
**Article 89, Paragraph 1**

Paragraph 1 was approved subject to a declaration by the representative of Australia that his delegation accepted the text on the understanding that paragraph 1 (c) covers the situation represented by a serious decline in employment and effective demand in any major country. He indicated that he would shortly submit for the consideration of the Sub-Committee a note to this effect to be considered for inclusion in the Sub-Committee's report.

**Paragraph 2**

On the suggestion of the representative of Iraq the Sub-Committee agreed to substitute the word "matter" for "question" or "case" in this paragraph and throughout Articles 90 and 90-A in order to secure conformity with paragraph 1. The representative of Iraq also requested inclusion in the report of a note to the effect that the "matter" to be dealt with through the procedure of Chapter VIII is the claim of nullification or impairment of a benefit and not the action, inaction, measure or situation referred to in sub-paragraphs (a), (b) or (c) which may be represented as the cause of the nullification or impairment.

**Paragraph 3**

The Sub-Committee accepted the redraft proposed in E/CONF.2/C.6/R.91 with the addition before "... of any consultation ..." of "the progress or outcome" at the suggestion of the representative of Australia.

**Article 90, Paragraph 1**

The Sub-Committee agreed to add "(a) or (b)" after "Article 89 (1)" in
the first line. The representative of the United States withdrew the further suggestion for amendment of this sentence suggested in E/CONF.2/C.6/W.91 in view of the fact that the matter had already been dealt with in the amended text proposed for Article 92.

**Paragraph 2**

The Sub-Committee accepted the addition to the second sentence proposed in E/CONF.2/C.6/W.91 together with the deletion of "or" in sub-paragraphs (i), (ii), (iii) and (iv). The Sub-Committee also accepted the suggestion by the representative of the United States that "satisfactory" should replace "general" before "adjustment" in sub-paragraph (v). At the suggestion of the representative of Iraq the Sub-Committee agreed to include a note in its report to the effect that sub-paragraph (v) does not allow the proposal by the Executive Board of a suspension or withdrawal of a measure not in conflict with the Charter.

The representative of the United States withdrew the earlier suggestion by his delegation to add a sub-paragraph (vi).

**Paragraph 3**

At the suggestion of the representative of Iraq the Sub-Committee agreed to add after "the release of a Member or Members" the word "affected" in this paragraph and where appropriate, in Article 90-A. With reference to the words "appropriate and compensatory" in this paragraph and elsewhere in Chapter VIII, the Sub-Committee agreed to include in its report a note to the effect that the word "appropriate" is considered not to empower the Organization to recommend or authorize measures beyond the limits of compensation.

**Paragraph 4**

The Sub-Committee agreed to the addition at the end of this paragraph of the words "it may also consult an appropriate commission of the Organization on any matter arising under this Chapter".

**Paragraph 5**

The Sub-Committee approved the text of this paragraph with the change of the words "question" and "case" to "matter" as in other similar instances.

**Article 90-A, Paragraph 1**

The Sub-Committee agreed to the sentence proposed in E/CONF.2/C.6/W.91 for addition following the first sentence with the re-arrangement suggested by the representative of Mexico.

**Paragraph 2**

With the replacement of "question of nullification or impairment" by "matter arising under this Chapter" this paragraph was approved.

**Paragraph 3**

With the addition of the word "affected" after "the release of a Member or Members" the first sentence was approved.
Concerning the second sentence, the representative of Poland expressed the view that it should be deleted or that the requirement of a two-thirds majority should be inserted. This proposal was not accepted by the Sub-Committee. At the end of the meeting the Sub-Committee was considering the amendments proposed to this sentence in E/CONF.2/C.6/19, together with the suggested addition of "affected" after "release of a Member or Members".

The text resulting from the discussion in the Sub-Committee at this meeting is attached as an annex to these notes.
ANNEX TO NOTES OF THE MEETING OF SUB-COMMITTEE G OF
THE SIXTH COMMITTEE, HELD 16 FEBRUARY

The following is the text resulting from that meeting:

CHAPTER VIII - SETTLEMENT OF DIFFERENCES - INTERPRETATION

Article 89

Consultation and Arbitration

1. If any Member considers that any benefit accruing to it directly or indirectly, implicitly or explicitly, under any of the provisions of this Charter other than Article 1, is being nullified or impaired as a result of
   (a) a breach by a Member of an obligation under this Charter by action or failure to act; or
   (b) the application by a Member of a measure not conflicting with the provisions of this Charter; or
   (c) the existence of any other situation,
the Member may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to such other Member or Members as it considers to be concerned, and the Members receiving them shall give sympathetic consideration thereto.

2. The Members concerned may submit the matter arising under paragraph 1 to arbitration upon terms to be agreed between them provided that the decision of the arbitrator shall not be binding for any purpose upon the Organization or upon any Members other than those participating in the arbitration.

3. The Members concerned shall inform the Organization generally of the progress and outcome of any consultation or arbitration undertaken under this Charter.

Article 90

Reference to the Executive Board

1. Any matter arising under Article 89 (1) (a) or (b) which is not satisfactorily settled and any matter which arises under Article 89 (1) (c) may be referred by any Member concerned to the Executive Board.

2. The Executive Board shall promptly investigate the matter and shall decide whether any nullification or impairment in fact exists within the terms of Article 89 (1). It shall then take such of the following steps as may be appropriate:
   (i) decide that the matter does not call for any action;
   (ii) recommend further consultation to the Members concerned;
   (iii) refer the matter to arbitration upon such terms as may be agreed between the Executive Board and the Members concerned;
   (iv) in any matter
(iv) in any matter arising under Article 89 (1) (a) request the Member concerned to take or discontinue such action as may be necessary for the Member to conform to the provisions of the Charter;
(v) in any matter arising under Article 89 (1) (b) or (c), propose such measures to Members as will best assist the Members concerned and contribute to a satisfactory adjustment.

3. If the Executive Board considers that action under Article 90 (2) (iv) is not likely to be effective in time to prevent serious injury, and that any nullification or impairment found to exist under Article 89 (1) (a) is sufficiently serious to justify such action, it may recommend the release of a Member or Members affected from obligations or the grant of concessions to any other Member or Members under or pursuant to the Charter, to the extent and upon such conditions as it considers appropriate and compensatory, having regard to the benefit which has been nullified or impaired.

4. The Executive Board may, in the course of this investigation, consult with such Members or inter-governmental organizations and upon such matters within the scope of the Charter as it deems appropriate. It may also consult an appropriate commission of the Organization on any matter arising under this Chapter.

5. The Executive Board may bring any matter, referred to it under this Article, before the Conference at any time during its consideration of the matter.

Article 90-A
Reference to the Conference

1. Any Member concerned may, within 30 days, ask for a review by the Conference of any action or decision by the Executive Board under paragraph 2 or 3 of Article 90. Unless such review has been asked for by a Member concerned, Members shall be entitled to act in accordance with any action, decision or recommendation of the Executive Board under paragraph 2 or 3 of Article 90. The Conference shall by resolution confirm, modify or reserve such action or decision.

2. Where a matter arising under this Chapter has been brought before the Conference by the Executive Board, the Conference shall follow the same procedure as that set out in Article 90 (2) for the Executive Board.

3. If the Conference considers that any nullification or impairment found to exist under Article 89 (1) (a) is sufficiently serious to justify such action, it may authorize the release of a Member or Members affected from obligations or the grant of concessions to any other Member or Members under or pursuant to the Charter, to the extent and upon such conditions as it considers appropriate and compensatory, having regard to the benefit which has been nullified or impaired.

/mnullified or
nullified or impaired. The Conference, when considering matters arising
under Article 89 (1) (b) or (c), may authorize a release of a Member or
Members to the extent and upon such conditions as will achieve the objects
set out in Article 90 (2) (v).

4. When any Member or Members suspend the performance of any obligation or
grant of any concession to another Member in accordance with paragraph 2, the
latter Member shall then be free not later than 60 days after such action is
taken, to give notice of its withdrawal from the Organization. Such
withdrawal shall become effective upon the expiration of 60 days from the day
on which such notice is received by the Director-General. * The square brackets indicate that discussion of the text enclosed therein
had not been completed by the end of the meeting.