(c). Amendment of the latter might meet the point raised by New Zealand.

Mr. CAPLAN (United Kingdom) agreed with the Canadian delegate and supported the latter's view in his interpretation of Chapter VII.

Mr. PETER (France) agreed in substance with the New Zealand proposal, but thought it should be taken up in connection with paragraph (c) of Article 52.

Mr. E. de VRIES (Netherlands) also thought that a slight addition to Article 52(c) - perhaps the addition of the words "and provisions" after the word "principles" in that Article - would meet the point raised by the New Zealand delegation.

Mr. WHITE (New Zealand) was not satisfied with the suggestion for amendment of Article 52(c) because that only referred to regulatory agreement. He thought that the Chapter as it stood, still left scope for agreements on non-primary commodities, and it seemed inconsistent to exclude non-primary commodities from Articles 48 and 49.

Mr. DEUTSCH (Canada) supported the idea of amending Article 52(c) so that the agreements to which it referred should be subject to the same procedure as laid down for primary commodities. Agreements on non-primary commodities must still, however, be regarded as exceptional cases. On this point he thought he differed fundamentally with the New Zealand Delegate.

Mr. GUERRA (Cuba) supported the views of the Canadian delegate.

The CHAIRMAN thought that the majority of the delegates were opposed to the New Zealand proposal to delete the word "primary" in Articles 48 and 49, but supported an appropriate amendment of paragraph (c) of Article 52. He suggested that the matter be referred to the sub-committee for examination in relation to the latter Article.

Mr. WHITE (New Zealand) agreed, but suggested that as Article 52(c) dealt with regulatory agreements, the sub-committee should also consider the position of non-primary commodities as regards non-regulatory agreements.

The CHAIRMAN proposed that these matters be referred to the sub-committee. This was agreed.

The Commission then passed on to a proposal made by the United States Delegation with regard to paragraph 1.

Mr. R.B. SCHWENGER (United States) explained that the change proposed by his Delegation was intended as a drafting change to bring the wording into line with changes in Article 46.

Mr. CAPLAN (United Kingdom) and Mr. GUERRA (Cuba) thought the change an improvement.

Mr. WHITE (New Zealand) expressed doubt about the reference to Article 46. He was not sure whether that Article covered all possible cases in which it might be desirable to set up a Study Group.

The CHAIRMAN proposed that the U.S. proposal be referred to the sub-committee and this was agreed.

The meeting then passed on to the amendment to Paragraph 2 proposed by the United Kingdom.

Mr. CAPLAN (United Kingdom) explained that his Delegation thought that the right principle in trying to secure the widest possible measure of international co-operation on commodity problems was to leave it to each country itself to determine whether it had sufficient interest in any commodity to participate.

Mr. PETER (France) supported the United Kingdom's amendment. The procedure indicated in the amendment had proved satisfactory in practice.

Mr. DEUTSCH (Canada) also supported the United Kingdom amendment, but asked for some explanation of the last sentence. He wondered whether the words "Non-Members may also be similarly invited" meant that all non-Members who considered they have an interest in the commodity may be invited.

Mr. CAPLAN (United Kingdom) agreed that the word "similarly" might give rise to difficulty, and stated that he would not object to its deletion.

Dr. CHANG (China) preferred the last sentence of the original text, i. e. "Non-Members having a similar interest may also be invited".

Mr. E. de VRIES (Netherlands) thought that in this case the term "Study Group" was ambiguous. Insofar as negotiations to establish an agreement were concerned, he thought that everybody should be invited, but he doubted if this was desirable for a Study Group.

Mr. GUERRA (Cuba) supported the United Kingdom amendment with the change suggested by the Chinese Delegate. He thought everyone should be invited, and then they could decline if their interest was not substantial.

Mr. R.B. SCHWENGER (United States) thought it desirable to retain some criteria as expressed in the word "substantially interested". Any country should be welcomed if it felt its interest to be substantial.

Mr. CAPLAN (United Kingdom) pointed out that, unlike the rest of the Charter, Chapter VII was already being applied as a general guide, not merely by all the Members of the Preparatory Committee, but by all the members of the Economic and Social Council. That was shown by the resolution of the Economic and Social Council at its session last March. The Commission should not lose sight of the actual existence of arrangements which were in full conformity with the basic spirit of Chapter VII and which commanded the support of many more nations than were represented on the Preparatory Committee. As regards right of participation in a Study Group, governments could be relied on not to abuse what might seem an unusually wide principle.

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The CHAIRMAN thought that the Commission had discussed the matter sufficiently to see the differences of views between the various members of the Commission. The majority had supported the principle underlying the amendment suggested by the United Kingdom that it should be left to the Members themselves rather than to the Organization to decide who had a substantial interest. He suggested that the question should be referred to the sub-committee. This was agreed.

The meeting then proceeded to discuss paragraph 3 of Article 48.

Mr. D. CAPLAN (United Kingdom) emphasised the difficulties of the post-war period, when conditions in many primary commodities were highly abnormal. Study Groups could be of great value even if there was no immediate need for a commodity agreement.

Mr. W.T. DOIG (Australia) considered that the substantial amendment proposed by the United Kingdom delegation emphasised a rather negative approach to the question. The emphasis of the United Kingdom amendment on a situation in which difficulties were so serious that they were unlikely to be overcome except by intergovernmental action did not take into account the fact that the Section applied not only to regulatory agreements but also to the non-regulatory or agreements of a minor regulatory character. He opposed the United Kingdom wording, and favoured the present text of Article 48 (3), subject only to minor drafting amendments.

Mr. GUERRA (Cuba) shared the Australian point of view. At the London meetings Study Groups had been conceived as fundamentally fact-finding bodies to investigate a situation and then to offer advice to the Organization and the Governments. The United Kingdom amendment involved a transfer of functions in that it would give to the Study Group the authority to recommend whether intergovernmental action was required or not, and also what form such action should take. He strongly opposed the United Kingdom amendment and supported the retention of the present text.

The CHAIRMAN proposed that the United Kingdom amendment be referred to the Sub-Committee. This was agreed.

ARTICLE 49.

The CHAIRMAN suggested that the Indian Delegation's amendment to paragraph 1 be taken with Article 50.

Mr. RAHIMTOOLA (India) agreed.

Mr. CAPLAN (United Kingdom) suggested that, in the light of the discussion on the previous amendment by the United Kingdom, their amendment to paragraph 1 should also be referred to the Sub-Committee. This was agreed.

It was also agreed that the United States amendment should be referred to the Sub-Committee.

The United Kingdom amendment to paragraph 2 was also referred to the Sub-Committee.

ARTICLE 50.

The CHAIRMAN first drew attention to the General Note on the Article. As this concerned re-arrangement of the Chapter he proposed that it should be referred to the Sub-Committee without further discussion. This was agreed.

The CHAIRMAN then invited the French Delegate to speak on his Delegation's note (E/PC/T/W157 Rev. 1.) regarding the functions of Specialised Agencies.

Mr. PETER (France) pointed out that this was not an amendment.

In certain conferences or study groups there seemed to be a lack of precision regarding the respective functions of various inter-governmental organisations. His delegation thought it desirable to avoid conflicting competence between inter-governmental organisations. They felt that there should be some authority which could determine the competence of each of the organisations, and suggested that this authority should be the Economic and Social Council.

Mr. YATES (F.A.O.) said that his Organisation would be very happy to inform the Economic and Social Council of whatever distribution of responsibility might eventually be agreed as

between F.A.O. and the I.T.O., and would welcome the comments of the Economic and Social Council. The question of distribution of functions between inter-governmental agencies was one which had occurred in several cases already. The F.A.O. was in process of negotiating an inter-agency agreement with the I.L.O., under which machinery would be established for the allocation of work which might lie on the frontiers of the sphere of competence of the two Organisations, likewise when the time came he hoped that no difficulties would be encountered in drawing up agreements between F.A.O. and I.T.O. He felt that it was proper that the Economic and Social Council should wish to review such agreements, and if this was what the French delegation had in mind he felt that they would receive general support.

The CHAIRMAN asked the French delegate whether, in view of the remarks of the representative of F.A.O., he still wished reference to be made in the Report of the Preparatory Committee regarding this subject.

Mr. PETER (France) said that he was quite satisfied with the explanations given by the F.A.O. Observer. His delegation was only anxious that provision should be made for the settlement of conflicts, should any arise in future. He agreed that the Economic and Social Council would be the competent body to solve them. He would be satisfied if mention were made of this short discussion in the report of the Preparatory Committee.

This was agreed.

The CHAIRMAN then passed to the amendment to Article 49(1) of the Indian delegation.

Mr. RAHIMTOOLA (India) said that the main purpose of his delegation in moving this amendment was to widen the scope of this paragraph.

Mr. de VRIES (Netherlands) withdrew his own amendment in

favour of the Australian one which would cover the Indian point.

Mr. GUERRA (Cuba) stated that his delegation was not in a position to support the amendment of either the Indian, Australian or Netherlands' delegations: he did not believe that the right to take action should also be given to Organisations other than I.T.O.

Mr. DEUTSCH (Canada) supported the Cuban delegate in his declaration. If several Organisations called conferences, then there might arise a great deal of duplication and overlapping.

Mr. DOIG (Australia) considered that such an amendment as his delegation proposed would in fact rather facilitate consultation between specialised agencies, and would help to reduce to a minimum the danger of duplication mentioned by other delegates.

Mr. de SWARDT (South Africa) felt that it was important that, after a Study Group had made a report and the evidence has been reviewed, the Organisation alone should decide whether a conference should be held. He was in favour of removing the right of a Member to ask for a Conference. He was opposed to the amendment suggested by the United Kingdom to paragraph 1 of Article 50, namely that it is only on the request of the I.T.O. that specialised agencies can submit studies. He expressed himself in favour of the Australian amendment to Article 50.

Mr. R.B. SCHWENGER (United States) suggested that much of the difference could be resolved, in the sense of the balance of the two extremes; by using the Australian proposal, but changing the word "request" to "recommend" or "suggest".

Mr. YATES (F.A.O.) stated that he was in favour of the substance contained in the Australian amendment. In his opinion this amendment cleared up the question of who was responsible for convening Commodity Conferences. Whilst F.A.O. or other appropriate

intergovernmental Organisations might sponsor a study group, the calling of the Commodity Conference would fundamentally be the job of I.T.O. However, the course of action to be taken would be based on the recommendations of the study group, i.e. of the governments themselves.

It was agreed that the next meeting of Commission B would be at 2.30 p.m., Wednesday, 11th June.