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

SUMMARY RECORD OF THE THIRTY-THIRD MEETING

of COMMISSION B

held on Tuesday, 19 August, 1947 at 2.30 p.m.
in the Palais des Nations, Geneva.

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

The Commission resumed its consideration of the Report
of the Committee on Chapters I, II and VIII.

Article 77

Paragraph 1.

Mr. AUGENTHALER (Czechoslovakia) introduced the amendment of his delegation contained in Document E/PC/T/W.304.

Mr. ROYER (France) suggested that the paragraph should read "Except as otherwise decided by the Conference, the Commissions". This amendment would require a consequential alteration which would split the paragraph into two sentences.

The amendment of the delegate of France was adopted by eight votes to seven.

Paragraph 2.

Mr. AUGENTHALER (Czechoslovakia) proposed the deletion of the phrase "which shall not exceed seven."

Mr. COLBAN (Norway), and Mr. ROYER (France), supported this amendment whilst Mr. DE HAIFFIER (Belgium/Luxembourg), Mr. SHACKLE (United Kingdom), Dr. HOLLOWAY (South Africa) and Mr. EDMINSTER (United States) opposed it.

The amendment was rejected by six votes to four.

Article 78

Paragraph 1.

The Commission approved the amendments to paragraph 1 which had been suggested by the Tariff Negotiations Working Party in Document E/PC/T/136. The proposal by the delegate of the United Kingdom to delete the words "and arranging for" was also adopted.

Paragraph 2.

The Commission approved the following text suggested by the delegate of the United Kingdom:

"The Tariff Committee shall consist of those contracting parties to the General Agreement on Tariffs and Trade which are Members of the Organization" subject to an amendment by the delegate of the United States to add the words "referred to in paragraph 1(c) of Article 24" after the word "Trade".

Paragraphs 3 and 4.

The Commission approved a proposal by the delegate of the United States to insert the words "provisions relating to the voting power of each Member of the Committee" in square brackets in paragraph 3 and the words "provisions relating to majority votes required for decisions of the Committee" in square brackets in paragraph 4. It was also agreed that there should be a footnote to these paragraphs stating that the content of them would depend upon decisions to be taken at the World Conference regarding voting in the Organization.

Mr. PARANGUA (Brazil) entered a reservation to paragraph 3 which he alleged implied a discrimination of voting power amongst the contracting parties to the Charter.

Article 79.

Paragraph 2.

Dr. HOLLOWAY (South Africa) proposed the deletion of the second sentence of this paragraph.

This proposal was supported by the delegate of Norway and opposed by the delegate of Australia. It was carried by eight votes to two.

Paragraph 3.

Mr. COLBAN (Norway) suggested that the words "through the Executive Board" be inserted after the word "present".

This proposal was rejected by eight votes to five.

Article 81.

Paragraph 1.

Mr. TANGE (Australia) referred to the amendment of the delegation of Australia to delete the final sentence of this paragraph.

This proposal was adopted.

Paragraph 2.

Mr. TORRES (Brazil) suggested that a further paragraph should be added to Article 81 reading as follows: "Nevertheless the provisions of paragraphs 1 and 2 cannot nullify the right of final decision by the Organisation under the provisions of this Charter".

Mr. ROYER (France) supported this proposal and Mr. SHACKLE (United Kingdom) opposed it.

The proposal was rejected by six votes to three.

The proposal of the Legal Drafting Committee regarding the phrase "within its competence" both in this paragraph and paragraph 4 was adopted.

Article 36.

Dr. HOLLOWAY (South Africa) suggested that in view of the vague wording of this Article, a footnote should be made in the Charter drawing the attention of the World Conference to the limited study which had been given to the subject of settlement of differences and recommending that the Conference should give this matter early and full examination. It was agreed that this note should be inserted and should refer to the whole of Chapter VIII.

Article 87.

Paragraph 1.

The Commission agreed that the change of the word "concerned" to "interested" in the middle of this paragraph should be rejected. The word "other" at the end of this paragraph was deleted.

Paragraph 2.

Mr. SHACKLE (United Kingdom) reserved the position of his delegation on this paragraph.

Article 88.

Paragraph 1.

The proposal of the delegation of Australia to delete the opening words "The Executive Board or" was rejected. It was agreed that the opening words of this paragraph should read "The Conference or the Executive Board may"

Paragraph 2.

The CHAIRMAN drew attention to Document E/PC/T/W.257 submitted by the Delegation of Belgium/Luxembourg and Document E/PC/T/W.299 submitted by the Delegation of the United States.

Dr. COOMBS (Australia) stated that he did not view the proposal of the United States delegation as a true compromise solution but as one which came very close to alternative B in the Report of the Committee. The Delegation of Australia favoured alternative A in the Report of the Committee as it considered that the Organization should control the settlement of disputes arising between Members from their obligations under the Charter so far as the economic content of these disputes was concerned. The Delegation of Australia considered that only purely legal aspects of any question should be referred to the International Court of Justice.

The Delegation of Australia also doubted whether the Organization would have any right to refer any question other than legal questions to the Court. The Charter of the United Nations and the Statute of the Court confirmed this point of view.

Mr. DE GAIFFIER (Belgium/Luxembourg), Mr. SHACKLE (United Kingdom), Mr. ROYER (France), Mr. DORAN (Cuba), Mr. SPEEKENBRINK (Netherlands), and Mr. TORRES (Brazil) supported the compromise solution proposed by the delegate of the United States. This solution was adopted.

Dr. COOMBS (Australia) reserved the position of his delegation.

Article 89

Dr. COOMBS (Australia) recalled that during the discussions in various committees the question had been raised whether a general rule embodied in the Charter was qualified by exceptions which followed it. It had been suggested that in the part of the Charter which dealt with interpretation, there should be inserted a provision stating that such general rules were to be taken as qualified by anything which followed them.

After some discussion which raised the question whether such a provision was necessary in the Charter, it was agreed that this matter should be left over for further consideration at the World Conference.

Paragraph 3.

The delegates of BELGIUM-LUXEMBOURG and FRANCE withdrew the reservations they had previously made to this paragraph.

Mr. SPEEKENBRINK (Netherlands) reserved the position of his delegation regarding this paragraph.

Article 91

Sub-paragraph (b)

The suggestion of Commission A to insert the words "directly or indirectly" after the words "is carried on" was adopted.