The CHAIRMAN observed that the main responsibility for the substance of these Articles obviously rested on the other Committees. The responsibility of the Fifth Committee was chiefly to see that the recommendations of the other Committees concerning the functional and organizational implications of the provisions which they had tentatively approved were taken due account of in Chapter V. To this end, the Chairman and Secretary had already taken the initiative in attempting to secure from the other Committees such information and suggestions as they might wish to make. Their efforts had achieved partial, but not complete results, and would be continued, with co-operation from the Committees. He proposed that the Fifth Committee should now discuss the Articles in a preliminary manner and make such suggestions as fell within the terms of reference of the Committee, afterwards appointing a Sub-Committee to examine all the material arising out of this Meeting and collected from the other Committees or from individual delegations. The Sub-Committee might elect merely to refer the various questions raised to the Interim Drafting Committee.

Mr. BURY (Australia) agreed in principle, but remarked that the time was growing short and the Committee had discussed the Commissions in general terms already. Its work of adapting the general scheme of
the Commissions to each of the Commissions in particular would have to be done in the context of the reports of the other Committees. For example, Articles 65 and 66 might have to be drastically re-drafted. It would therefore be difficult to do more at present than to see what proposals the other Committees may have to make and to link them together into a logical system for all the Commissions. This could be done by a Sub-Committee.

The CHAIRMAN reminded the Committee that the present meeting probably represented the last opportunity that it would have of commenting on the functions of the various Commissions. If it referred the whole task to a Sub-Committee, it would not be able to discuss the matter before its report was due to go to the Plenary Session. Some of the other Committees, especially the Second Committee, would be very late in making their suggestions. It was vital to have the views of the Third Committee on the Commission on Business Practices, before Committee V could usefully undertake consideration of Article 65.

Dr. ALAMILLA (Cuba) said that his delegation had presented two amendments to Articles 66 (7, 8) in the Fourth Committee in an effort to secure for the Commodity Councils a certain liberty of action which it considered essential. If the Fourth Committee did not agree, his delegation would have to reserve its right to re-introduce the amendments in January. He called attention to these points so that any Sub-Committee appointed to deal with Article 66 would bear them in mind, in considering the recommendations of Committee IV.

The CHAIRMAN said that the Chairman of the Fourth Committee had sent him on the previous day a document which appeared to cover the two amendments. It ran:
"In re-drafting Chapter VI of the Charter, this Committee has, except in one instance, used the term "Organization" without specifying the part of the organization which should perform the particular administrative function to which reference is made.

"Although Committee V will doubtless consider this matter in relation to other sections of its work, it is felt that some guidance from Committee IV may be helpful.

"The ideas of the Drafting Sub-Committee of Committee IV as to the allocation of functions to various parts of the Organization relating with commodity arrangements is set out on the attached schedule. A copy of the re-drafted Chapter VI is attached for your reference."

There followed a copy of the re-drafted Chapter VI, to which a document was appended containing a list of the various functions provided for in Chapter VI together with an indication as to the authority within the Organization by which each of these functions would be performed.

Dr. ALMILLA (Cuba) observed that the Document was only the report of the Sub-Committee, and that the Fourth Committee would not meet until the following Monday, when it might decline to approve the report, or might amend it.

Mr. PALTHEÏ (France) maintained that the Fifth Committee had a duty to enquire fully into the functions of the Commissions. The Drafting Committee, according to the Heads of Delegations, would not be competent to do this work, it would confine itself to the orderly drafting of matter referred to it. He considered that a Sub-Committee should be appointed to consider the reports of the four other Committees; in the light of its report, the Fifth Committee could then proceed with a full discussion.

Mr. TURNER, Secretary, said that the most important factor was the timetable. The reports of most of the other Committees would not be ready at the earliest until next Monday or Tuesday, and
Committee V could not meet after Tuesday morning, for the Plenary Sessions were to begin on Tuesday afternoon and to finish if possible on Wednesday. He could see no alternative to the kind of procedure suggested by the Chairman which would involve leaving the detailed examination of these Articles to the Drafting Committee or to the next Session of the Preparatory Committee.

Mr. PALTHEY (France) agreed.

The CHAIRMAN explained that such documents as that which had come from the Sub-Committee of Committee IV would, when they became available, by-pass the Fifth Committee and go to the Drafting Committee to be worked into the Draft Charter for discussion in the Spring, when any member dissatisfied by its contents would have an opportunity to be heard.

Baron van TUYLL (Netherlands) suggested that for the sake of speed a separate Sub-Committee might be appointed for each of the Articles in question - namely Articles 64, 65 and 66.

Mr. DAO (China) asked whether it was correct to assume that the functions of the Commissions would be decided either finally or tentatively by the other Committees. The task of the Fifth Committee should be to apportion functions among the Commissions, but since there would be no time for discussion, no member would want to commit himself either on this question or on the number of Commissions to be set up. He also asked whether the findings of the Sub-Committee which it was proposed to appoint would constitute a separate part of the Committee's report or be in the form of an appendix thereto.

Mr. HOUTMAN (Belgium) emphasized the right of delegates to return in future to the consideration of any matters which were to be referred to a Sub-Committee.
H.E. Mr. COLBAN (Norway) said that to summarize the functions of the Commissions in the light of the decisions of the other Committees was a simple matter of drafting. The Committee was not called upon to do more than approve of the scheme before it, leaving open the exact wording of Articles 64, 65 and 66 until such time as the views of the other Committees were known. The Interim Drafting Committee could quite well undertake this task, and could explain any difficulty to the Preparatory Committee at its Second Session. To discuss the functions of Commissions before the other Committees had made their results known would be a waste of time.

The CHAIRMAN suggested that the best procedure might be simply to drop further consideration of these three Articles and to transmit to the Interim Drafting Committee any proposals received regarding Commission functions.

Mr. MERINO (Chile) asked what would become of the Chilean suggestion to establish a Fourth Commission for increasing the level of production, industrialization and employment.

The CHAIRMAN answered that this was a matter which rested primarily with the Joint Committee.

Mr. QURESHI (India) strongly supported the Chilean proposal. The Indian Delegation had represented strongly at an early stage that one of the main duties of the Conference should be to suggest means of developing the industries of the less developed areas. The elimination of restrictive business practices and the reduction of tariff barriers might increase employment, but were only negative methods. If the demand for various goods, services and commodities could be increased in India and China, those countries could absorb the surpluses of the entire world, and still there would be underemployment. One of the fundamental tasks of the ITO was to seek ways and means of increasing demand in those countries.
Mr. PALTHEY (France) reiterated that the Fifth Committee had the duty of implementing the decisions of the other Committees and of deciding whether the conclusions reached by the Joint Committee would justify the establishment of a fourth Commission. It could only do so on the basis of the report of that Committee.

H.E. Mr. COLBAN (Norway) supported this view, and said that any proposal to set up a Commission for Industrial Development should be sent automatically, by the authority of the Fifth Committee, without examination, to the Interim Drafting Committee to be dealt with in the same way as the other three Commissions for which provision has already been made in the Draft Charter.

After further discussion, the CHAIRMAN stated that he did not think the Fifth Committee should decide whether or not a Commission should be set up. This was the duty in the first instance of the Committee concerned with the particular field of activity in which the proposed Commission would function. The Fifth Committee's task was to translate such decisions into terms of organization.

Dr. ALAINILLA (Cuba) agreed that the necessity for a Commission should be determined by the appropriate Committee, but maintained that its functions were a matter for the Fifth Committee. He proposed that, if the Joint Committee found that a new Commission was necessary, the Fifth Committee should meet in New York to decide on its functions, which were not a matter for the Drafting Committee. In any event, there was no profit in discussing the question at the present meeting.
Mr. HOUTMAN (Belgium) said that during the discussion on Article 50 (1) (Functions of the Organization), he had asked the United States Delegate whether a Commission of the kind under discussion should not be provided for. Mr. KELLOGG had replied that the Economic and Social Council had appointed a special committee on Economic Development which would do what was needed. In view of that reply he could not understand why the question had been under discussion for an hour at the present meeting.

Mr. TURNER, the Secretary, pointed out that the reference in Article 50 (1) was merely to the collection of information and not to the establishment of a commission.

Mr. HOUTMAN (Belgium) replied that the problem was identical, and that the Secretariat had, in a document before him at the moment, formulated the functions of this important Committee.

Mr. HOLMES (United Kingdom) said that a Drafting Sub-Committee of the Third Committee would probably ask the Fifth Committee to join with them in discussing the future contents of Article 65 (Functions of Commission on Business Practices). He had no strong personal views on whether this question should be considered by either of these Committees or the Interim Drafting Committee, but he hoped that whichever body discussed it would take account of the revised draft of Article 65 which had been submitted by the United Kingdom Delegation (E/PC/T/C.V/22 of 9 November.)

The CHAIRMAN said he thought that a majority of the Committee was in favour of sending to the Interim Drafting Committee the material to come from the Third Committee, including the suggestions of the United Kingdom Delegate.
There would be no time for Joint Meetings; the Committee's immediate task would be to transmit the suggestions of other Committees or of individual delegates direct to the Drafting Committee.

H.E. Mr. COLBAN (Norway) in response to the Chairman's request, restated his previous proposal, namely: advised the Committee, in view of the shortness of time, to approve the scheme of the Charter without discussing Articles 64 - 66 or the proposal for a fourth Commission, and to send all reports to the Interim Drafting Committee, which had no power to take political decisions but would report to the Preparatory Committee.

The Committee agreed to this procedure.

Article 56. Interim Tariff Committee.

Mr. KELLOGG (United States), in answer to the New Zealand Delegate, explained that his government anticipated that next spring representatives of the nations forming the Preparatory Committee would meet and negotiate multilateral tariff reductions. These, it was hoped, would be substantial and would materially succeed in reducing tariff barriers. When the Organization was set up, those countries which had made such reductions would automatically be members of the Interim Tariff Committee.

Mr. LAURENCE (New Zealand) asked whether the Charter would be a post-negotiation document in relation to the proposed Spring negotiations. Was the Interim Tariff Committee to be a Committee of authority which would enter on its functions before the entry into force of the Charter, and would it continue in existence under Article 56 (1) after the Charter became valid?
Mr. KELLOGG (United States) agreed that the negotiating meeting was intended to put into effect tariff reductions at whatever time might be agreed upon, which might be before the Charter came into force but it was impossible to say with any certainty. It was his understanding that the United States Government did not wish a possible failure of the Charter to come into effect to endanger the good work it is hoped will be accomplished by the Spring meeting. It was desired, therefore, to make the result of these negotiations independent of the entry into force of the Charter. The negotiating countries might wish to set up among themselves an interim body to see that the agreement was implemented, but he did not think that any concrete suggestions had yet been made.

Mr. LAURENCE (New Zealand), while thanking the United States, foresaw a difficulty in that, according to Article 56 (1), the functions of the Interim Tariff Committee could only follow the entry into force of the Charter. Article 18 (3), upon which Article 56 (1) depended, had significance only after the Charter came into effect. On the other hand, Article 56 (2) implied that some group of countries would have assumed certain responsibilities beforehand. He asked whether the general agreement on tariffs and trade was not as important as certain sections of the Charter, and whether a draft of this agreement should not be worked out at once, or at latest before the Spring meeting of the Preparatory Commission.

Mr. KELLOGG (United States) commented that the negotiating countries would decide the date on which they wished the tariff reductions to take effect. It was hoped that their decision would be such that, if the Charter failed to come into effect, their good work would nevertheless proceed.
If the Organization were set up, it was hoped that the countries which had actually reduced their tariffs would all join it. When the Organization began its work, those countries would form the nucleus of the Interim Tariff Committee, and other countries joining the Organization would be expected to make corresponding reductions in their tariffs. When they did so, they would become members of the Interim Tariff Committee; but, if a country did not do so, Article 18 (3) gave the Committee the right to require it either to make reductions corresponding to those made by the other members, or to leave the Organization, on the principle that it could not benefit by the reductions of other members without contributing a corresponding benefit itself.

Mr. BURY (Australia) said that the provisional view of the Australian Delegation was that the tariff negotiations and the Charter were two inter-dependent factors; but if at any time special measures should be needed to protect the results of the negotiations, the United States Draft seemed adequate.

Dr. ALAMILLA (Cuba) said that the Sub-Committee dealing with Article 18 had been told that certain provisions of the Charter would be incorporated as an essential part of the tariff agreement. Article 18 (3) had been redrafted in such a way as to exclude its present contents from the Charter and substitute a reference to a memorandum or supplement to the Charter which would set out the methods by which the tariff negotiations would take place.
Mr. LE PAN (Canada) suggested, in Article 56 (2) (Page 38, first line), to delete the words "be entitled to", so that membership of the Committee should be obligatory on all members who had completed negotiations comparable to those completed by the original members of the Committee. Article 18 (3), empowering the Organization to consider questions and disputes arising out of tariff negotiations and agreements, prescribed that for an interim period after the coming into force of the Charter the forum in which such questions would be considered should be the Interim Tariff Committee. In his delegation's view every member who had entered into tariff agreements should be a member of that forum – the Interim Tariff Committee.

Mr. LAURENCE (New Zealand) asked what the position would be if a Member country did not desire to join the Committee.

Mr. KELLOGG (United States) suggested that a member might abstain from voting.

The Committee approved the amendment, with the direction that reservation by the New Zealand Delegate should be recorded.

Mr. LE PAN (Canada) entered another reservation on Article 56 (3) (Each member of the Committee shall have one vote), suggesting that if a system of weighted voting were introduced for the Conference, a similar system might be found appropriate for the Interim Tariff Committee.

Mr. HOLMES (United Kingdom) and Mr. LAURENCE (New Zealand) concurred.
Article 1 General Purposes of the Organization

The CHAIRMAN recalled that discussion of this Article had several times been deferred, and suggested that it should be referred to the Plenary Session without discussion. Suggestions of other Committees not at present available would probably bear upon its provisions.

Mr. BURY (Australia), while agreeing, said that his delegation had submitted an alternative draft to the Committee and would like the attention of the Plenary Session to be drawn to this, with a note that the Committee had not discussed it.

The Committee then dealt with a number of residual points.

Article 6b (2) Deputy Directors-General

Mr. TURNER, Secretary, mentioned that the United States Delegate had reserved the right to refer to this paragraph again after the general character of the Commission had been discussed.

Mr. KELLOGG (United States) said that his delegation was content with the wording of the Charter as redrafted.

Article 71 (2) Relations with FAO

Mr. TURNER, Secretary, said that reference to food and agriculture had been deleted from this paragraph on the understanding that an appropriate reference would be made elsewhere in the Charter to their importance in relation to commodity arrangements. The Fourth Committee, in redrafting Chapter VI, had referred specifically to the Food and Agriculture Organization and had included a new article on relationships with it.
The Two-Thirds Vote

Mr. TURNER, Secretary, reported that the Legal Officer had agreed that the phrase "by the vote of two-thirds of its members" was ambiguous, and had suggested as an alternative "by an affirmative vote of two-thirds of the members".

Mr. LAURENCE (New Zealand) said his impression after extracting the phrases in the Charter dealing with voting was that they needed re-drafting.

Mr. HOLMES (United Kingdom) suggested that the word "vote" should read "votes".

Mr. TURNER, Secretary, asked the Committee to adopt this wording provisionally, on the understanding that the attention of the Drafting Committee would be drawn to it.

Article 55, paragraph 2. Waiving of Members' Obligations.

It was agreed, with the concurrence of the United States Delegate, to delete the words "to Chapter IV" ("obligations of Members undertaken pursuant to Chapter IV of this Charter").

Article 57. Right of Attendance at Executive Board

Mr. Turner, Secretary, stated that the Canadian Delegate had given notice at the Eighth Meeting of the Committee of his intention to propose a new paragraph to Article 57:

"5. Any Member of the Organization who is not a Member of the Executive Board shall be invited to send a representative to any meeting of the Board called to discuss a matter of particular and substantial concern to that Member. Such representative shall, for the purpose of such discussions, have all the rights of Board Members, except the right to vote."
Mr. LE PAN (Canada) said it was essential that any member of the Organization whose cause was being considered by the Board should have a right to appear before it. Article 31 of the United Nations Charter gave the right to any Member of the United Nations to appear before the Security Council when its cause was being considered. The interpretation of that Article had been so restricted that it had not had the effect desired when the Canadian representative had proposed it as an amendment to the Charter of the United Nations. The present amendment had therefore been drawn somewhat more precisely, and should secure to any member of the ITO the right to appear and effectively present its case to the Executive Board.

Mr. BURY (Australia) supported the amendment.

Mr. LAURENCE (New Zealand) asked whether it was intended that the member should attend throughout the whole of the proceedings of a particular meeting of the Board, or only at that part of the proceedings at which the member's cause was under discussion, or whether the Board should hear a statement from the member, irrespective of whether the member attended during any other part of the proceedings. It would be dangerous to oblige an Executive Body to permit a member who might be accused of an offence to attend while matters concernign his cause were being discussed.

Mr. LE PAN (Canada) answered that the member would not have the right to be present throughout the whole session if other matters not affecting its interest were discussed. It would, however, have the right to attend the whole of that part of the session during which the cause affecting it was considered.
The representative should have the right to take part in the discussion in addition to making a statement. Experience of many international conferences had shown that the bare right to make a statement was not sufficient to enable a case to be thoroughly ventilated and the member to feel that its representative had had a chance to present his arguments completely.

The CHAIKLIAN suggested, instead of "called to discuss a matter of particular and substantial concern to that member", the alternative wording "to be in attendance whenever a matter of particular and substantial concern to that member is under discussion".

Mr. NAUDE (South Africa) doubted whether attendance was equivalent to participation. He also wondered if it was the member who was to be the judge of whether the matter was one of particular and substantial concern. Under Article 31 of the United Nations Charter it was the Security Council which decided whether the interests of the Member were affected.

Mr. LE PAN (Canada) suggested that the question of how long the representative of the member would be allowed to remain at the meeting was an academic one, for any question of particular and substantial concern to a member would ordinarily occupy a whole meeting of the Board. He would be happy to accept any words, which would make it clear that the member would be called to participate in the discussions of the Board while the matter affecting him was being discussed.

Mr. DAO (China) proposed to give the Executive Board discretion to invite a member to send a representative, rather than to impose an obligation to do so.
Mr. LE LAN (Canada) objected that to do so would greatly weaken his amendment. The obligation would be necessary to preserve the right of attendance. The final decision as to whether a matter affected a member substantially should rest with the Board. He envisaged a procedure by which a member would represent to the Board that a certain subject substantially concerned it. It was to be hoped that the Board would adopt a very liberal attitude towards any such representation.

Mr. LAURENCE (New Zealand) asked whether, if the Executive Board discussed a matter of general application, the Conference would have to be convened and whether the Executive Board would be precluded from holding a confidential discussion on any subject concerning a member, or would be unable to consider a matter in which members were concerned, without inviting them to be present. If so, such a provision in the Charter would gravely hamper the Board. If the Committee approved of the principle indicated by the amendment, it would be better to provide in Article 55 (Conference - Powers and Duties) that the Conference should lay down the procedure by which members could be properly represented at meetings of the Board.

Dr. ALMILLA (Cuba) agreed with the Canadian proposal but considered that it should be referred to the Interim Drafting Committee or to the Sub-Committee to decide on the wording and on its position in the Charter. The similar provision in the Charter of the United Nations had not caused any particular difficulty.
At the suggestion of the Chairman, the Committee appointed a Drafting Sub-Committee to consider the amendments which delegates had proposed be made to Articles 50 (Functions of the Organization), 51 (Structure of the Organization) and 61 (Establishment of Commissions), and the new paragraph in Article 57 (Executive Board - Membership) suggested by the Canadian Delegate; the members to be the Delegates for Canada, Cuba, India, the United Kingdom and the United States.

Future Meetings.

The next meeting of the Committee was fixed for Friday, 15 November at 3 p.m. to discuss the Report of the Sub-Committee, the Report of the Joint Rapporteurs on Voting and Membership of the Executive Board, and any other business brought up by delegates.

The CHAIRMAN proposed that an effort should be made to circulate the draft report of the Committee to the Plenary Session on Monday morning, 18 November, and that the final meeting to approve the report should be held on Tuesday morning, 19 November.

The Committee rose at 6.15 p.m.