

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENTCOMMISSION B

Summary Record of the Fifteenth Meeting held on
Thursday, 26 June 1947 at 2.30 p.m. at
the Palais des Nations, Geneva.

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

1. ARTICLE 72 -- ESTABLISHMENT OF COMMISSIONS

The Commission continued its consideration of Document E/PC/T/W/210 Rev.1 opening with a discussion of the amendments which had been presented by various delegations to Article 72 -- Establishment of Commissions.

Mr. COLBAN (Norway) said that he had no objection in principle to the establishment of a fourth commission of the type contemplated in the various amendments and he appreciated the desire for a commission of this kind. However, he pointed out that it would be very difficult for the Organization to find persons with the requisite technical knowledge to staff four commissions. He suggested that the purpose of the amendment might be achieved by the Executive Board being able to invite persons with special technical knowledge to enter into the work of the three commissions which are already provided for in the Charter. If this were done it would be necessary to include in Article 72 or elsewhere in the Charter some provision saying that although the commission would have specific tasks to carry out they would also have authority to deal as necessary with all the complex problems which might arise in the fields of the Charter other than those dealt with by such specific tasks.

Dr. COOMBS (Australia) in introducing the amendment of his delegation said that in the opinion of his delegation it was necessary to provide in that part of the Charter dealing with administrative and executive arrangements for the taking of action arising out of the provisions of Chapter III. In the opinion of his delegation the successful operation of the Charter depended upon the effective working of this Chapter of the Charter, particularly as there was no part of the Charter from which employment considerations could be excluded.

The Australian Delegation had suggested the establishment of a separate commission to embrace the subjects of Chapter III as the commissions which were already provided for in the Charter were rigidly divided as regards functions and they were not empowered by the Charter to deal with matters outside of these functions.

The Australian Delegation was doubtful whether the commission form was suitable for the performance of the work which the International Trade Organization would have to do. It was very doubtful whether commissions were the most convenient type of body to carry out executive functions, they being rather bodies suitable for the carrying out of such duties as the making of investigations, etc. There were also a number of problems raised by the question of how the commissions would work, which question had not yet been settled. If the members of the commissions were to be employed only part time, it would be essential for a large amount of preparatory work to be done for them by other persons as competent as themselves. This being the case, the personnel problem raised by the delegate of Norway would become doubly difficult. On the other hand, if the members of the commissions were employed full time, it was difficult to see what advantage lay in not making them employees of the Organization.

Also it was possible that if commissions were established in the manner contemplated at present they might come between the Conference and the Executive Board on the one hand and the members of the Secretariat on the other. If this were to happen it would be difficult to enroll the necessary competence in the Secretariat.

In the light of these observations the Australian Delegation would like to see the sub-committee requested to examine very carefully in the light of the functions of the Organization the question whether commissions were the most appropriate form to be employed. In carrying out this task the sub-committee should consult with other inter-governmental organizations which had had experience in this field.

Should it be decided to use the commission form, he suggested that the functions of the commissions should not be rigidly laid down. The Conference might be merely authorized to set up such commissions as it thought necessary and to lay down their functions which might be modified from time to time. Also if it were decided to set up commissions the question of co-ordination of their work would arise. There were two provisions already in the Charter for doing this namely, the responsibility of commissions to the Executive Board and the presence of the Director-General at commission meetings. The Australian Delegation thought that these provisions were not enough to insure co-ordination and that an additional provision might be inserted in the Charter providing that the Director-General should participate in the work of the commissions as a full member.

Mr. MARTINS (Brazil) warmly supported the Australian Delegation's proposal and pointed to the necessity for establishing a commission on Economic Development with the same scope in respect of Chapters III and IV of the Charter as the commissions already provided for had as regards other Chapters. These functions under Chapters III and IV would have to be carried out continuously and be done by experts. In the Charter a balance had been

established between the interests of industrially underdeveloped countries and other countries and should a commission of this type not be established this balance would be destroyed.

Regarding the argument of the delegate for Norway that it would be difficult to secure the necessary experts, he did not see why it would be more difficult to find technicians for this commission than for the other commissions. This was all the more true when it was considered that a different class of technician would be required. He expressed full support for the principle of establishing a commission on economic development which was the basis of the proposals submitted by four separate delegations.

Mr. KOJEVE (France) stated that like the Australian delegate he doubted whether the commission form was the most appropriate. It was for this reason that the French Delegation's proposal had been phrased conditionally. The reason for that proposal was that the main purpose of the Organization was to develop world trade. From the point of view of his own country this was essential. To achieve this purpose new markets must be opened up and therefore the industrial development of underdeveloped countries must be increased. It would be the purpose of the new commission to carry out the functions of the Organization in this field. The French Delegation had entitled the new commission "Commission on Economic Development and Co-ordination" because its purpose would be to achieve harmony through an increase in commercial exchanges.

He doubted whether the Australian proposal to create a commission to carry out the purposes of Chapter III was necessary for it was inevitable that the commission which the French Delegation and other delegations had suggested be established would be concerned with employment considerations.

He concluded by saying that he thought that the personnel difficulty foreseen by the Delegate of Norway was not very serious and was only temporary.

Mr. DAO (China) said that the previous speakers in discussing the reasons for the establishment of a fourth commission of the type envisaged in the proposals before the Commission had covered most of the points in support of the Chinese proposal. However, there was also the technical aspect to be considered. In setting up three commissions to deal with the work of the Organization under Chapters V, VI and VII, the negative side of the picture, i.e. the elimination of trade barriers, etc., would be taken care of. On the positive side of the picture, i.e. the encouragement of industrial and general economic development, the work of advising Members concerning their plans for economic development, of examining such plans when submitted, of providing or arranging for the provision of technical assistance, and so on, would seem to require the services of a body specially created and staffed.

Mr. KELLOGG (United States) asked the Australian delegate if the Australian amendment meant the setting up of a fifth commission assuming that a commission on economic development were established.

Dr. COOMBS (Australia) said that the Australian Delegation was not definitively suggesting the establishment of a fifth commission to deal with employment but wished to have the subcommittee consider the necessity for insuring that the functions of the Organization under Chapter III were covered adequately administratively and executively. This he thought might, in the absence of establishment of a commission, possibly be done by the staff of the Director-General.

Mr. KELLOGG (United States) said that should it be decided to retain the commission form in Chapter VIII the United States

Delegation considered it necessary to provide for a commission on economic development and investment. It would be noticed that in its present form Chapter III relied for its implementation on the Economic and Social Council. It was for this reason that he had asked the Australian delegate whether he wished to create a commission on employment which might duplicate the work of the Council and of its Commission on Employment and Economic Activity.

Mr. GUTIERREZ (Cuba) strongly supported the Australian proposal. He pointed out that the original United States Draft Charter had only one chapter dealing with the subjects of the present Chapters III and IV and this chapter had been entitled "Employment Provisions". At the First Session this chapter had been expanded into two chapters, one dealing with employment and the other with economic development. However, it was now proposed to set up merely one commission to deal only with economic development, thus neglecting the employment aspect. He did not visualize the establishment of a fifth commission. He thought that international investment might well be omitted from the scope of the commission on economic development and employment substituted therefor. The title of this commission would then become "Commission on Employment and Economic Development".

Dr. NAUDE (South Africa) said that from the First Session the South African Delegation had had doubts about Section 8 of the Charter and had wondered whether or not the Conference should not merely be authorized to establish such commissions as it considered necessary. His delegation had also wondered whether commissions would be the most appropriate instruments for carrying out the functions in question. He was conscious of the significance of the commissions which it had been

suggested should be created and of the balance between Chapters III and IV of the Charter. Also he appreciated the personnel difficulty which had been raised by the delegate of Norway. All of these considerations made him feel that the whole matter should be further studied.

As regards the proposals which had been submitted he sympathized with the proposal of the delegate of France for the creation of a commission on economic development and co-ordination and he appreciated the force of the proposal of the delegate of the United States to authorize this commission to deal also with international investment.

Dr. van TUYLL (Netherlands) referred to the remarks regarding the history of Article 72 which had been made by the delegate of Cuba. He pointed out that originally there had been provision for only three commissions and that the United States Draft Charter had contained few provisions regarding economic development. Economic development, however, remained a very important function of the Organization and he therefore saw no reason why a commission should not be set up to deal with it.

Regarding the title of the commission, as he now realised that the word "co-ordination" in the title suggested by the delegate of France meant the co-ordination of economic policies of countries he was in favour of including this word in the title. He was also in favour of including the words "international investment" as suggested by the delegate of the United States. However, with regard to this he wished to point out that the sub-committee on Chapter IV was still studying this matter and that the sub-committee on Chapter VIII would need to consult with the former sub-committee.

Mr. FAWCETT (United Kingdom) suggested that to avoid the possibility of overlapping with the work of other commissions outside the Organization which dealt with the same questions, he felt that the description of the functions of the commissions should not be too precisely defined in the Charter itself and that if a commission were set up on employment, Articles 3 and 8(b) of Chapter III should be particularly stressed as these dealt with the co-operation of the Organization with outside organizations. The principal function of the commission would thus be liaison between the Organization and other bodies dealing with the very general problem of employment. He agreed with the suggestion of the delegate of Australia that the functions of this commission should be performed by permanent technical personnel within the Organization who would have a full knowledge of the Organization's work rather than by outside experts called in temporarily to form a commission.

Mr. MARTINS (Brazil) suggested that the title of the new commission should merely be "Commission on Economic Development" and he foresaw difficulties arising from the French delegate's proposal to add the word "Co-ordination" to the title.

With regard to the Australian proposal he pointed out that the Organization was given power in the Charter to set up other commissions at a later stage and he concurred with the remarks of the delegate of the United Kingdom regarding the danger of duplication if the Australian proposal were adopted. He did not foresee any difficulty regarding personnel for the commission as a different type of personnel from those engaged in the commercial policy field would be required.

Mr. OLDINI (Chile) felt that the title of the Commission was of secondary importance, for even if it were described as a Commission for Economic Development it would still of necessity consider problems of employment. Of primary importance were the functions of the Commission and on this point he concurred with the remarks of the delegates of Australia and the United Kingdom who had expressed some doubt that the Commission form was the best one. To clarify this point further he thought it might be necessary to make it clear whether commissions in the proper sense of the word were envisaged or bodies of the Organization consisting mainly of technicians, and in the latter case there would be also the question of whether these technicians would be officials of the Organization. In view of the more or less permanent nature of the work to be performed, he felt that the creation of standing technical commissions would be more appropriate than the introduction of temporary or ad hoc special commissions.

Decision: The question was referred to the sub-committee.

The CHAIRMAN drew attention to the drafting change suggested by the Secretariat in item 5 on page 18 of Document E/PC/T/W/210. Rev. 1.

Decision: The Committee agreed that the suggestion should be referred to the sub-committee.

2. ARTICLE 73 - COMPOSITION AND PROCEDURE OF COMMISSIONS

Mr. FANCETT (United Kingdom) and Dr. van TUYLL (Netherlands) agreed with the proposal of the United States Delegation to limit the composition of the Commission to not more than seven members.

Dr. NAUDE (South Africa) also agreed with this amendment but suggested that the sub-committee might consider the need of making clear that this should refer to the more permanent commissions.

Mr. TANGE (Australia) expressed doubts about the wisdom of limiting the number of members of commissions or putting any other specific restrictions upon the composition of commissions for the reason that it would seem unwise to lay down in the constitution of the Organization a specific rule such as the one suggested which could not be altered except by an amendment to the constitution.

After Mr. HAKIM (Lebanon) had expressed his support of the point of view expressed by the Australian Delegation the CHAIRMAN suggested that this question be referred to the sub-committee.

Decision: The proposal was referred to the sub-committee.

Paragraph 4

Decision: The suggestion of the Secretariat that "The Chairman of a Commission shall be entitled to participate, without the right to vote, in such of the deliberations of the Executive Board and of the Conference as are of concern to the Commission" was referred to the sub-committee.

Paragraph 5

Decision: The question of whether this paragraph was redundant in view of the provisions of Article 81 was referred to the sub-committee.

3. ARTICLE 74 - GENERAL FUNCTIONS OF COMMISSIONS

Decision: The question raised by the United Kingdom Delegation as to whether it was intended that commissions could initiate studies, make recommendations, etc. or could act only on the instructions and within the terms of reference assigned to them by the Conference or the Executive Board was referred to the sub-committee, together with the points raised by the Secretariat.

4. ARTICLE 75 - FUNCTIONS OF THE COMMISSION ON COMMERCIAL POLICY.

Mr. LAWRENCE (New Zealand) pointed out that in Article 75 paragraph (a) as at present drafted there was some overlapping of functions as between the proposed Commission on Commercial Policy and the Tariff Committee.

Mr. TANGE (Australia) pointed out another instance of over-lapping, this time between Articles 75 and 77 (b) and argued that it would seem preferable simply to state in Article 74 that "The commissions shall perform such functions as the Conference or the Executive Board may assign to them" thus providing flexibility. In this case Articles 75, 76 and 77 could be deleted.

Mr. MARTINS (Brazil) said that he was prepared to agree with the delegates of Australia and New Zealand provided that it was decided to delete Articles 75, 76 and 77. If, on the other hand, it was decided to retain these Articles he would propose an amendment to the wording of Article 77A sub-paragraph (a).

Dr. van TUYLL (Netherlands) suggested as an alternative solution to that suggested by the Australian Delegate the inclusion in Article 66 of a provision to enable the Conference to prevent over-lapping with regard to Articles 75, 76 and 77. Decision: Articles 75 to 77 and the proposals related thereto were referred to the sub-committee.

5. ARTICLE 79 - THE DIRECTOR-GENERAL.

Mr. TANGE (Australia) said that he felt that the question raised in the United States amendment regarding the budget was very important and that the present draft was unsatisfactory because it did not make clear the roles of the Board and the Director-General in the preparation of the budget. It also left uncertain the question of

whether the Executive Board was to approve the budget and send it forward to the Conference. As the proposed amendment also seemed to leave open this latter question, he asked the delegate of the United States whether his delegation's proposal envisaged that the Director-General would in fact present the budget to the Executive Board and, if so, how would the Executive Board express its opinion?

Mr. KELLOGG (United States) said that the United States Delegation had two purposes in proposing its amendment. The first was to make it perfectly clear that the Director-General had the sole responsibility for preparing the budget and the second was to leave the question of broad supervision over the matter more flexible. Under paragraph 1 of the article the Director-General was subject to the supervision of the Board and his duties were to be determined in accordance with regulations approved by the Conference. With these provisions it would seem that the Conference and the Board could, in the light of experience, provide an effective method of dealing with the budget.

Dr. NAUDE (South Africa) said that it should be made clear where the responsibility lay and suggested some such draft as "the Director-General shall prepare the budget of the Organization and, upon approval of the Executive Board, submit it to the Conference."

Mr. TANGE (Australia) while satisfied by the explanation given by the Delegate of the United States and agreeing with his purpose, felt that the final words of the draft seemed to suggest that the budget of the Director-General must go to the Conference. However, it was possible that the budget might be sent forward by the Board. He pointed out that other articles

clearly provided that it was the Conference which must pass the budget and suggested that by amending the present paragraph to read simply "The Director-General shall prepare the budget of the Organization" the question as to the status in which it passed could be left open for determination by regulations.

Mr. OLDINI (Chile) felt that the responsibility of preparing the budget should be explicitly delegated but he did not see how the Director-General could prepare the budget without consulting the Executive Board. As regards the Australian amendment he did not understand how the budget could not be submitted to the Conference since the Conference must take a decision upon it.

Mr. TANGE (Australia) replied that his suggestion was made in the light of Article 66(7). As this article explicitly said that the Conference should approve the budget there seemed no harm in deleting the relevant phrase in Article 79 and this would clarify the United States text which as presently drafted might imply that the budget estimate, having been prepared by the Director-General, must be submitted to the Conference in the form in which it was prepared.

Decision: The United States proposal on Article 79 was referred to the sub-committee.

Paragraph 2.

Dr. NAUDE (South Africa) moved that the sentence "The Director-General may initiate proposals for the consideration of any organ of the Organization" be deleted. He pointed out that in the constitutions of various other specialized agencies the power of the Director-General to initiate proposals was limited to matters already before the executive body or of direct concern to it.

Mr. OLDINI (Chile) seconded the proposal of the South African Delegate.

Mr. TANGE (Australia) felt that the difficulties envisaged by the delegate of South Africa were unlikely to prove serious and therefore opposed the suggested deletion.

Decision: The suggestion of the South African Delegation was referred to the sub-committee.

The CHAIRMAN then nominated as members of the sub-committee the representatives of Australia, Belgium, Brazil, China, France, Union of South Africa, United Kingdom and United States. The sub-committee would deal with Chapter VIII and later with Chapters I and II, but it would not necessarily consider the question of voting and membership of the Executive Board.