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

Summary Record of the Twentieth Meeting of Commission B.
Held on 10 July 1947 at 3 p.m. at the Palais des Nations, Geneva.

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


Mr. A.P. Van der POST (South Africa) pointed out the differences between the South African re-draft of Article I and the text prepared by the Drafting Committee. He said that the text of the Drafting Committee in its preamble assumed a certain relationship between the United Nations and the International Trade Organization. However, he did not see how the Preparatory Committee could assume that the International Trade Organization is the means by which the United Nations' objective of economic and social advancement can be attained. The South African draft remedied this fault.

He continued by stating that the text of the Drafting Committee was faulty also in that whereas it recognized the supreme purpose of the United Nations as being the pursuit of world peace, it did not narrow down the pursuit of peace in the case of the International Trade Organization to the specific field of that Organization. To correct this defect the South
African draft stated that the states adhering to the Draft Charter were determined in the field of trade, industry and social advancement to realise the objectives of the United Nations, including the supreme aim of peace. In the opinion of the South African Delegation the purpose of the International Trade Organization was not sufficiently brought out in the text of the Drafting Committee. The South African Delegation therefore proposed to summarise paragraph 55(a) of the United Nations Charter, which was merely incorporated by reference in the New York text. In doing this the South African Delegation had also borne in mind that the purpose of the Organization should appeal not only to those directly interested in it, but also to other people who, when reading the Charter, do not wish to find merely a reference to some other document.

Moreover, the text prepared by the Drafting Committee intermingled the purposes of the Organization and the means of attaining those purposes. This had not been done in the United Nations Charter and the South African Delegation proposed that this latter document be followed in this respect.

The above changes were the principal ones which were embodied in the South African amendment. There were also a number of minor changes both of substance and of drafting in that amendment.

Mr. WILCOX (United States) pointed out a number of respects in which the Organization of the material in Article I of the text of the Drafting Committee was illogical and repetitive, although he thought that text contained a number of ideas worthy of attention. For this reason the United States Delegation had attempted a re-arrangement of Article I. This re-arrangement related entirely to the objectives of the states party to the
Charter. The purposes were set forth as the purposes of the states and not of the Organization. Also, throughout Article I the word "countries" had been used instead of "members" except in the very last line. The United States re-arrangement also contained in sub-paragraph 2 a reference encouraging the international flow of capital for productive investment. That amendment followed upon amendments which the United States Delegation had introduced to Chapter IV. In sub-paragraph 4 reference had been made to each of the areas covered by the Charter and not only to the field of international trade, employment and economic development, as had been the case in the text of the Drafting Committee. He concluded by stating that the United States Delegation considered Article I might be further simplified and that the United States re-arrangement was intended merely as a basis for discussion in the Sub-Committee.

Mr. van TICHELEN (Belgium-Luxembourg) said that he preferred a text along the lines of that proposed by the South African Delegation, as that text drew a distinction between the purposes of the Organization and the means to attain those purposes.

Mr. TANGE (Australia) preferred, as regards the preamble of sub-paragraph I, the text of the Belgium-Luxembourg Delegation in that it set out the group of superior purposes followed by a group of intermediate objectives. The South African Delegation's amendment achieved the same end but it dropped specific quotation of the objectives of the United Nations in the economic and social field. This he considered unfortunate. The reference to such objectives provided a sufficiently wide
umbrella under which the particular objectives of the International Trade Organization, in achieving the purposes of the United Nations, could be specified. Such a reference was also useful as a symbol of relationship between the United Nations and the specialised agencies. As regards the classification in sub-paragraph 1, he felt that the United Nations amendment was ragged and that the promotion of full employment should be placed together with the rising standards of living, and that the development of a steadily growing volume of effective demand might be moved down to take the place of full employment as it appeared in that amendment. This would accord more closely with the order of Article III of the Charter and with the objectives set out in Articles 55 and 56 of the United Nations Charter. He preferred the statement of the objectives as being the responsibility of the parties to the Charter, as was set out in the United States amendment rather than as the responsibility of the Organization as set out in the amendment of the Belgium-Luxembourg Delegation.

As regards the reference to investment and other aspects of economic development set out in sub-paragraph 2 of the United States amendment, he felt that this depended to a large extent upon discussion in other committees. In any case, the balance in that paragraph was not correct, for the whole subject matter of Chapter IV of the Charter, except investment, was compressed into one word "otherwise".

Mr. FAWCETT (United Kingdom) raised the question of the connection between the word "purposes" in Article I and the expression "purposes of the Charter" as appearing elsewhere.
He thought that the Commission should decide whether reference in these other parts of the Charter should be to the purposes of the Organization or the purposes of the Charter. He considered that only the states parties to the Charter could have purposes. They wrote those purposes into the Charter and therefore the Organization had no purposes except those set out in the Charter and could not acquire any other purposes except by amendment to the Charter. It was important that this principle should be established because if it were not established it might be considered that the Organization could take action not in accordance with the provisions of the Charter, but merely because such action was consistent with the purposes. It was true that in Articles 83 and 84 it was said that the Organization has legal responsibility but he did not consider that it could be understood from this that the Organization had any purposes. For this reason he felt that the inclusion of the purposes in an article and not in the preamble was very useful and if it were done he hoped that the expression "provisions of the Charter" might be substituted for "purposes of the Charter" wherever the latter expression occurred.

The United Kingdom Delegate preferred the re-arrangement of the United States but considered that there were certain useful points in the two other amendments. He agreed with the Belgium-Luxembourg suggestion to add the words "as an agency" and asked whether the South African delegate would agree to substitute the word "employment" for "social advancement".

To sum up generally the United Kingdom Delegation would like to see the United States' amendment adopted as an
arrangement of Article I with the preamble of the South African Delegation added down to the words "United Nations" but embodying the words "the states party ... Organization".

The United Kingdom Delegation would also like to see some guidance given to the legal Drafting Committee on the expression "purposes of the Charter". Perhaps the Legal Drafting Committee might be asked to produce a report on this question for consideration by the Commission.

The CHAIRMAN agreed with the suggestion of the United Kingdom delegate regarding the question on "Purposes of the Charter" and suggested that the report of the Legal Drafting Committee might be considered after the re-arrangement of the Charter suggested by the United States Delegation had been examined.

Mr. LINOVSKY (Czechoslovakia) and Mr. ROYER (France) thought that the Commission should examine this question before referring it to the Legal Drafting Committee.

The CHAIRMAN said that if his suggestion were not acceptable to the Commission perhaps the United Kingdom Delegation could be asked to prepare a paper which would serve as a basis of discussion for the Commission.

Mr. ROYER (France) suggested that the Legal Drafting Committee be asked to examine the whole Charter and indicate to the Commission those Articles in which the expressions "purposes of the Charter" and "purposes of the Organization" were used.

Dr. GUTIERREZ (Cuba) considered that the United Kingdom delegate might be asked to present the paper to the Legal Drafting Committee, which could present the report to the Commission for discussion later.

It was decided that this course should be adopted.
M. ROYER (France) pointed out that there were two requirements for Article 1, first, a solemn confirmation of general purposes which would be the basis for the re-establishment of order and the promotion of social and economic progress in the world, and second, a determined legal value. As regards the latter he felt that it would be a good thing to examine the legal scope of the Article and also all other Articles in which there is any mention of the purposes of the Charter to make sure there is no contradiction in the texts before Article 1 was referred to a sub-committee for redrafting. The French Delegation took the view that in Article 1 as drafted in the New York text there was a danger of legal conflicts on the considerable number of purposes listed therein. For this reason the French Delegation was in favour of the South African amendment, provided it were possible to reach unanimous agreement on a shorter formula.

On the general scope of Article 1 there seemed to be two conceptions, one in which the principal purposes of the Charter would be the setting up of an international organisation, and another which encompassed such secondary purposes as the registering of agreements, etc. and which would reduce the Organisation to the status of a mere machine or instrument of the contracting parties. The French Delegation was of the opinion that the International Trade Organisation should have the same status as other international organisations and should be endowed with a legal personality. M. Royer suggested that this might be accomplished by a slight modification of the United States amendment making it clear that the Organisation was established to further the purposes undertaken by its Members.

With regard to the mention of Article 55(a) of the Charter of the United Nations, he felt that express reference to this
article in the Charter of the International Trade Organisation might make adherence to the Charter difficult for non-Members of the United Nations attending the Conference.

The French Delegation endorsed the mention of all countries in point 3 of the United States draft but wished to wait for the result of the discussion of the sub-committee on Chapter IV before commenting on point 2 of the draft, and suggested minor alterations in the wording of points 4 and 5.

Dr. GUTIERREZ (Cuba) felt that the proposed United States amendment did not make express provision in Article 1 for the actual creation of the Organisation and considered the original draft of sub-paragraph 3 of this Article was more acceptable as regards its treatment of the countries still in the early stages of industrial development than the United States draft which seemed to give this question less importance. He expressed approval of the structure presented by the Belgian and South African amendments.