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

VERBATIM REPORT

TWENTY-FIRST MEETING OF COMMISSION B HELD
ON FRIDAY, 11th JULY, 1947, at 2.30 P.M. IN THE
PALAIS DES NATIONS, GENEVA.

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

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CHAIRMAN: The meeting is called to order.

Today we will resume the discussion on Chapter I and, in order that we can conclude our work today on both Chapter I and Chapter II, I would like to put a time limit to the further discussion on Chapter I. We will endeavour to finish Chapter I in an hour.

After the discussion on Chapter I, it will be desirable for the drafting sub-committee to take a vote on the question which was raised by the Belgian Delegate in his speech yesterday and which is: "Does the Commission approve of the principle inherent in the Belgian and South African proposals, of stating first the purposes of the Organization and then the means by which these purposes may be attained?"

There is a further question which has developed out of the discussion which we had yesterday, and that is the order in which the establishment of the International Trade Organization should come; that is, whether it should come at the beginning or at the end. That, however, I think is more a matter of drafting, which we could leave for the sub-committee to decide in the light of the discussion which has taken place in the Commission.

Does the Delegate of India wish to speak to the question of procedure or the question of substance?

Mr. D.P. KARMARKAR (India): Mr. Chairman, since the whole of this Chapter was kept over for discussion, I should like to concentrate our attention on the United States amendment regarding Article 1, Paragraph 2, namely, "To develop the economic resources of the world by encouraging the international flow of capital . . .", if that is permissible.
CHAIRMAN: When we adjourned yesterday the Delegate of New Zealand was on my list of speakers, so I will give the floor first to the Delegate of New Zealand and then to the Delegate of India, unless there are any questions with regard to the point of procedure I have mentioned.

The Delegate of New Zealand.

Mr. L.C. WEBB (New Zealand): Mr. Chairman, I will not keep the Delegate of India waiting more than a brief moment. You have, I think, adequately defined the issues which we have to decide here today and I am only sorry that the New Zealand Delegation did not realise the legal terrors which there are in Chapter I. We had to travel very light and we left our legal expert behind, so I feel it is perhaps adequate if I indicate that the New Zealand Delegation, in its simplicity, had rather a liking for the New York Draft of Chapter I.

We realise that, as Mr. Wilcox said yesterday, it has many redundancies and one or two points of bad drafting and some repetition. We like it because it seems to us to have the right distribution of emphasis; that is, it seems to us that the objectives are set out in the right order and with the right emphasis, and in this respect we agree pretty completely with what was said yesterday by the Delegate of Australia.

We are anxious about the order of these and the emphasis which is given to the objectives — I am not sure whether I should really be using the word "purposes", but perhaps it will be understood what I mean — and in particular we are anxious that such objectives as the maintenance of full employment and maximum demand shall keep the due place which they have in the New York Draft.
Now, the American proposal has undoubtedly had the virtue of clear drafting and logical order, but it has, for us, two difficulties. The first, is that we believe that it does substantially alter the emphasis of the New York Draft, and I would call attention to just one example of that. I think the Delegate of Australia gave an example yesterday. The example I had in mind was the proposed United States amendment to paragraph 4 of Article 1. There we talk about facilitating the solution of problems in the field of international trade, employment and economic development. The United States amendment to that Article reduces the whole thing to a matter of international trade, and makes the employment problem, as it were, merely incidental to trade problems. It seems to include employment problems within trade problems. I do not know whether that was the intention of the United States Draft, but it seems to me to convey that impression very strongly.

We also find the United States Draft unsatisfactory and, if I am appearing to be critical of the United States Draft it is because it seems to us the best of the drafts submitted. We feel in agreement with the Delegate of Cuba when he said that a weakness of that draft is that it does leave the creation of the International Trade Organization until very late in the draft, and that it slips out almost as an afterthought. That seems to us to be very definitely a weakness.

Now we come to the final question which revolves around this business of purposes or objectives and provisions, and I must say that I would find it extraordinarily difficult to vote on the bare issue, as you have defined it, because, although you have defined it very clearly, I still find difficulty in seeing the implications of adopting one course or the other, because it seems to me that if, for instance, you were going to adopt the Belgian proposal, then you have to take the Belgian proposal in its present
form or in some revised form, and work through the Charter. I am
not sure what the results would be then. I would, however, say
this, that we have always felt one difficulty which is that, being
under the impression that there was a difference between objectives
and purposes on the one hand and provisions on the other, we have
felt that there is some possibility of conflict. The Charter has
in it a sort/fastidious form - a great number of political and
economic philosophies. It has in it the philosophy of liberal
trade, it has in it the sort of state control philosophy of full
employment, and it seems to us that there is a very real possibility
that a country carrying out a policy of full employment through
measures of economic control, which you have got to take in the
policy of full employment, may find itself in conflict or
difficulties over some of the liberal trade provisions of the
Charter and that, we think, is a consideration which should be borne
in mind in any proposal to telescope purposes and provisions.
CHAIRMAN: The Delegate of India.

MR. D.P. KARMARKAR (India): Mr. Chairman, I should admit at the outset that regarding the general purposes of the Organization, the Indian Delegation feels that the requirements of the situation in respect of the work of the Trade Organization are sufficiently satisfied by the original Draft.

Now, as regards the other Drafts offered to us for consideration, the Indian Delegation, apart from one of the amendments proposed by the American Delegation, are in general agreement with the way in which the American Delegate put this Draft.

There are also other things that the Indian Delegation are interested in, but in view of the briefness of the time at our disposal, I should like to invite the attention of the Commission to one particular point on which the Indian Delegation feel very strongly.

The Indian Delegation amongst others was one of those who proposed, at the London meeting, that there should be, amongst the objectives or General Purposes for which the Organization should stand, one definite object, namely, that covered by sub-paragraph 3 of Article 1 "To encourage and assist the industrial and general economic development of Member countries, particularly of those still in the early stages of industrial development". Now, in the opinion of the Indian Delegation, Mr. Chairman, the way in which this paragraph is sought to be amended by the American Delegation is not exactly satisfactory. There was one merit about the Purposes stated in the original Draft, and that was that it put the question of the economic development of industrially backward nations in a prominent position. It might be said that the proposed paragraph, which would replace this paragraph, namely,
to develop the economic resources of the world (I am leaving out the question of investment for the time being) and otherwise assist those still in the early stages of industrial development, broadly covers the point of view which was originally intended by sub-paragraph 3 of Article 1, as it now stands in the original Draft, but, Mr. Chairman, if I may say so, the difference lies in the emphasis - and the emphasis was perfectly clear in the original Draft - but in the proposed draft the emphasis is shifted onto the development of economic resources of the world in general, and our attention is diverted by what follows, namely, by encouraging the international flow of capital. So, it comes to this, that one of the objectives of this Organization as now proposed by the American Delegation - "To encourage and assist the industrial and general economic development of Member countries, particularly of those still in the early stages of industrial development" stands, but the emphasis is shifted onto the means by which this development is sought to be achieved, and that is precisely where the Indian Delegation feel differently on this point.

Now, it is obvious, Mr. Chairman, that international investment can only be said to be one of the means of economic development, and is by no means the most important, nor can it be said that in all circumstances international investment alone occupies the primary place. For instance, Article 12 in Chapter IV recognises this, in the first sentence of that article "Progressive economic development is dependent upon adequate supplies of capital funds, materials, equipment, advanced technology, trained workers and managerial skill". We fail to see, very respectfully, why, of all the various means of economic development mentioned in Article 12, international investment alone should be selected for special mention in the Purposes of the Chapter and thereby given a special emphasis or priority. If international investment alone is...
mentioned very prominently to the exclusion of other means of economic development, we think that we thereby run the risk of implying something which may not be really intended, namely, that international investment is of greater importance or urgency than other means of economic development. We are afraid that such implication may result in giving a wrong direction to the policy of the International Trade Organization.

Secondly, Mr. Chairman, the draft appears to imply that, so far as international capital is concerned, the only thing we need do is to encourage it to flow freely into productive investments. It might be misunderstood to rest on the belief that so long as international capital goes into productive investments, it needs no control or regulation. The Indian Delegation, Mr. Chairman, finds it difficult to accept this principle. Anything which commercially pays its way may be described as a productive investment, and yet not all productive investments in this sense may be necessary from the point of view of the particular country receiving the international capital. Again, as is obvious, there are different orders of productivity, some projects are productive in the short run and other productive only in the long run, and perhaps only indirectly.
From the point of view of the balance of payments position of the country receiving international capital, it is of some vital significance, Mr. Chairman, what proportion of the capital resources goes into projects which increase production immediately and what proportion goes into long-term projects. Further, a free influx of foreign capital may hamper the growth of local initiative and enterprise by enabling foreign investors to capture an excessive proportion of the investment opportunities available in any country.

For these among other reasons, on which I shall not dilate at the present moment, Mr. Chairman, the Indian Delegation feels strongly opposed to the specific reference to international capital contained in the proposed amendment.

The second idea sought to be incorporated in this draft, namely, "developing the economic resources of the world", can be discussed more briefly. It will be noticed that in the New York draft this expression occurs in paragraph 1(b) where it forms part of a connected statement of objectives of national and international action. The reason for putting it there was that none of the other objectives mentioned in paragraph 1(b) of the New York draft, namely, expansion of world production, exchange and consumption, high level of effective demand, reduction of trade barriers and elimination of discrimination, fully cover the idea of development of the world's economic resources—that is, the idea of promoting the development of all parts of the world as distinct from expanding production, consumption and trade in the world as a whole.

The mention of developing the world's resources was, therefore, appropriate in that place. The United States draft pulls it out of that legitimate context and places it here in
paragraph 2, which in our humble opinion is not the place for it.

We have really no objection if the emphasis is maintained as in the original draft, that is to say, if the sub-paragraph stands: "To encourage and assist the industrial and general economic development of Member countries, particularly of those still in the early stages of industrial development", and if it is found to be necessary and relevant at this stage to add an additional paragraph.

On these questions, Mr. Chairman, the Indian Delegation feels strongly opposed to the proposed amendment. We would strongly urge that the original draft of that subparagaph referring to the development of underdeveloped countries should remain as it is, and if it is felt really necessary, at this stage, to make a reference to the international flow of capital and other means of assistance to development, another paragraph may be added.

CHAIRMAN: The Delegate of China.

Mr. D.Y. DAO (China): Mr. Chairman, Article 1 of the New York text and three amendments all contain two parts: one a preamble, and the other a statement of purposes. As regards purposes, we understand that a statement of purposes is but a summary of functions which have been laid down in the Charter and which are designed to fulfil the purposes or to attain objectives (whichever you would call it). Therefore, we feel that the American amendment, with the exception of the reference to international investment and the shifting of emphasis in paragraph 2, is a logical arrangement, and it represents a clear statement of the purposes.
It is first set out in a positive manner, "the purposes of the Organisation", and then we come to the negative side of the purposes, and paragraph 5 summarises the different Chapters in the Charter. We heard arguments on both sides as to whether or not the purposes should be attributed to the Organisation or to Members.

The Chinese Delegation feels that while it is true that the Organisation has no purposes, if the Members participating in the Organisation have different or divergent purposes, it is also true that, on the other hand, it is unfortunate that we cannot at all times find that Members have identical purposes. So we think it is through the Organisation that Members would work towards common purposes, irrespective of conflicting interests or conflicting purposes.

For instance, if we take the American Draft, which can be interpreted that the purposes should be those of the States party to the Charter, if we read, say, paragraph 2, the purpose of a party to the Organisation is to develop the economic resources of the world, etc., etc. - then I think it is obvious we can infer the implication on any particular Member is to develop the economic resources of the world. We know, of course, that each Member would like to develop those of its own particular country.

Again, paragraph 3: "To further the enjoyment, by all countries, on equal terms, of access to the markets, products and productive facilities which are needed for their economic prosperity and development". So we feel that the purposes stated in Chapter I should be attributed to the Organisation, instead of to Members.
We believe that Members should work for a common good — for the good of the Organisation, but it is not necessary that a Member will have at all times identical purposes with another Member.

Then, with regard to a Preamble, we find that the South African proposal is set out in broad terms and with a very high idea, but we would like to make this remark. If there would be no general Preamble to this Charter, when the Charter is embodied in the final Act, perhaps it is desirable to have a longer Preamble in Article 1. Incidentally, then it would bring us to the question, whether in this Preamble we should differentiate larger purposes from lesser purposes. That question, we believe, depends upon our decision whether there will be a general Preamble to the Charter. If there be a general Preamble to the Charter, we believe that the South African Amendment could be very well used in this connection; otherwise, we prefer to have a longer Preamble in Article 1.

CHAIRMAN: The Delegate of the United States.

Mr. KELLOGG (United States): In reply to the comments of the Delegates of Cuba, India and China, and with respect to our Draft and our suggested paragraph 2 on Economic Development, the U.S. is entirely sympathetic to the views expressed to-day about the importance of the economic development of the countries still in the early stages of industrial development.

We have no intention of re-emphasising that matter in putting in our suggestions on Article 1, and we are very sorry indeed if we gave the impression to anybody here that we were not sympathetic to this matter.
We are confident that some appropriate language will be worked out by the Drafting sub-committee which will reflect fairly the matters and concerns expressed in this Commission, and we will certainly agree to that line. We are at the same time glad to hear the Delegate of India express the view that he is not unsympathetic to a fair reference somewhere in Article 1 to the importance of international investment.

CHAIRMAN: The Delegate of Brazil has asked to speak and, as I mentioned at the outset of this meeting, we are anxious to conclude the debate on Chapter I by 3:45, so I propose to close the debate after hearing from the Delegate of Brazil.

The Delegate of Brazil.

Mr. L.D. MARTINS (Brazil) (Interpretation): Mr. Chairman, I have not asked for the floor to discuss the theses which were put forward here yesterday and the theoretical considerations which were put forward by the various Delegations. What I want to do is to state our position on this Article and on the amendments which have been presented.

As regards the various amendments which we have now before us, I think our preference goes to the United States draft. We find it more logical, clearer and more simple, but it ought to be amended in conformity with the suggestions which were rightly made here.

I think that I would agree with what the Indian Delegate has stated, and we do not think it right to delete sub-paragraph (3) and, in fact, the text which is proposed by the United States Delegation mentions the same purposes which are mentioned in sub-paragraph (3), but, nevertheless, after reading the draft which was adopted in New York, readers might get a wrong view if that paragraph were to be deleted, and this might be interpreted as a step backward in the consideration of the interest...
which has to be devoted to undeveloped countries. Therefore this would be quite contrary to the position which was assumed and taken up here by the various Delegations.

As regards the mention of the name of the Organization itself, I do not think that it ought to be left to the end of this Article but it ought to be put in the first place; that would be a more pragmatic solution and a clearer one.

Mr. Chairman, you said yourself there were two things here: first the objectives and the means to achieve these objectives, but I think one cannot separate these objectives in two parts – on one side the general objectives which could be considered as the most important ones, and on the other hand objectives which would not be so important. I do not think that this would be a correct solution, because that would mean that to consider whether some objectives are more important than others one ought to be moved by a criterion which would, in fact, be subjective. That would be left to the appreciation of Members to know whether they considered some of the objectives more important than others. One cannot separate them but should, in fact, enumerate them in a logical order.

CHAIRMAN: Before we pass on to the vote, the Belgian Delegate has asked to say a few words and, as we still have 12 minutes left, I propose to give him the floor.
M. J. van TICHELEN (Belgium) (Interpretation): Mr. Chairman, I would only like to recall the general meaning of our amendment, which is almost similar to the South African amendment, and their structure is practically the same. The discussion today has confirmed in my mind the opinion that it is necessary to draw a distinction between two categories of purposes. Several delegates have shown, in their speeches, a marked preference for what has been described as being their child. Others have suggested that no decision should be taken now, and that the decision should be left until a later stage, but if we do not introduce order in this matter now, we shall leave all the disorder for the Organization and this will be even worse.

I would like to give you an example to show that there may be some insoluble contradiction on which the Organization may have to take a decision when it will act as a judge. Let me take the case of a country which is strongly in favour of industrial development, while another country considers that it is preferable to avoid excessive fluctuations in world trade. In other words, one country desires to speed up production, while the other is, for some reason, of the opinion that production should be reduced. We have here two conflicting interests and both points are equally sincere and justifiable. The Organization will find itself in the presence of an extremely difficult problem because these two purposes will have been definitely mentioned in the Article on General Purposes, and the Organization will, therefore, be bound by the Charter to give satisfaction to both complainants. If we give the same weight and importance to these two kinds of criteria, it will be practically impossible for the judge to pronounce upon such a conflict. Our purpose is, therefore, to list a number of purposes among which no contradiction is possible, and these general purposes are the maintenance of peace, economic progress, social progress and full
employment. This will make it possible for the Organization to resort to a small number of higher purposes when it will have to pronounce between conflicting purposes. The Organization will thus be in a position of a legal instrument to settle conflicts that otherwise would prove insoluble, and this is the general meaning of both our amendment and the South African amendment when they say "To this end, the Organization will seek," or "for the furtherance of these purposes, the Organization will seek". We do think that these would afford the Organization the most appropriate means of solving such problems.

Mr. I.D. MARTINS (Brazil):(Interpretation): Mr. Chairman, I would like to answer the Belgian Delegate by just stating that he has supposed and assumed that there should be a conflict, but this conflict is non-existent because, if it existed, we would not be here to discuss the purposes and setting up of an International Organization.

CHAIRMAN: We have now had a very full discussion of the three proposals that are before us, in relation to Chapter I. Eleven delegations have expressed their views on these proposals. Some delegations have made more than one speech, and I therefore think the time has now come to refer these proposals to the Sub-Committee on Chapter VIII, to whom we have entrusted the proposals in relation to both Chapters I and II. Before, however, referring the three proposals to the Sub-Committee, it is necessary, as I pointed out at the end of our meeting last night, that we should give the Sub-Committee some guidance on the question of principle. It is implicit in the policy of the Belgian and South African proposals, namely that the purpose that we should, first of all, set forth, is the purposes, and after that the means of attaining these purposes. With regard to the remarks of those delegates who have expressed the view that they would not like to vote on this question at the
present time, I wish to assure all Members of the Commission that this is in no sense a final or irrevocable vote. The vote is simply being taken for the guidance of the Sub-Committee in order that they may obtain the sense of the Commission on this important question. If, after the Sub-Committee has established a text and that text comes back to the Preparatory Committee, the Preparatory Committee will be perfectly free to reverse the decision that has been reached by this Commission and any Member of this Commission, without exposing himself to a charge of inconsistency, will be able to vote in a different manner from that of today. I hope that all the delegates who have expressed reluctance to vote will be able to do so.
Will those members of the Commission who are in favour of the principle inherent in the Belgian and South African proposals that, first of all, there should be studied the purposes, and after that, the means of attaining those purposes, please raise their hands.

(7 Members voted in favour and 7 against).

CHAIRMAN: I am afraid the Sub-committee will not get much guidance because the voting was 7 to 7. I think we shall now have to leave it to the Sub-committee to endeavour to provide a draft, along with the other questions which we have discussed. I think the discussion has served a very useful purpose and the Sub-committee will have more guidance than they would have had if this discussion had not taken place.

Is it agreed that we should refer the three proposals and Chapter I to the Sub-committee?

(The proposal was agreed).

CHAIRMAN: We will now pass to Chapter II - MEMBERSHIP.

M. ROYER (France) (Interpretation).

Mr. Chairman, you have decided to refer the examination of Chapter I to the Sub-committee which is now examining Chapter VIII. I would like to mention that this Sub-committee has a very heavy Agenda before it, and I wonder if it would not be possible to recommend to that Sub-committee to divide itself up so that the examination of both Chapters could be achieved at the same time, and in a parallel manner. I do not know if all Delegations would find it possible to attend the meetings if those meetings were to take place at the same time, but I know that the French Delegation would be interested in seeing hastened as far as possible the discussions on Chapter I and Chapter II.
CHAIRMAN: We have already decided that this Chapter I should be referred to the standing sub-committee on Chapter VIII. I do not think that the setting up of a separate sub-committee would entirely solve the situation, because it would be necessary that the same delegations, in a number of instances, should be represented on both sub-committees, and those delegations have only a limited number of men, and in most cases have only one man who is working on Chapter VIII as well as Chapters I and II. It might meet the points raised by the Delegate of France if we were to ask the sub-committee to give priority to their consideration of Chapters I and II.

If that is agreed, we shall ask the Chairman of the sub-committee on Chapter VIII to give early consideration to the proposals in relation to Chapters I and II.

With respect to Chapter II, we have proposals submitted by the United Kingdom Delegation and the United States Delegation. The United Kingdom Delegation has proposed a new text in relation to Article 2. The United States Delegation has proposed amendments to the New York text.

We shall, first of all, take up the United Kingdom proposal, the essential feature of which is the provision for associated while Members comprising those Customs territories who not having full autonomy in relation to their international relations, have full autonomy in respect of customs and all other matters provided for in the Draft Charter.

The discussion is now open on the amendment.
Sir Stafford CRIPPS (United Kingdom): Mr. Chairman, perhaps I may move the amendment of the United Kingdom Delegation, which we regard as one of very great importance.

We are most anxious that the territory and area covered by the Organisation should be as wide as possible, and that the representations on the Organisation should be as truly democratic as possible. As you have mentioned, there are certain territories which, while being responsible for their own international trade obligations and for their own internal trade organisation, are yet not international personalities in the full sense of the word. Such territories, to give an example, are Burma, Ceylon, and Southern Rhodesia.

We believe that it is very desirable that those territories should be able to undertake and implement the various obligations under the International Trade Organisation, being territories which have a substantial stake in world trade and in all the matters with which the Charter is concerned, they are fully self-governing. The metropolitan country has, it is true, formal responsibility for their international obligations at the present moment; but cannot undertake the actual implementation of those obligations which will be assumed under the International Trade Organisation. We therefore think it is not only desirable, but obviously equitable, that the representatives of those territories should take part in the activities of the Organisation when matters for which they will themselves be responsible later on are being discussed.

The form in which we have proposed the amendment divides the classification of membership into two categories; first of all, full Members of the Organisation, and secondly, persons termed "Associates". The full Members fall into three categories.
First of all, the States invited to the World Conference who automatically become Members under the procedure of Article 88. Secondly, States who are Members of the United Nations, but who do not accept the invitation to the World Conference, but later decide that they wish to adhere to the International Trade Organization. Thirdly, States who are not Members of the United Nations which, either because they did not accept, or because they did not receive an invitation, did not attend the World Conference, but which also later wished to adhere to the International Trade Organization.

Then paragraph 2 deals with that other classification of territories which I have mentioned, separate Customs territories not fully independent but possessing in all matters with which the Charter is concerned full autonomy. Those are divided into two classes - firstly, those invited to the World Conference who, if they wish, would be able automatically to become Members when the metropolitan State which has the nominal international responsibility for them had complied with the procedure laid down in Article 88; and secondly, those not invited to the World Conference who could only become Associates after the Organization had approved their application made in due form.

Now, not only is it necessary to make provision for those categories that I have mentioned, but it is also necessary to make special provision, we believe, for Trust territories administered by the United Nations, and also the free territory of Trieste when the Trieste Statute enters into force, and those are dealt with in a paragraph in this suggested amendment.

We hope very much that this more logical and precise analysis of the categories of membership will be introduced in place of the existing Article 2, and in sub-paragraph 4 of the new
suggested Article, we leave the question of the rights and obligations of Associates, as against Members, to be determined by the Organization. We feel that this is the logical step to take, because these persons will, we hope, themselves be Members of the Organization, and they will be able to take part then in the discussions as to what the precise difference should be between the status of an Associate and of a Member. We hope, therefore, that the Commission will see its way to adopt the amendment that we suggest.
CHAIRMAN (Interpretation): Do any Members of the Commission wish to speak to the United Kingdom proposal which has just been introduced by Sir Stafford Cripps?

The Delegate of the Netherlands.

Mr. VAN TUYLL (Netherlands): Mr. Chairman, the Netherlands Delegation is very favourable to the Amendment which has been put forward by the United Kingdom Delegation. We also think that it is very important to have collaboration with the ITO by those territories which are fully autonomous in the conduct of matters which relate to this Charter. We think it is important not only for those territories but also for the ITO itself, because there will be some of those territories who are much more important for the Organisation, and international trade, than quite a few independent Members.

As you will probably know, Mr. Chairman, at this moment there are discussions going on between the authorities concerned about a review of the constitutional relations between the territories now forming part of the Kingdom of the Netherlands, and as it is very likely that during the process towards independence some of these territories will have at one stage full autonomy in matters relating to this Charter, we would certainly like to see them co-operate - in the form of associates, to be determined at a later stage of the Conference - in the work of the ITO.

Therefore, for these reasons, we support the British Amendment.

CHAIRMAN: The Delegate of France.
Mr. ROYER (France) (Interpretation): The French Delegation is grateful to the United Kingdom Delegation for having clearly stated the problem of Membership in the International Trade Organisation; and in this connection the United Kingdom Draft Amendment is a substantial improvement on the New York Draft.

We consider that it was wise to provide in sub-paragraph (2) of paragraph 1 of the Draft that any State Member of the United Nations not represented at the United Nations Conference on Trade and Employment can become a Member without having to undergo the procedure laid down in the New York Draft — that is to say, without a special vote being taken by the Conference.

We also consider that the distinction between Members and non-Members of the United Nations is extremely useful. Similarly we consider that the paragraph of the United Kingdom Draft relating to Trust territories administered by the United Nations is also useful, and we feel that it was essential to have a provision with regard to the free territory of Trieste, because according to the New York text, this territory could not be covered by any of the existing categories.
As regards Associate Members, we are very anxious, like the United Kingdom and the Netherlands representatives, that overseas territories should be associated with the Trade Organization, but, when a draft resolution was discussed at the Chairman's Committee, I should like to recall that the French Delegation made some reservations purely on legal grounds and for reasons of what I might call international courtesy.

The introduction of new Members would indeed be a novelty in public international law. We consider that it would be difficult for the Preparatory Committee to come to conclusions that are not in conformity with rules already established for other organizations of the United Nations, and for these reasons the French Delegation suggested at the Chairman's Committee that these constitutional questions should be referred to the Economic and Social Council for their advice.

We are therefore of the opinion that the position of this Commission should be in harmony with the position adopted at the Chairman's Committee and that, before settling this matter definitely, it should be possible for the Economic and Social Council to examine the whole problem and to see to what extent it is possible to create within the Organization a category of countries which has not been provided for with regard to other specialized agencies.

CHAIRMAN: The Delegate of the United States.

Mr. E.H.KELLOGG (United States): Mr. Chairman, the United States has always favoured steps which would conduce to the political and economic development of dependent territories. Accordingly, we are sympathetic to the idea behind the British amendment. There are, however, a few points in connection with the terms of the amendment which we would like to raise.
First, as to the United Kingdom's paragraph 1, we notice that the United Kingdom suggests the suppression of the idea now contained in the New York Draft, of the distinction between original Members and other Members, the other Members being subject to a screening process on the part of the Conference. It seems to us quite reasonable for the Charter of the Organization to provide a kind of mild pressure to get prompt ratification of the Charter within the next two or three years, after the Charter has been approved. It seems to us, therefore, that the provision for a screening process on the part of the Conference, through which States who do not ratify promptly must pass, is not unreasonable. We would like to have this matter considered by the sub-committee at greater length.

Secondly, with respect to the status of Associates, we notice that the United Kingdom suggests Associates may, if the Conference so decides, receive a vote. If the Associates then receive a vote, it becomes somewhat difficult to see what difference there is between an Associate with a vote and any other normal Member. This, in turn, raises the question of how does an Associate pass from the status of an Associate to the status of a full Member. This is not a question which I think we could settle here, but I would like to raise it and put it before the sub-committee.

Finally, we see there is a difference in the way in which the United Kingdom suggestion handles the trusteeship territories and the present draft of Article 2. Although this difference may not be very important, it seems to us to be sufficiently important to receive the further consideration of the sub-committee.

CHAIRMAN: The Delegate of Norway.

Mr. Erik COLBAN (Norway): Mr. Chairman, I shall not go into
any technical details. I would only like to say that the idea of the United Kingdom proposal strongly appeals to me. I think that the observations of the Delegate of France can be met by saying that, after all, we are not creating new States; we are simply making it possible for these territories to co-operate. We all agree it is very important for it to be possible for these territories to continue to work in our Organization and I do not think it necessary, before we define our attitude in this problem, to obtain any advice or any opinion on the part of the Economic and Social Council.

I strongly recommend that the sub-committee should go into the points raised by the United States Delegate and I do not think there will be any great difficulty in finding a proper solution of all these points.
Dr. GUSTAVO GUTIERREZ (Cuba): Mr. Chairman, we feel a great sympathy for the British amendment because it gives facility to the economic and political development of certain groups of territories, but at the present moment we do not see how we can reconcile that sympathy with the actual status of international law. We are absolutely in favour of the principle of equality of nations, and we are very much afraid that either we give to those territories exactly the same rights and exactly the same duties that all the Members of the ITO possess, or else we wreck the principle of equality, and we are not in a position break that principle for any other consideration. That is why we feel very much embarrassed as Members of this Preparatory Committee to carry out such a daring proposition, because I do not know if we are an Organization outside of the United Nations. On the contrary, I think that the ITO is an agency of the United Nations as a whole. We are not a different United Nations, but the same one as, for example, the one at Lake Success with the Security Council, the Assembly and all other Organizations, and we cannot have a different type of Organization than the United Nations itself. It seems that this problem was considered by the United Nations at San Francisco and elsewhere, and it was solved at that time by Article 4 of the Charter of the United Nations which probably gives a solution to this problem. It is said in the Charter: "Membership in the United Nations is open to all peace-loving States which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations. The admission of any such State to Membership in the United Nations will be affected by a decision of the General Assembly, upon the recommendation of the Security Council". If we could have the possibility of establishing a provision like that, leaving to the General Assembly here and to the executive bodies this decision, any of the territories that the British amendment is willing to bring into the category of Members
of the United Nations Organization for Trade and Employment, could be Members of this Organization. We will not prevent that, and I am sure that the Cuban Delegation would be ready to vote for its admittance at any time, but I think it is very dangerous to give such a wide definition that we would not know how many territories are in that position. There may be three, or there may be twenty, I do not know, because our autonomous position will not depend on international society but on the decisions of the nations having their political representation, and in the second place, by all means, the Sub-Committee should study the question of this division of Members against which we feel very strongly. If they are to be Members, they should be Members with full rights. We do not favour the division of membership among Members and associate Members. If they have accepted to be Members, they should be Members with the same rights and the same duties, otherwise this paragraph 4 establishes that the rights and obligations of associations shall be determined by the Organization, and this leaves open a question of paramount importance.

We do not consider yet the question of the vote, because something very important has been developed called a vote, and we do not know yet how this will work in connection with the way to vote. Nevertheless, we will always be in favour of one nation, one vote, and if there are forty more nations, we do not care, we shall vote for them also.

Mr. A.P. van der Post (South Africa): Mr. Chairman, I think we all share the view on equality expressed by the Cuban Delegate, but I would point out that all Members of the family have equal rights. Nevertheless, a child of five would find he is not allowed the same privileges as the child of ten, nor is the child of ten allowed the same privileges as the boy of fifteen, and the boy of fifteen, the same privileges as the young man of twenty-five.
Time and development of a structure are required for the boy of fifteen before he can act as a man of twenty-five. Now, the British proposal fully recognises this equality, and also these differences. In the view of the South African Delegation, the proposal reflects fully the British commercial, economic, social and political thoughts and practices to grant full equality and rights to adults, and place facilities at the disposal of the young generation to gain experience, prepare themselves for manhood and the assumption of the obligations which manhood brings. Therefore, we are fully in support of the United Kingdom proposal.
There is just one more point, Mr. Chairman - the incorporation of this principle in the Charter of the United Nations would enable us to welcome our neighbours, Northern and Southern Rhodesia, into this family of nations.

CHAIRMAN: The Delegate of China,

MR. D.Y. DAO (China): Mr. Chairman, the Chinese Delegation is in agreement with the idea behind the United Kingdom's proposal, particularly with regard to the independent Customs territories, because we believe that the International Trade Organization, if it is going to be a going concern, should be broadly based, and I believe that not only Member States but all other territories would have a vital interest in the activities of the Organization. The activities of the Organization will affect not only Member States, but also the millions of peoples now living in these territories.

Therefore, we are in agreement with the proposal of the United Kingdom Delegation, and we are also content to leave the question of their rights and obligations to be determined by the Organization, because we think that the Organization will be wise enough to define their rights and obligations in the light of reality, as well as the purposes for which we set up this Organization.

CHAIRMAN: The Delegate of Australia.

MR. A.H. TANGE (Australia): Mr. Chairman, I wish to add the support of the Australian Delegation to the United Kingdom proposal concerning Associate Membership. We have nothing to add to the reasons given by the Delegate of the United Kingdom, which are completely acceptable to us.

The Delegate of Cuba raised the question of the possibility of creating equal rights among Members and Associates. It seems
to me that the United Kingdom Draft leaves that question to be determined by the Conference of the Organization; the question of both the rights and the obligations of Associates in the United Kingdom Draft is left to the Organization, although one should say in passing, I think, that in fact many of the obligations of these territories are determined by the Charter itself, and it seems to me that that fact adds weight to the United Kingdom proposal.

I recall that at the World Health Conference, where a similar proposal was made for the admission of associate Members, it was agreed that there should be provision for associate membership for territories of the kind which we are now discussing, but because of the kind of difficulties which the Delegate of Cuba raised concerning the number of territories which might be eligible for entering into the Organization under this category, it was decided to leave it to the Assembly of the World Health Organization to determine exactly the rights and obligations of these territories.

The Delegate of the United States drew attention to the fact that the United Kingdom Draft omits the former distinction between original Members and those Member States who later elect to take up Membership. It seems to us that very little is lost by omitting that distinction. It always seems to us that if a State declines immediately to join an International Organization, it does that for very good reasons, and in weighing up those reasons against the possibility of joining later, the Organization may impose conditions on its entry. It seems to me that the good reasons which prevailed in the first place would continue to prevail, and therefore the mild sanction of which the United States Delegate speaks would seem to have very little force.
I have one minor comment on the United Kingdom text, that is, I would suggest that consideration be given to altering the word "Organization" where it appears in paragraph 1 (iii), paragraph 2 (ii), and paragraph 4 to "Conference". In this Charter, powers given to the Organization fall automatically into the Conference, but unless the Conference is specified, the power does rest upon the Conference to delegate the function, and we have adopted the practice that, in all those cases where we believe that the power should reside only in the Conference, we specify the Conference, and it would seem to me that this was the type of case where the powers of decision could rest on the Conference alone and that there should be no powers of delegation.
Mr. L.D. MARTINS (Brazil)(Interprétatíon): Mr. Chairman,
I would like to state, first of all, that the proposal of the
United Kingdom Delegation meets with out complete approval,
because its ideas are moved by a spirit which is quite in
conformity with the policy and the constant tradition of Brazil
itself.

Now, I would like to make a remark on paragraph 4. This
paragraph is very short, only containing two lines, but,
nevertheless, it is extremely important. I think that it ought
to be examined at the same time as Article 64, which relates to
the Vote, because, as the Cuban Delegate rightly pointed out just
now, certain proposals in this Article 64, and the solution which
is given to the procedure of voting in the Organization, might
perhaps conflict with this paragraph. The matter of this
paragraph will have to be solved one way or the other - in
parallel with the way that the voting question itself is solved.
In fact, as the Australian Delegate pointed out just now, the
word "Organization" ought to be replaced by the word "Conference".

If you look at Article 66, paragraph 1, you will see that the
Conference has the power to determine the question of voting and
of voting of Members and Associates, if Associates were to be
created. Therefore this question of Associates might change
the whole question of voting, and might in itself be changed
following the solution which is taken and which is adopted on
this question of voting. I would suggest that this question
of Associates should only be taken up after this question of
Article 64 on voting is discussed.
Mr. FAIVOVICH (Chile) (Interpretation): Mr. Chairman, I shall not repeat here the remarks which I have already made at the Chairman's Committee, but I will merely state a few ideas in connection with the Amendment.

The Trade Organisation will be a branch of the United Nations, and therefore I consider that to accept an Amendment authorising countries which enjoy autonomy with regard to their trade relations to take part in the Organisation is to violate the principle of equality laid down in the Charter of the United Nations.

On the other hand, to accept this Amendment would be to open the door to a number of territories whose number and characteristics are not entirely unknown, and which have not their own standing in international law. They have not internal or external political organs which correspond to fully sovereignty of State, which makes it possible for them to sign an instrument like this Charter.

Furthermore, the question has also a political aspect in connection with the number of votes which will be enjoyed by certain Member States. If the question has this political scope we must finally admit that the position taken by the Chairmen of Delegations to refer the matter to the Economic and Social Council is the most reasonable. Indeed, the Preparatory Committee under its own terms of reference cannot accept the British Amendment, and therefore to our regret we cannot support the Delegate of the United Kingdom.

CHAIRMAN: The Delegate of Canada.
Mr. ANGUS (Canada): Mr. Chairman, the Canadian Delegation is in favour of the proposal that customs territories which enjoy full autonomy in customs matters, which are the only authorities which can give effect to the provisions of the Charter in respect of their territories, should be associated with the Organisation; and the method adopted or suggested—the method of according associate membership—seems to us an appropriate one for recognising the position of communities which have all the powers necessary for Membership in a functional Body of this character, even though they have not the powers necessary for Membership in the United Nations.

I can see some difficulties with regard to paragraph 4; perhaps not quite those that have been pointed out by earlier speakers. If the rights and obligations of an associate are to be determined by the Organisation, or by the Conference, it means that they cannot be determined until after the date on which these three territories have been asked to join, or at least allowed to join; and you may put them in the rather curious position of having to decide whether to join an Organisation or not, before they know what their rights and obligations will be.

I can see some practical difficulties there—that their financial obligations might conceivably be heavy, and their voting power very low, or something of that sort. Then they might have some hesitation about it; but I cannot see that the other Members should be worried as to what might happen.
M. J. van TICHELEN (Belgium) (Interpretation): My Delegation, too, is in sympathy with the United Kingdom amendment. My country has always been traditionally favourable to the ideas of democracy and equality and we consider that this proposal affords us a new opportunity to show this traditional position on our part.

Legal objections have been raised, to the effect that in International Law certain territories were not treated on a footing of equality and that therefore it was difficult to treat them on that same footing in an economic organization. I do not consider these objections as valid. If in Common Law there are principles regarding equality, and if all the Members of a political organization cannot welcome such territories, this should not be the case in an economic organization; in fact, in the Constitutional Law of a number of countries the distinction between the country and the territories is admitted. For example, in our national law we recognize the existence not only of minors and adults but also of an intermediate category, which we call emancipated minors, which do not enjoy full rights but nevertheless can be given a number of rights to sign and to conclude agreements, etc. I think that these territories should be treated here in a similar way if, politically speaking, they are treated otherwise.

This is not only a question of democracy and political doctrine; it is also a question of interest. Our Delegation has always been in favour of the rapid development of territories which have not yet reached the stage of the fullest possible development. They must have the right to speak, to defend their rights, and thus gradually to acquire their full development.

As the under-developed countries have a more favourable economic situation, I think that this will be favourable to the interests of older countries, because they will thus have better clients.

CHAIRMAN: Are there any other speakers?
Sir Stafford Cripps.

Sir STAFFORD CRIPPS (United Kingdom): Mr. Chairman, perhaps I may very shortly reply to some of the points that have been raised. I will not deal with the points in detail, such as those raised by the United States Delegation, which are obviously very suitable to be considered by the sub-committee.

There seem to be three main points of principle which have been raised. The first is the question of the relationship of International Law to the creation of these Associate Members, and I would point out that we are not suggesting here the creation of new international persons for all purposes. It is a question of a specific function and for the purposes of that function I think it is generally recognised that these associate territories would be fully capable of carrying out the purposes of the Organization and accepting the responsibilities.

I would point out that this is not a new departure in international organization. Under the World Health Organization, in Article 8 of Chapter III, an almost precisely similar arrangement has been made: "Territories or groups of territories which are not responsible for the conduct of their international relations may be admitted as Associate Members by the Health Assembly upon application made on behalf of such territory by the Member or other authority having responsibility for their international relations," and so on, so that it is a matter which has already been dealt with.

Secondly comes the point of the relationship to UNO and where, by adopting this form of Membership, the idea would then be contrary to any of the provisions of the UNO Charter.

I would draw the attention of Delegates to the fact that the ITO will not be a branch of UNO. It is a specialized agency set up under the aegis of UNO, but it is a specialized agency for the very
purpose that it has particular functions and it contemplates therefore a membership different from that of UNO.

If I may take the example of the full membership under Part I, sub-paragraph (3) of our suggested amendment, any State not a Member of the United Nations may become a Member of the ITO. That, of course, would not be possible if the membership of ITO had to be the same as that of UNO.

Now it is to be noticed that if these territories are not allowed to come in as Members or Associate Members, then the trade and commerce of their areas must inevitably be wholly left out of the International Trade Organization and responsibilities, because the metropolitán States which are responsible for their international relations in other matters are not able to discharge, in respect of those territories, the functions which the ITO demands. Therefore, unless this method is adopted of bringing them in, their territories will remain outside the range of any of the regulations which we are trying to bring into international trade, and that would be a very serious matter, in my view, for the International Trade Organization.

Thirdly, I think that a number of Delegates are concerned with the question of how many of these Associate Members are there likely to be, and what will be the result upon the voting under Article 64.

I would explain, Mr. Chairman, that so far as we are concerned this is only a transitory state, the state which would qualify for Associate membership. In the development of self-government a stage is frequently or almost always passed through, in which the economic control is passed to the local government, while broader questions of international policy may still remain in the hands of the metropolitán government.

I gave Burma as an example of the countries I mentioned. It is almost certain - I hope it is certain - that by the end of this year, or very shortly afterwards, Burma will be a fully independent...
State, in a position to apply for full membership of UNO, and she would then pass from this transitory state of associateship into the state of full membership, and that is the normal course of development so far as we see the matter in this respect.

Of course, the question of voting under Article 64 must be regarded in the light of what the membership is, and therefore Article 2 and Article 64 must be considered closely together, and I have no doubt at all that that will be done and that in the Conference, when the two Articles come to be considered, they will decide upon the way in which the voting shall take place, in the light of what they have decided as regards the membership there shall be.

I am very grateful for the very general measure of support that has been given to the idea which lies behind this, and I hope that the Commission will allow the matter now to go to the sub-committee, in order that the various suggestions of amendment may there be carefully considered.
CHAIRMAN: Before we decide to refer the United Kingdom proposal to the sub-committee, it might be useful if I were to sum up the discussion which we have had on this important subject. So far as the proposal to provide representation in the Organization of separate Customs territories having autonomy in the conduct of their external relations is concerned, ten delegations have expressed themselves in favour of the principle of this proposal, namely, the delegations of the United Kingdom, Netherlands, United States, Norway, South Africa, China, Australia, Canada, Belgium and Brazil. The Delegation of Brazil proposes that consideration of this question be deferred until after the question of voting has been discussed, but as it is noted, this Commission will be discussing the question of voting next week, and the sub-committee to whom we propose to refer the United Kingdom proposal will also have to take into account the question of voting.

Two Delegations have spoken against the United Kingdom proposal as being contrary to the principle of equality in international law, namely, Cuba and Chile.

The Delegation of France has proposed reference to the Economic and Social Council. This suggestion has also been supported by the Delegation of Chile.

The Delegations of the United States and Australia have raised drafting points, which can be considered by the sub-committee.

I therefore suggest that we now refer the United Kingdom proposal to the sub-committee, taking into account the views which have been expressed in this debate.

MR. L.D. MARTINS (Brazil) (Interpretation): Just one correction, Mr. Chairman, I have expressed myself in favour of the United Kingdom amendment. I have only made a reservation with regard to paragraph 4 of this amendment, which should be drafted in conformity with the question of voting.
DR. G. GUTIERREZ (Cuba): I am sorry that I have to correct the Chair, but Cuba is not opposed to the admission of the territories, but only expresses doubts in relation to the juridical question that it raises, and at the same time I would remind the Commission that the matter should be referred to the Economic and Social Council.

MR. F. GARCÍA OLDINI (Chile) (Interpretation): The position of the Chilean Delegation can be interpreted as being almost similar to that of the Delegation of Cuba. We consider that the matter should be settled first by the Economic and Social Council.

CHAIRMAN: Due note will be taken of these further remarks by the Delegates of Brazil, Cuba and Chile, who have further expressed their position. I thank them for having corrected me in the statements I made.

Is the Commission now agreed to refer the United Kingdom proposal to the sub-committee.

MR. ROYER (France) (Interpretation): Mr. Chairman, the French Delegation has no objection to referring this problem to the sub-committee, but before the question is solved finally by the Commission itself, we would like to wait for the decision of the Economic and Social Council on matters referring to Burma, Ceylon and Southern Rhodesia.
The reasons why we would not like to see a final decision taken before the decision of the Economic and Social Council is known are of a general character, and also because similar questions are now being studied by other bodies depending on the Economic and Social Council. I am referring here to the Far Eastern Commission, and it would seem unwise if contradictory conclusions were to be reached by two sets of bodies both depending upon the Economic and Social Council.

We underlined in the discussion in the Chairmen’s Committee that, in fact, the problem which had arisen was to solve a precise question, raised by the United Kingdom - the question of the application of Burma, Ceylon and Southern Rhodesia and, as the United Kingdom Delegate himself pointed out, to cover the transitory period for the three territories. This was only a provisional problem which was circumscribed in Article 2. It seems to us to solve a precise problem of a temporary nature. We were asked to set up a standing and permanent mechanism, and I think that a solution could be found to this precise problem by adding at the end of Article 2 the territories which were qualified under paragraph 3 of the British proposal.

CHAIRMAN: The sub-Committee will be able to study this question in the light of the discussion which has taken place in the Commission, and it will always be open to the Delegate of France to re-open the question when the Report of the sub-Committee is referred to the Preparatory Committee, and by that time, no doubt, the Economic and Social Council will have acted on the Report of the Preparatory Committee which is being submitted to it.

Does the Commission agree that the proposal of the United Kingdom be referred to a sub-Committee?
M. F. García OLDINI (Chile) (Interpretation): I adhere to the remarks made by the French representative with regard to the procedure. It would be useful to wait for the opinion of the Economic and Social Council.

CHAIRMAN: I have already ruled that the sub-Committee can proceed, and it would be open to any Delegate to raise this question in the Preparatory Committee after the Report of the sub-Committee has been received. The reference to the sub-Committee is approved?

(Approved)

We now have to consider the proposals of the United States Delegation, which involve amendments to the New York text. I take it that these can be regarded as drafting points which we can refer to the sub-Committee without further discussion?

The Delegate of the United States.

Mr. E.H. KELLOGG (United States): Mr. Chairman, I have nothing to say in addition to the notes already included in the paper we are now discussing.

CHAIRMAN: Is the Commission agreed that this proposal of the United States Delegation should be referred to the sub-Committee?

(Approved)

There will be a short meeting of the sub-Committee on Chapter VIII in this room, following this meeting, to discuss further organisation.

There being no further business, Commission B will adjourn until Monday at 2.30 p.m. when we will consider the Report on Article 30 and also Article 45.

(The meeting rose at 5.40 p.m.)