SIXTH COMMITTEE: ORGANIZATION

SUMMARY RECORD FOR THE THIRTY-NINTH MEETING

Held at the Capitol, Havana, Cuba, on Monday, 15 March 1948 at 10.30 a.m.

Chairman: Mr. E. COLBAN (Norway)

REWRITING OF CHAPTER VIII BY THE CENTRAL DRAFTING COMMITTEE (E/CONF.2/C8/11)

Article 88A - Reliance on the Procedures of the Charter

The Article was approved without comment.

Article 88 - Consultation and Arbitration

With the deletion of the words "even though" in paragraph 1 (b), the Article was approved.

Article 90 - Reference to the Executive Board

Mr. COUILLARD (Canada) said that the Central Drafting Committee had suggested that the word "matter" should be translated as "affaire" so that the connotation of the term would be brought out.

The CHAIRMAN drew attention to a typographical error in the English text of paragraph 1.

Mr. KOJEVE (France) drew attention to the fact that the word "affaire" should be substituted for "question" in the French text of paragraph 2 (e). Article 90 was approved.

Article 90A - Reference to the Conference

Mr. SERRATA (Uruguay) asked for an explanation as to whether, in the case of the special procedures laid down in a number of Articles in the Charter, the Members concerned had a right to appeal to the Conference regarding the decisions taken by the Executive Board. He recalled that in the case of one such procedure, that laid down in Article 50, the right to do so had been recognized.

In reply to the representative of Uruguay, the CHAIRMAN explained that it was not the intention to deprive Members in the last resort of the means of action set forth in Chapter VIII.

Mr. SERRATA (Uruguay) said the Chairman's explanation was satisfactory and requested that it should be recorded in the minutes of the meeting.

/Article 90A was
Article 90A was approved.

Article 91 - Reference to the International Court of Justice
The Article was approved.

Article 92 - Miscellaneous Provisions
The Article was approved.

REPORT OF THE WORKING PARTY ON THE QUESTION OF AN INTERIM COMMISSION

Resolution
On the suggestion of Mr. GUTIERREZ (Cuba), the words "the Havana" were substituted for "a" before the word "Charter" in the opening words of the resolution.

On the suggestion of the representatives of Australia and Iraq, the final paragraph was changed to read as follows: "...consisting of the governments, the representatives of which have approved this resolution...."

As it had been proposed that the Interim Commission should study the case of Switzerland, Mr. REAL (Switzerland) reserved his position concerning the resolution.

Annex
On the suggestion of Mr. GUTIERREZ (Bolivia), the word "elect" was substituted for "appoint" in paragraph 1, and again in paragraph 3.

He also suggested that a reference to the provisions of Article 83 should be added to paragraph 4.

Mr. WUNSE KING (China) proposed that paragraph 4 be inserted in paragraph 3 as a second sentence. At his suggestion, the beginning of paragraph 5 was changed to read as follows: "The Commission shall approve the budget estimates for the operation of the Commission. The Executive Secretary shall prepare the draft estimates."

The Annex as amended was approved by the Committee.

Draft Report
In reply to the representative of Bolivia, the CHAIRMAN stated approval of the Draft Report would in no way commit a delegation to acceptance of the Charter.

On the suggestion of Mr. MULLER (Chile), the second paragraph of paragraph 5 was changed to read as follows: "the Working Party noted, however, that it has not been possible at the Conference to establish texts of the Reports of the Committees and Sub-Committees properly revised by the Central Drafting Committee. The attention....."

Subject to a reservation of the representative of Bolivia, the report was approved by the Committee.
The Chairman pointed out that a reference to the Sub-Committee on Article 1 and the Working Party on the Interim Commission would have to be added to paragraph 2.

Article 1 (Document E/CONF.2/C.6/103/Add.3)

In reply to the Chairman, Mr. Ferrano (Argentina) said that he would be satisfied with a reference in the record to the effect that he reserved his right to make a statement concerning his amendment to Article 1.

Article 68 - Membership

Mr. Wunsh King (China) asked that the reference to the Far Eastern Commission and the reservation of the Chinese delegation be deleted from the paragraph on Article 68 for the following reasons: there had never been any doubt that the Far Eastern Commission in Washington was the competent authority with respect to Japan, but if that fact was emphasized by one delegation, it might give rise to the implication that other delegations disagreed.

Mr. Benda (Czechoslovakia) said that he had received instructions from his Government to maintain his reservation on Article 68 (5).

Mr. Bluszstein (Poland) asked that the words "and no decision was taken on such a question" be deleted from the first sentence of the paragraph on Article 68 and also asked permission to submit a statement concerning his point of view for inclusion in the report.

Article 69 - Functions

The report concerning Article 69 was approved without comment.

Article 74 - Powers and Duties

Mr. Kojève (France) asked that the first three lines of the French text be revised to bring them into line with the English text.

Article 75 - Composition of the Executive Board

Mr. Kojève (France) asked that the words "tenir compte" be substituted for "preoccuper" in the penultimate line of paragraph (b).

Article 80 - Composition and Procedure and Article 83A - Relations with the United Nations

The report concerning these two Articles was approved without comment.

Article 88A - Reliance on the Procedures of the Charter

Mr. Marten (United Kingdom) urged the insertion of the word "appropriate" before the second reference to the word "procedure" in Article 88A (1). Section 8 of the report of the Fourth Committee drew attention to the fact that there were two types of complaints and appropriate procedures for both of them.
of them. His amendment was designed to ensure that when a complaint referred to a business practice the provisions of Articles 45 and 45A would apply.

After a short discussion the amendment was rejected by the Committee, three representatives only supporting it.

Mr. BAIDER (Iraq) wished it to be recorded that the procedure set forth in the Arab League Charter concerning the settlement of disputes was not inconsistent with that contained in Chapter VIII.

Article 89 - Consultation between Members

Mr. COOMBS (Australia) suggested the insertion of the words "in the case of widespread unemployment or a serious decline in demand in the territory of another Member" after the words "opinion that" in paragraph (a). This was agreed.

Mr. GAUFFIER (Belgium) provisionally maintained his reservation on the words "other than Article 1".

Article 90 - Reference to the Organization

Mr. HAIDER (Iraq) pointed out that the letter (e) should be substituted for (v) after the figure 2 in paragraph (v).

Articles 91, 92, Annex to Article 95 and Draft Resolution

Mr. COULIARD (Canada) asked that the French text of paragraph (a) be revised so as to conform with the English text.

The representative of Iraq maintained his reservation and asked that it be included in paragraph (c). The representatives of the United Kingdom and Venezuela withdrew their reservations. The representatives of Colombia and Peru maintained their reservations pending further instructions from their Governments.

Article 93 - Relations with Non-Members

Mr. MARTEN (United Kingdom) drew attention to his amendment which was contained in document E/CONF.2/C.6/103/Add.6. The effect of Article 93 (2) (a) when taken in conjunction with paragraph (b) of the Report might be to leave open to challenge contracts in which a Member agreed to take over fifty percent of the exportable surplus of a Non-Member's product. Such contracts were a normal practice between the United Kingdom and certain other countries and as they were neither discriminatory nor preferential there never could have been any intention of prohibiting their use.

It was agreed to postpone consideration of the United Kingdom amendment until the following meeting.

The CHAIRMAN pointed out that the representatives of Argentina, Bolivia, Chile, Peru and Poland had reserved their positions on Article 93.

/Article 94 - General
Article 94 - General Exceptions

The representative of Turkey maintained his reservation pending further instructions from his Government.

Article 98 - Entry into Force and Registration

The representative of Uruguay maintained his reservation.

Article 99 - Territorial Application

The CHAIRMAN drew attention to the fact that statements, both from the representatives of Egypt and the United Kingdom, had been received for inclusion in the Report. As result of the addition of the explanatory note put forward by the representative of Guatemala all the reservations on this Article had been withdrawn.