UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL

PREPARATORY COMMITTEE
of the
INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report
of the
Fourteenth Meeting
of
COMMITTEE V
held in
Convocation Hall,
Church House, Westminster
on
Friday, 15th November 1946
at
3.00 p.m.

CHAIRMAN: Mr. LYNN R. EDMISTER (U.S.A.).

(From the Shorthand Notes of W.B. GURNEY, SONS & FUNNELL, 58, Victoria Street, Westminster, S.W.1.)
THE CHAIRMAN: The first item this afternoon is the Report of the Ad Hoc Drafting Sub-Committee on Articles 50 and 51 and consequential amendments to Article 55, Article 57 and Article 76. I shall proceed Article by Article with the Sub-Committee's Report, and if there is any necessary explanation or comment I imagine that either Mr. Holmes or Mr. Kellogg will take over the responsibility for it.

Article 50, paragraph 1: it is recommended that this paragraph be approved without change.

If there is no comment I take it it is approved.

Article 50, paragraph 2: it is recommended that the words "the United Nations and" be inserted immediately preceding the words "other international Organizations".

I take it that this paragraph as revised is approved.

THE SECRETARY: Mr. Chairman, my attention has been drawn to the fact that the copies of this document in French have not been delivered. They were supposed to have been delivered. If it is desired I would be glad to read out the text of each paragraph as amended, so that there can be no difficulty on the part of any member of the Committee in fully understanding the nature of the amendment proposed.

THE CHAIRMAN: Article 50, paragraph 3: it is recommended that in sub-paragraph (a) the words "or the members" be inserted immediately following the word "Organization".

THE SECRETARY: That will now read "Recommendations or determinations relating to the discharge of the responsibilities of the Organization or the members under Chapter IV".

THE CHAIRMAN: If there is no comment I take it that is approved.

Then it is recommended that in sub-paragraph (c) of para. 3 the word "or" in the last line be replaced by the word "and".

THE SECRETARY: The last line of the Article will then read, "as may be deemed appropriate under the commodity principles or in the
MR. VAN TUYLL (Netherlands): Mr. Chairman, in a former meeting I suggested that it might be unnecessary to include the words "in the general interest" after the criteria "under the commodity principles", as I suppose that the general interest would be one of the factors of the commodity principles. I do not think it very important, but I would like for the record to know if the Drafting Sub-Committee has deliberately left in these words.

MR. HOLMES (United Kingdom): Mr. Chairman, I think the answer to that is that we did consider the suggestion of the Netherlands delegate that the words might be entirely removed, but that we felt they had some value as broadening the basis of this sub-paragraph, though at the same time we should agree or hope that anything done as appropriate under the commodity principles would be in the general interest. It seemed, therefore, that in order to avoid drawing a sort of discriminatory line between what was done under the commodity principles and what was done in the general interest we might appropriately make this small change, which members of the Drafting Committee all agreed met, we hoped, every point of view.
THE CHAIRMAN: Is there any further objection?

MR VAN TUYLL (Netherlands): Mr Chairman, I am satisfied, thank you. I only wanted to make a remark because I was afraid that perhaps it would be understood that the commodity principles might not be in the general interest, but I am quite satisfied to leave it as it is.

THE CHAIRMAN: I take it that this amendment is agreed to. (Agreed).

Article 50, paragraph 4: it is proposed that the word "mechanism" be deleted.

MR VAN TUYLL (Netherlands): Mr Chairman, I apologize for again speaking in this sub-Committee, but at the last meeting the Indian delegate suggested the possibility of arbitration being included in this paragraph of Article 50. Now I see that the drafting committee, instead of expanding the meaning of this paragraph, has restricted it by dropping the word "mechanism." That is exactly what we would like to introduce, mechanism for arbitration.

MR KELLOGG (USA): Mr Chairman, in reply to the question of the delegate of the Netherlands, the Committee yesterday worked on paragraph 4 of Article 50 in connection with its work on paragraph 2 of Article 76, and it was decided that we would leave paragraph 4 of Article 50 purely as one of a list of functions of the organization without going into detail, whereas in Article 76 (2) we would spell out all the details in respect to the handling of disputes, and you will notice that in the treatment in the sub-Committee's report on Article 76 (2) we have included a mention of arbitration as one of the tools which might be used in the settlement of disputes.

MR VAN TUYLL (Netherlands): I had seen that reference in Article 76 (2), Mr Chairman, but I also notice that the subject of arbitration was only mentioned with regard to the rulings of the Executive Board and not with regard to the decisions of the Conference; but I am quite prepared to drop the subject here, if you will allow me to take the matter up again on Article 76.

THE CHAIRMAN: Yes; I suggest that be done, and I assume that, in the
absence of further discussion, this amendment is approved? (Agreed)

Article 50, paragraph 5: It is proposed that the words "and promote the acceptance by members of" be inserted immediately following the words "to make recommendations for." Then there is a note: "As a result of the sub-Committee's consideration of this paragraph, it is recommended that a new provision be added to Article 55." 

MR HOUTMAN (Belgium) (Interpretation): Mr Chairman, I merely wish to ask you a question. I do not quite see the meaning of paragraph 5 of Article 50, the second and third lines, "to assure just and equitable treatment for the enterprises, skills, capital, arts and technology" and so on. In my opinion, unless it is bad wording, I cannot see the real meaning of the word "arts." Perhaps we should say "artistic processes." Otherwise, it does not make any sense, in my view.

MR KELLOGG (USA): The purpose of this word in this paragraph was to cover such matters as possibly copyrights and works like cinema films and such things, which do involve artistic as well as technological skills; and if the delegate of Belgium can suggest a good term to put in there to take the place of the word "arts" we shall be very pleased to have it.

MR HOUTMAN (Belgium) (Interpretation): Given the explanation which we have just heard, I think the text would be clearer and its scope would be more general if we included such a phrase as "technological processes."

MR KELLOGG (USA): I think the Delegate of Norway is correct in suggesting that "arts" in English is the equivalent of "procédés artistiques" in French, although I would scarcely like---

MR HOUTMAN (Belgium) (Interpretation): If I can have in my French text "procédés artistiques" without changing the English text, I am thoroughly agreeable.

MR PALTHEY (France) (Interpretation): Mr Chairman, I merely wish to ask a question of the delegate of the United States. Does he include in the term "arts" copyrights for designs of all kinds such as fashions, perfumes, jewels, and so on, and would that be covered?

THE CHAIRMAN: That question I take it is addressed to the delegate of the
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United States and not to the Chair.

MR KELLOGG (USA): I would say that the answer to the French delegate is "Yes; we did intend it to cover just exactly that, and if it is felt by any member here that we should expand the word "arts" to make it appear broader, we shall be very glad to do so."

MR DAO (China): Mr Chairman, I would like to ask for an elucidation from the sub-Committee in regard to the insertion of the words "and promote the acceptance by members of" because I am wondering if they have any importance in the mind of the sub-Committee and by what means the acceptance by members could be promoted.

MR HOLMES (UK): Perhaps I should answer that, because the initiative for this alteration and for the suggested alteration we shall be coming to in Article 55 came from the United Kingdom delegation. I raised this point I think at the last full meeting or the last meeting but one of this Committee. If the Organization is to have as part of its functions the recommendation of international agreements on these various points, and if such agreements are to come into effect, then it seemed to us desirable that every encouragement, at any rate, should be given to those agreements to become effective. It would not be very much use to have a draft agreement drawn up on these subjects unless the members, having approved them in principle, then became members of those agreements and put them into force. The only form of promotion of acceptance by members beyond the recommendation of such agreements in principle will really be found in the sort of process that we have advocated, as is suggested in the addition to Article 55, under which it will be seen a member would undertake to give due consideration to these subsidiary agreements and to make up their mind within a reasonable time about accepting them and becoming members of whatever organization or subsidiary organization they may look to, and if they do finally decide not to join such a body to explain why they have come to that negative decision. That is the sort of promotion we had in mind.

MR PARANAGUA (Brazil): I want just a little explanation. With regard to
this international agreement, does that mean bilateral and multilateral?

I take it that it would cover both.

THE CHAIRMAN: I suppose it does, but I will refer the question to the
United States delegate.

MR KELLOGG (USA): Yes, you are quite right. The purpose behind this para-
graph was primarily of course to cover multilateral conventions on
these matters. Conceivably, I suppose, you might have a situation where
a bilateral agreement would do the trick, but normally that would not
be true.

MR PARANAGUA (Brazil): But that is not prohibited?

MR KELLOGG (USA): No.

MR PARANAGUA (Brazil): That is the only thing I wanted. Thank you.

THE CHAIRMAN: Is the amendment proposed by the sub-committee agreed to?

I hear no objection. I take it it is; and I assume also that with
regard to the question raised on the matter of the word "arts" it would
be satisfactory to the French-speaking delegates if note is taken of
our discussion in connection with the translation of the word into
French.

MR HOUTMAN (Belgium) (interpretation): I am quite satisfied, Mr Chairman.

THE CHAIRMAN: Article 50, paragraph 6: It is recommended that this
paragraph be amended to read as follows: "To co-operate with the United
Nations and with other intergovernmental organizations generally in
the attainment of the economic and social objectives of the United
Nations and in the maintenance or restoration of international peace
and security, and in particular, in the achievement of an economy of
effort in the performance of the functions set out in this Article."
The Chair would like to raise a point or two with reference to this proposal. I do so with some apology as my usual purpose is to expedite the consideration of the matters before this Committee. I have two slight suggestions to make. I would not press either one of them. They might perhaps just be noted. First, I wonder whether it is not rather illogical to put at the end of this paragraph a phrase such as the one which begins "in particular". It seems to me that that is rather anticlimactic and that it would be better from a purely drafting standpoint if the Article were to begin, "To achieve an economy of effort in the performance of the functions set out in this Article and to co-operate with the United Nations", and so forth, and let the Article end on the high note of maintenance and restoration of international peace and security. I know that is not a very important suggestion but it seems to me that the addition of this phrase at the end is distinctly anticlimactic.

MR HOUTMAN (Belgium)(Interpretation): I second your proposal, Mr Chairman.

THE CHAIRMAN: I repeat, I do not attach great importance to it, but I think it would be a little better drafting.

I have a further suggestion, not very important, and I suspect that the delegate from the United States will wish to take me out and talk to me very strongly for suggesting it, because it is a suggested change in wording that was in the original United States draft. The phrase "and in the maintenance or restoration of international peace", it seems to me, ought to read instead "in the restoration and maintenance". I would explain that just now we are, I think, attempting to restore international peace. We hope that we will succeed and that thereafter the job of maintaining it will be a successful one; and it seems to me, therefore, that it would be more logical and perhaps somewhat more optimistic if we were to say "and in the restoration and maintenance".

MR KEILLOGG (USA): The language in that paragraph was adapted from the language in the United Nations Charter, but I think that the suggestion of the Chairman can be easily accepted. It certainly does not change the intent of the paragraph.

THE CHAIRMAN: I take it that the amendments suggested by the Chair are
acceptable to the Committee. (Agreed.)

Article 50, paragraph 7. It is recommended "That this paragraph be approved without change." Any comments? (Agreed.)

Article 51. It is recommended "That this Article be amended to read 'The Organisation shall have as its principal organs: a Conference, an Executive Board, Commissions as established under Article 61, and a Secretariat.'"

THE SECRETARY: There is a small typographical error in that Article. The word "and" in the second line should, of course, be "an",

THE CHAIRMAN: If there is no comment, it is agreed.

Article 55. It is recommended "That the following new provision be added to Article 55, as paragraph 5 thereof: '5. The Conference may develop and, by the affirmative votes of two-thirds of its members, recommend for their acceptance, conventions and agreements with respect to any matter within the competence of the Organisation. Each member undertakes that it will, within eighteen months after such recommendation by the Conference, make a decision upon it. Each member shall notify the Director-General of the action taken and, in the event of rejection of such recommendation, shall furnish a statement of the reasons therefor.'"

(The Belgian delegate, Mr Houtman, drew the attention of the Committee to an inconsistency between the wording of the English and French texts. The necessary amendment in the French text was duly noted by the Secretariat.)

If there is no further discussion, I take it this amendment is agreed. (Agreed.)

Article 57. It is recommended "That the following new paragraph be added to Article 57, as paragraph 5: '5. Any member of the Organisation who is not a member of the Executive Board shall be invited to send a representative to any discussion by the Board of a matter of particular and substantial concern to that member. Such representative shall, for the purpose of such discussion, have all the rights of Board members, except the right to vote. Are there any comments?

MR NAUDE (South Africa): Mr Chairman, as I said before in principle I wholeheartedly support this amendment. I realise the difficulty of drafting
the Article so that there are no difficulties of interpretation. I shall therefore not pursue it at all, except to suggest that if we are to follow the words in the Charter we had better change "who" to "which" - "the Member which".

MR ALAMILLA (Cuba): I see that in the French text the words "a toute seance" appear, and in the English text it is "to any discussion". We discussed that point the other day, as to whether it was to the full meeting or to a discussion of a particular item, and I think it is important that the texts should agree here. I do not mind which it is, but it should be one or the other.

MR HOLMES (U.K.): I think what we had intended at the Drafting Committee was quite definitely what now appears in the English text. The point was a small one but it did seem that if we worded the new paragraph as in the English text we did get round the suggestion which had been made at the full meeting before that we might, under the original proposal, be giving a non member of the Executive Board the right to stay on and listen to all sorts of irrelevant matters once the part of the meeting which dealt with relevant matters to him had come to an end - assuming that more than one item was taken at the same session; so that I think it is just a clerical error that the word "seance" appears in the French text.

MR BOUTMA (Belgium)(Interpretation); I support the idea that this amendment should be made, because it is justified and equitable, it seems to me, yet I wish to ask one question. Who will decide whether a member not represented on the Executive Committee may be allowed to attend a meeting when a question concerning him is being discussed, and how will it be decided - by an ordinary majority or two-thirds majority? - subject, naturally, to the previous consideration of the criterion itself according to which we would discuss whether this question is a particular one and an important one. There remains the question of the decision by the majority, a simple majority or a two-thirds majority, and the question of procedure generally speaking.

MR HOLMES (U.K.): The clue, I think, to the intention behind this suggested new paragraph is contained in the word "invited"; that is to say, the initiative might be expected to come from the Executive Board.
My United States colleague has pointed out that in that respect the proposed new paragraph follows closely the terms of Article 69 of the United Nations Charter, which provides that the Economic and Social Council shall invite any member of the United Nations to participate, etc., on somewhat similar terms. MR. HOUTMAN (Belgium): (Interpretation): Therefore, Mr. Chairman, it is logical to conclude that this decision is to be taken by a simple majority of the members of the Executive Board.

MR. DAO (China): Mr. Chairman, we agree in principle with the purpose of this amendment. We think that a member who is not a member of the Executive Board should have an opportunity to state a case, but we are a little worried about its place in the Charter. Article 57 deals with membership of the Executive Board, the number of members, and so forth, and then we come to paragraph 5, which says that any member of the Organization who is not a member of the Executive Board shall be invited to send a representative, etc. We should have thought that the Executive Board, when it is constituted, would draw up its own rules to provide for the attendance of international organization representatives or non-member representatives, so we think a place should be found for this somewhere under Article 59 with regard to procedure.

THE CHAIRMAN: The Chair feels that the delegate from China has a valid point; that the subject-matter of this proposed new paragraph does not really have to do with membership of the Executive Board, but does have to do with its sessions and procedure, and while the decision does not rest with the Chair, I hope that we can agree to that suggestion with a minimum of discussion. However, if anyone wishes to discuss it further, the floor is open to them.

MR. ALAMILLA (Cuba): Mr. Chairman, the Chair has taken the word out of my mouth. I thought we were all in accord that the
paragraph should come in and that it would be a matter for the Drafting Committee to decide where it should go in the Charter.

THE CHAIRMAN: Is there any further discussion?

MR. LAURENCE (New Zealand): Mr. Chairman, I am still somewhat concerned from the operational point of view with the word "shall" in the second line and the word "any" in the third line. There is no discretion left to the Executive Board, with this section in the Charter, to have discussions of any sort whatever in their own councils, as it were. I think we can agree with the principle, but I think it is far too rigid.

THE CHAIRMAN: I take it the delegate of New Zealand wishes us simply to note that comment as we pass upon the proposed amendment?

If there is no further comment I take it the amendment is agreed to?

We pass next to Article 76, paragraph 2.

THE SECRETARY: Mr. Chairman, there are two corrections to make in the text of paragraph 2. In the second sentence the words "as may be appropriate" should be struck out, and immediately before the word "refer", two lines down, the word "may" should be inserted, so that the sentence will now read "Before giving its ruling the Executive Board may require a preliminary report from any of the Commissions or may refer the matter to arbitration under procedures which it shall establish."

THE CHAIRMAN: The proposal then of the Sub-Committee is that this paragraph be further amended to read as follows:

"2. Any questions or difference concerning the interpretation of this Charter or arising out of its operation shall be referred to the Executive Board for a ruling thereon. Before giving its ruling the Executive Board may require a preliminary report from any of the Commissions or may refer the matter to arbitration under procedures which it
shall establish. Any ruling of the Executive Board,......

.............be referred to the Conference".

There is a further suggested revision, but perhaps we should take this paragraph by paragraph. There is a new paragraph 3, which does not change the content:

"3. Any justiciable issue arising out of a ruling of the Conference ............. submitted to the Court under the Article."  

MR. ALAMILLA (Cuba): Mr. Chairman, I do not really understand this and I would like to know more about it. Where does "Any ruling of the Executive Board" etc. end, and where does paragraph 3 start?

MR. KELLOGG (United States): In answer to the question of the delegate of Cuba, the thought was, to break old paragraph 2 of Article 76 about the middle, where it starts "Any justiciable issue", and to give that a separate paragraph. In this way we divide the old paragraph between a first part, dealing with matters up to possible appeals to the world Court, and a second part dealing with appeals to the Court.

THE CHAIRMAN: The delegate of Cuba has asked the question and I would like to know whether he is satisfied?

MR. ALAMILLA (Cuba): I am perfectly satisfied with that. The only thing I want to know is, what has become of all the discussion that we have had about the words, "if the Conference consents" etc? I just want to know what the idea of the Sub-Committee was and if they are (as I suppose that they are) satisfied that the words are unnecessary?

MR. KELLOGG: There is no intention on the part of the Sub-Committee to change the previous decision of this Committee under which the words "if the Conference consents" were taken out, and the word "in accordance with such procedures as the Conference shall establish" were substituted for them. In other words, we retain the previous decision of this Committee.
MR ALAMILLO (Cuba): I am perfectly satisfied. I was afraid that the sub-Committee had changed it.

COMMITTEE SECRETARY: I would draw the attention of the sub-Committee to the fact that the note says "That this paragraph be further amended."

MR PARANAGUA (Brazil): Mr Chairman, I just want to know how that works. If there is a ruling from the Executive Board, and then the Executive Board asks the opinion of the Commission and if the Executive Board said: "The ruling is all right; we shall not change it," is there always an opportunity of appealing from this decision, or would the way to appeal be blocked and would the decision of the Executive Board stand?

MR KELLOGG (USA): Under the new draft the theory would be that a matter would be referred by the Executive Board to one of the Commissions, if appropriate, before it made its ruling itself, and the only ruling presumably at that point would be the ruling you have referred to, that of the Commission. After the Commission had finished and filed its report with the Board, then the Board would look it over, and give its final ruling on the case.

MR PARANAGUA (Brazil): That means there would be no more - it would be final.

MR KELLOGG (USA): No. If anybody is aggrieved under the last sentence of new paragraph 2 an appeal could be taken to the Conference, and that sentence is not changed: "Any ruling of the Executive Board. shall be referred to the Conference."

MR PARANAGUA (Brazil): But here is the expression; "if the ruling is of general application." Does that mean that in a particular case one could appeal or only in cases of general application?

MR KELLOGG (USA): If a ruling affects only one or two members then those members can appeal; if the ruling affects all members, then all members can appeal to the Conference.

MR PARANAGUA (Brazil): But supposing you have the case of one member who does not think the decision is right, he can appeal to the Commission; then it comes back to the Executive Board, and if it is not of general
application, there can be a right of appeal?

MR KELLOGG (USA): No.

MR. PARANAGUA (Brazil): No - then it goes to the Conference?

MR. KELLOGG (USA): Yes.

MR. PARANAGUA (Brazil): Thank you. I am satisfied, Mr Chairman.

MR. PALTZHEY (France) (Interpretation): Mr Chairman, I wish to ask for some clarification regarding the last sentence of Article 76, paragraph 2 which says: "Any ruling of the Executive Board shall be referred to the Conference," and the ruling is made here. Is it the ruling of the Executive Board in general or any ruling decided upon by the Executive Board on the question of any interpretation of the Charter? In other words, if the Executive Board, when an issue is being discussed regarding implementation of the Charter, decides upon this interpretation, shall we, when we refer this to the Conference, invoke the decision of the Executive Board?

MR. KELLOGG (USA): The thought there was that the Executive Board might find it appropriate to refer a dispute to arbitration. However, we felt that it was desirable to have the Board making a ruling on the arbitrator's report after it was ready; in other words, we presumably would not cut anybody off at the arbitration stage: they would still have a chance to discuss it before the full Board. Then, under the last sentence of new paragraph 2, any aggrieved member could go and appeal to the Conference. I think we should rest this point, and the question of whether or not we might find it desirable to let the Executive Board determine in that case that the Arbitrator's report should be final, with no more recourse to appeal, I think it might be felt desirable to provide for the ending of the dispute at that point if it is a small matter, and possibly we should make a note in our report saying that the procedures which the Executive Board may establish might include the right to make the arbitration proceedings final. But I think we ought to have some opinions upon that.

MR. PALTZHEY (France) (Interpretation): Mr Chairman, therefore I take it
we must amend the text and envisage that when an issue is referred to arbitration the decision should no longer be taken by the Executive Board at this stage, but that we should say very clearly that the decision reached by arbitration is final and irrevocable. If the decision given after arbitration is to be the subject of any appeal, then the appeal should be outside the framework of the I.T.O. It might be perhaps the International Court of Justice or any other court, or perhaps no court at all. You have three different possibilities; but we cannot pass from the decisions of the arbitrator on to a political plane.

MR KELLOGG (USA): The thought there was that by using the expression "... under the procedures which the Board shall establish," you would leave it open to the Board, on the facts of each case, to decide whether the arbitral decision should be final or not. I suppose we could have a case which would have a certain political tinge to it where the Board might feel that the arbitral award might be very valuable but should not be final, and should reserve to itself the right to make a final ruling after the arbitration board had agreed. That was the purpose of using the words "procedures which the Board shall establish."

MR ALAMILA (Cuba): Mr Chairman, I accept the interpretation of the delegate of the United States; but I would also like to know whether we are to take it that the ruling of the Executive Board may mean also that the parties may even contest the fact of its being submitted to arbitration.

MR VAN TUIJL (Netherlands): There are two points I would like to raise and the first one is this. I also feel, with the French delegate, that it is inconsistent to have an arbitration decision that is not final. What I mean is that one does not ask for an arbitration once a decision has been made by the Executive Board. If the Executive Board wants advice it can ask the advice of experts, but we should not call that arbitration. Arbitration to my mind is a final decision. The other point is this, that to my mind arbitration should be allowed in every final
decision of the Organization. If the final decision is taken by the Conference, to my mind arbitration and the other possibility of appeal to an independent court should be open. Now, here we are dealing with another possibility of arbitration. That is arbitration in those cases where a final decision has not yet been reached; and to my mind it would not be wise to allow members, at any stage of a dispute, to ask for arbitration; only in the case of a final decision by the Organization should there be any arbitration or appeal to a higher court. If the Executive Board or any lower organ of the Organization came to the decision that a question was not so important that at that stage in a dispute there could be recourse to arbitration, I am quite prepared to accept that; and I think that it would be very wise because it will save a lot of time and the process of arriving at decisions will be much quicker.
But I do not feel that we should allow a member in any stage of the dispute, even before the final decision of the Organisation has been reached, to press for arbitration.

Mr. Coleman (Norway): Mr. Chairman, I entirely agree with the suggestion that arbitration must be final, but I have also come to the same conclusion as the delegate of Cuba, that no party to the dispute can be forced to accept arbitration. If these two points are clear, I think the proposed text by the Sub-Committee is perfectly clear. Arbitration, by its own definition, must be accepted by the parties in the Organisation. If that is so, then I do not see any risk at all in accepting the text.

Mr. Falthey (France): I think we have two possibilities whenever an issue arises. We either refer it to a judiciary body or then to a political body in the Conference, or the Executive Board, for instance. The second question is, who is going to determine the nature of the question which is going to be referred to arbitration or to the Conference? I think I myself should like to propose — and here perhaps the Netherlands delegate would agree with me — that if any issue arises, then any issue could be referred to the Executive Board, which will decide whether it is going to be solved within ITO itself or be referred to arbitration; but if it is referred to arbitration I do not think the Conference should be allowed to go back on the decisions of arbitration, and therefore we should envisage further appeal here.

Mr. Kellogg (USA): I wonder whether this change in the language of the new paragraph 2 would take care of the suggestions made by the delegates for France and Holland. The second sentence might read:—

"Before giving its ruling the Executive Board may require a preliminary report from any of the Commissions, or it may rule that the matter should be referred to arbitration for final decision under procedures which it shall establish."

Mr. Alameda (Cuba): Mr. Chairman, I think the position is clearly this. The Executive Committee can do two things. One is to refer the matter to arbitration, for final decision, as the Norwegian delegate has said. The other is to give its decision with or without a preliminary report of the Committee. Once the Executive Board have decided that, that decision of the Executive Board is subject also to the opinion of the person interested.
He may say, "I do not want any arbitration. It is costly; it takes a lot of time; I do not believe we should have it here." I think this point is covered in the Article, but I think one phrase should be added, just in case the matter be referred to the final arbitration, saying that in that case only the arbitration decision should be subject to a further discussion under the Court of Justice. That is the only thing that I think is lacking now.

MR. HOUTMAN (Belgium) (Interpretation): I think there is a majority within this Commission wishing to discriminate between two stages, the administrative stage and the judiciary stage. The former should be dealt with in paragraph 2 and the latter should be dealt with in paragraph 3. It seems that the discussion goes on only because the two are being mixed up, so may I propose the following amendment. In the administrative phase it is only natural that the Executive Board will wish to look for enlightenment coming either from the Commissions or from any experts whatsoever, so let us then say so; and then in the second stage naturally the question can be referred to the Court of Justice or, if the parties do not wish to go that far, to mere arbitration, but in both cases the administrative phase is over. So I propose that the first paragraph should read as follows: "Any question of difference concerning the interpretation of this Charter shall be referred to the Executive Board for ruling thereon. The Executive Board may require a preliminary report from any of the Commissions in such cases as it deems appropriate or refer the question for consultation to experts, and then the question will be referred to the Executive Board and again to the Conference if necessary."
Then we should have paragraph 3, "Any justiciable issue arising out of the ruling of the Conference with respect to ..." etc. "May be submitted by any party to the dispute to the International Court of Justice or referred to arbitration." Then the two things would not be mixed up.

MR. KEELOGG (United States): I would suggest that now that we have the ideas of most of the Delegates we might refer this matter to a drafting sub-committee. I do not think we can draft this Article in the full Committee very well.

THE CHAIRMAN: The Chair recognizes that there are two or three more who want to speak, but I do want to say that this Article is taking a perfectly enormous time. We spent a long time on it the other day, we have had a drafting sub-committee at work on it, and here we are bogged down again. I do not know whether we shall ever get over it in this full Committee; I hope we shall, but I have a great deal of sympathy with the suggestion of the United States Delegation, even if he does come from my country. We have some business to transact this afternoon beyond this Article, and I hope we can find some way of cutting the Gordian knot. I suggest that we pass on to the rest of our afternoon's work and appoint a small sub-committee to work on this thing at the end of the afternoon. If we move on we shall be able to turn the matter over to the sub-committee before it gets very late. Either that, or else, while the sub-committee works on, the other people have tea.

MR. BURY (Australia): That's an idea. I should like to support your last suggestion, Mr. Chairman.

THE CHAIRMAN: If there is no objection, I will designate a small sub-committee which shall not have tea, but shall work. The seven victims are: the Delegates of the United States, the United Kingdom, the Netherlands, Belgium, France, Cuba and Norway, and if he would be so good, I would suggest that the Delegate of Norway act as Chairman.

MR. COLBAN (Norway): I do not object, but I do not think it is wise to waste too much time on it. I think we all find that the text submitted by the
drafting committee, in the light of the discussion which has taken place, might be accepted. We could perhaps accept the text submitted by the Drafting Committee as it stands and send the minutes of this discussion together with the text to the Interim Drafting Committee, so as to get over this point. There is not really, to my mind, a difference of opinion between us. All we want is simply to have a clear text.

MR. LEFAN (Canada): I should like to support strongly the suggestion made by the Delegate of Norway.

MR. NAUHE (Union of South Africa): So would I.

MR. VAN TUYLL (Netherlands): I hope that the Norwegian Delegate is right, but I am not quite sure he is. If we had continued this discussion I should have wanted to make some remarks on paragraph 3 of Article 76. Does the drafting committee you wanted to nominate include paragraph 3? If it is only paragraph 2 I do not object.

MR. BURY (Australia): I merely wish to point out that I overheard the Delegate of the United Kingdom suggest that we had tea anyway, even if the suggestion of the Delegate of Norway were acceptable.

THE CHAIRMAN: We seem to be wasting a great deal of time deciding what we should decide and whether we should have tea. I have no particular choice in the matter, either in regard to tea or in regard to the text of this Article, but I do suggest that we must find some means of breaking off our discussion of this matter and turn it over to somebody for drafting, unless you want to accept the suggestion of the Delegate of Norway. I am not myself convinced that this matter should simply be left for the Interim Drafting Committee. I do not think they should have it without some further clarification of the draft by a sub-committee of this Committee. I still have the impression that the sub-committee should try to prepare a more acceptable draft for the approval of this Committee. If that cannot be done this afternoon we possibly could pass it on at the last moment by bringing it up at the meeting early next week, although I had hoped that we could close the books today.
That was the reason for having the sub-committee work on it while the rest of us had some tea.

MR. COLBAN (Norway): Then let us have the sub-committee now, immediately, while the rest of the Committee go to tea.

THE CHAIRMAN: All right. If the sub-committee wants to have tea as it works, that is all right with the Chairman.

After a short adjournment:

THE CHAIRMAN: Gentlemen, a few members of the Committee have not yet returned from the recess, but we must move along, so that I shall call upon the delegate of Norway to present his recommendations with regard to this matter we have been discussing.

MR. COLBAN (Norway): Mr Chairman, we have agreed on the following draft of paragraph 2 of Article 76: "Any question or difference concerning the implementation of the Charter, or arising out of its operation, shall be referred to the Executive Board. The Executive Board may decide either to give a ruling in the matter itself or to refer it, with the consent of the parties, to arbitration upon such terms as may be agreed by the parties." Then we go on: "Any ruling of the Executive Board," etc.

THE CHAIRMAN: You have heard the recommendation of the Drafting sub-Committee. Are there any further comments on this matter?

MR. PARANAGUA (Brazil): Just one - to thank them for their sacrifice and for the good job they have done.

THE CHAIRMAN: The Chair shares your view upon that. We are greatly indebted to them. If there is no discussion, I take it then that this is the text to which this Committee agrees? (Agreed)

MR. VAN TUYLL (Netherlands): Mr Chairman, when we were discussing Article 50, paragraph 4, I asked your permission to discuss the matter of arbitration again on Article 76. In Article 76, paragraph 2, we have settled the
question of arbitration for questions which the Executive Board decide as fit subjects for arbitration, but to the Netherlands delegation it is of great importance that the rulings of the Conference should be open to appeal to the International Court or to arbitration. As the Article reads now, it says: "A ruling of the Conference may, in accordance with such procedures as the Conference may decide, be submitted by any party to a dispute to the International Court of Justice."

That only goes for any justiciable issue arising out of a ruling of the Conference; so that if questions which are not justiciable issues could not be brought before a high independent authority we feel that it is very important that such an independent authority should be able to decide on the matters brought before it, and we feel, too, that the members of the Organization should not be prevented from bringing any question they want before such a court. I am not afraid that the prestige of the Conference will suffer if any decisions of the Conference are brought before a court or go to arbitration, because if they have taken wise decisions those decisions will be upheld by arbitration or by a court. On the other hand, I am not afraid that members will appeal to a court or go to arbitration on too many occasions, because it would mean loss of prestige for themselves if they risked a decision which was contrary to their interests. I am afraid that if decisions have been taken by the Conference, let us say by a two-thirds vote, or by a vote which did not give a conclusive result, there may be decisions in the Organization which can only be solved if they are brought before a court. Therefore, I would once more like to ask this Committee if they could not agree to introducing also in paragraph 3 the possibility of arbitration. Up to now appeal to the International Court of Justice will only be possible on legal questions; on questions which are not legal I would very much like us to adopt the arbitration system. I do not think the Committee would agree to strike out the words "any justiciable issue arising out of," which would make the paragraph read "a ruling of the Conference can be submitted to the International Court,"
but a better solution, instead of striking out those words, would be in my opinion to create an arbitration body which could be set up by having experts appointed by the members of the Organization, and that arbitration body should, in the opinion of the Netherlands Delegation, be in a position to give final decisions on non-legal questions on which the Conference has decided.

MR BURY (Australia): 'Mr Chairman, if this question of arbitration is to be projected into the proceedings at all, it will need very considerable discussion and clarification. It does seem to me that certain questions of substance are involved here which we might defer for the next meeting of the Preparatory Committee; and unless we have a series of special meetings, I cannot see that we are likely to agree on the points raised by the Delegate for the Netherlands. It seems to me that either we should proceed to put through some draft such as the United States draft, with the reservation by the Netherlands delegate, or that we should just make a note that the question of arbitration in relation to these Articles will need discussion at the next meeting of the Committee.
THE CHAIRMAN: The Chair had been about to make about the same suggestion, namely, that we take note of the views of the delegate of Netherlands and, in view of the great lack of time here to have an exhaustive discussion so late in our Conference, that we agree to this provision as amended, simply taking note of his views; and that leaves the matter automatically open to further discussion - as all matters are, for that matter - at the next meeting of the Conference.

BARON van TUILL (Netherlands): In that case, I think it might be useful if I gave a written statement to this Committee, which could be handed over to the Interim Drafting Committee and which would automatically bring the question before the next meeting again.

THE CHAIRMAN: I should think that would be satisfactory. Is there further discussion of this Article? If not, then I take it it is agreed to - subject to the amendments that have been made. (Agreed.)

The next item that I desire to take up (and I hope that I can dispose of it rather quickly) is the text of a revised draft of Article 65 which has been handed to me this afternoon by the Secretary of Committee III. There was a meeting of a Sub-Committee of Committee III this morning which agreed to this text. I should add that the full Committee III has not yet passed upon it. I hope the delegate from the United Kingdom will correct me if I am mistaken in stating this matter, as he is quite cognisant of it. Nevertheless, in view of the lack of time for going through all the formalities of processing the report through a full Committee, it was felt to be necessary to submit this revised draft of Article 65 to this Committee this afternoon. The intention, as I understand it, of Committee III, if they follow the recommendations of their Sub-Committee, is to indicate in their report that they have communicated to Committee V. this text of a revised draft containing what they think should be the text of Article 65. That would, as I say, be a part of the report to the Conference of Committee III. Their report would actually contain this revised text of Article 65, with that notation. I should hope that it would not be necessary for this Committee to undertake at this time a discussion of the substance of this revised Article 65. It represents the views of at least the Sub-Committee of Committee III. It seems to me that it is more
their function than ours to decide what should be the functions of the Commission on Business Practices, and I should suggest, therefore, that this Committee merely takes note of the fact that it has received such a report and that the text of it is being contained in the report of Committee III, and that we let the matter rest there.

Mr QURESHI (India): Mr Chairman, I would like to suggest to the Chair that at this stage we should take no note of this document, because, in the first instance, we feel that it has only come from a Sub-Committee, and we do not know what its fate will be or how it is going to be changed in the main Committee. Again, we feel we have made a general recommendation that various Commissions will be formed but yet it has not been fully indicated as to what those Commissions will be. For instance, as was pointed out by us, we do not yet know what will be the functions of, say, the Industrial Commission when it is set up; so therefore I suggest that, as far as this Committee is concerned, we should not take note of any of the detailed functions of the Commissions; this should be done at the next stage of the Committee, when the full picture is before us. It will not, in our opinion, serve any useful purpose if a draft of a Sub-Committee which has not even been passed by the Main Committee is noted by this Committee.
THE CHAIRMAN: I should explain, although I had thought I had made it plain, that the suggestion that we should take note of it and transmit it to the Interim Drafting Committee was qualified, to the effect that that should be contingent upon the approval of the sub-committee's report by Committee III. Ordinarily of course we would wait for the approved report of the full Committee. We are confronted however with the situation that we do not have time to wait for all these processes to be completed, and my suggestion was that this be transmitted subject to the approval of the full Committee III. My interest in this so far as Committee V is concerned is only that we conform to the formal requirements of the procedure which has been set up, whereby these various commissions do come under the jurisdiction of Committee V, notwithstanding that they really are concerned primarily with other Committees of the Conference. We do have to find some means of conforming to the formal requirements of our assignment. That was my suggestion for doing so within the very limited amount of time we still have available.

MR. HOLMES (United Kingdom): You have expressed almost exactly what I was going to say. Would it not be possible for this Committee just to take note - it would be gratifying, of course, if it were able to take note with approval - of this draft, on the assumption that it will be passed, as I think it will be, by Committee III? It was I think always unfortunate that these Articles which deal with the functions of the various commissions should have formed part of the official agenda of this Committee. We should feel it a pity if that led to their falling between two stools altogether, but the general view of our Delegation, and I think of others represented on Committee III, is that the substantive part of the recommendations about restrictive business practices and the functions of the commissions are really interdependent, and that therefore the present session should not really break up if it is to have, as it will have, something like a text of the Articles dealing with restrictive business practices - that is, Articles 34 - 40 - and nothing said about the functions of the commissions. This draft of course is
in line with the Articles which have been adopted generally; it is a
translation into these terms of the functions of the committee - a
faithful translation, I think, but it makes it very difficult for the
Committee, or for certain members of Committee III, to give their final
agreement to the Articles about restrictive business practices if they
do not quite know what the functions of the commission to be set up on
this subject are to be. So I would very strongly support what the
Chairman has said as to the convenience at any rate of the procedure
wherby, if it is so thought fit, this Committee would at least take note
of this draft, thereby perhaps recognising that it was a matter more for
Committee III than for itself; on the assumption that this is the text
which will be approved by Committee III itself.

MR. QURESHI (India): I am sorry to speak again and take up valuable time
but I do not really think that a useful purpose will be served by taking
the matter in this form. We do not know what the other Committees will
do - are we only to act as a sort of post office by just passing incom­
plete drafts on to the general drafting committee? If so I do not feel
very happy about the position of this Committee. On the other hand if
we are to give our consideration to these drafts and send it on to the
Committee, we need more time at our disposal. When the full picture
is before us we could take it more completely. That is how I felt, but
if the Committee feels that we shall have to move in this matter, I
personally should not mind very much.

THE CHAIRMAN: I wonder whether I can make the situation clear in a few
words to the satisfaction of everybody including myself? I do not
know whether I can. I think that our dilemma here arises from the fact
that this Committee was, probably mistakenly, given among its terms of
reference those Articles dealing with the Commissions. I think probably
it would have been better if the Articles on the Commissions had never
been included in the first place in the terms of reference of this Com­
mittee. I think the experience of our conference and the work of the
Committees, and more thought on our part, have pretty clearly indicated
that that is the case. However, they were included in the terms of refer-
ence of this Committee, and the Chair is merely concerned with getting
"off the spot", as it were, in the simplest way. The simplest way seems
to be, if you please, to act as a post office in the matter - receive the
report, not debate the report in the Committee here at all, but just pass
it on to the Interim Drafting Committee, complying with the formalities
and saving time. It seems to me to be simpler to do that than go back
to a plenary session at this late date in the Conference and say, "Sorry,
we think you made a mistake, you should never have given us these articles
in the first place."

MR. MERINO (Chile) (Interpretation): I wish to ask one question: are we going
to have another meeting, so as to enable us to take note of the suggestions
which will come from the Joint Committee of Committees I and II? That
Joint Committee, which is going to set up a further Commission on the
question of industrialisation and economic development?

THE CHAIRMAN: If the situation develops in that manner, we could take note of
the suggestions of the other Committees at our last meeting.

MR. COLBAN (Norway): I quite agree with you, Mr. Chairman. We have already
decided in that way, so why do we here reopen that question? We have
decided that the reports coming in from the other Committees of the
Preparatory Committee will have to be sent on to the Interim Drafting
Committee, and if they find them difficult to deal with, they will send
them to our conference in Geneva.

THE CHAIRMAN: If that disposes of the matter, we have one more matter on the
agenda this afternoon - a matter of some importance, and it is now six
o'clock. I do not know what the pleasure of the Committee would be with
reference to attempting to dispose of this last item, which is the report
by the Joint Rapporteurs on voting and Executive Board membership. I had
hoped that we should have enough time to have not only general comments
on this report but also, while we were in the process of commenting upon
it, to have any detailed suggestions which the Joint Rapporteurs would
wish to take into account in redrafting and incorporating it in their
full report. What is the pleasure of the Committee with regard to
continuing our session beyond this point?

MR. QURESHI (India): I have gone through this draft and I personally feel that there will not be much difference of view owing to the very able manner in which it has been summed up by the two Rapporteurs. I feel that I should congratulate them on a very good job in very ably summarising the views expressed in this Committee. I feel that we should not have another meeting for a small thing of this nature but should continue to discuss it now. Personally, I can say that these recommendations are quite acceptable to us. It has been very fairly done and if there is not much discussion we could go ahead and finish, and that would give us a clear day.

MR. PALTREY (France)(Interpretation): I wish to add my commendation to that expressed by the Indian Delegate; indeed it is a marvellous job which has been carried out by the two Rapporteurs in finding their way about the many and complex discussions we have had. I think we could complete our task now; we have reached the end of our questions and it would be a pity if we did not take the last step. In order to clarify the position I think the discussion should be brief; perhaps it could last one hour which I hope would enable us to complete our task. If we do not finish it this afternoon, may I ask when we shall have another meeting?

THE CHAIRMAN: I am very much encouraged by the remarks made by the Delegates of India and France to hope that the second part of his question will not arise. I believe we can complete this tonight and I would like to go forward with it. Perhaps we should try; if we cannot finish we can perhaps meet again, but I believe we ought to save our time and go ahead now.
Is there objection to our going forward? Let us get that matter settled first.

I take it there is not, and therefore the floor is now to be given to delegates to discuss the content of this Report.

MR. DAO (China): Mr. Chairman, before discussing the content of the Report may I introduce a word of explanation as one of the Rapporteurs? I discussed with my colleague yesterday the conclusions and recommendations. We had no time to discuss the main body of the Report, but I am most grateful to my colleague for the comprehensive Report he has prepared. At the same time, I made a humble attempt, and my product is a short one and is not as comprehensive as his. However, we had no time to discuss my paper, either. In this explanation I do not mean to detract from the value of the paper as far as the main body of the Report is concerned. I have discussed the conclusions and recommendations with my colleague and with our Secretary, and I am in accord with what is contained here.

THE CHAIRMAN: Are there any remarks which any delegate wishes to make on the document as a whole, beyond those that have already been made? If not, I think we ought to proceed to consider it probably page by page.

MR. PALTHEY (France) (Interpretation): Mr. Chairman, since we now approach the substantive question I again wish to congratulate the Joint Rapporteurs, because they have faithfully reproduced the results of the discussions we had here previously. We find in this document a good many ideas, but few conclusions. I think, therefore, we should clarify the conclusions, because I cannot see how the Drafting Committee which will have to clarify the ideas expressed by this Committee can be in a position to draft these two Articles in the Charter and integrate them to the Report. We had three drafts here - the United States draft (which was the basic document), and then two amendments, one proposed by the United Kingdom delegation
and the joint amendment proposed by the Belgian and Netherlands delegations. This last document does not seem to have been included in W.5, which we now have before us. Could we not take up the question of the organization and the vote in the light of all the ideas which were expressed here, and then come to a decision on the text submitted by the Belgian delegation? I think we might perhaps reach a compromise which would be satisfactory to all, and if any delegation here was not satisfied then the Interim Drafting Committee would receive instructions to draft an alternative text, but we must have precise instructions for the Drafting Committee, which must be in a position to write one, two or three alternative texts and know exactly what is to be included in those texts regarding the question of the vote. Could we not, therefore, take up the question and have a full discussion of the Belgian proposal?

MR. PARANAGUA (Brazil): Mr. Chairman, I think I put forward a proposal, too. There were not only three, but four. My proposal is not only on the record, but it is a document which was distributed.

THE SECRETARY: The Brazilian proposal was distributed as Committee Document No. 28.

MR. PARANAGUA (Brazil): Well, may this document be taken in the same way as the other proposals?

Then I have some observations, not about the Report, but about the Conclusions. The first Conclusion reads: "The majority of delegates favour the principle of one country one vote in the Conference". I think the majority of the delegates favour one country one vote in the Conference and in the Executive Board. That is what is lacking here. It should be "in the Conference and in the Executive Board".

Then with regard to Conclusion No. 2 --

THE CHAIRMAN: Before we go to that, we had better dispose of that
point right now. I think your observation is correct. I am open to be corrected on it, but if that is the case could we not agree to those words now? If there is no objection we simply add "and in the Executive Board".

MR. PARANAGUA (Brazil): Then with regard to Conclusion No. 2, I am perhaps in a difficult position to say, but this expression "A strong minority" looks to me like wishful thinking. I cannot see any need to put "A strong minority". It was a minority pure and simple.

THE CHAIRMAN: Before I recognise the delegate of Canada I think I had better let the delegate of Australia respond to that.

MR. BURY (Australia): I see no harm in striking out the word "strong". We really put it in because we thought some indication should be given that this view was strongly held (Laughter) - well, vigorously held by four countries, all of whom count for quite a lot in international trade. However, it would seem to me quite in order to strike out "strong".
MR LEPAN (Canada): As a member of the minority, I have no objection to the excision of the word "strong." I can see that this ought to be a very unemotional document, and in the interests of an unemotional conclusion, I would agree.

THE CHAIRMAN: Are we agreed to strike out the word "strong" - either that or else add the word "large" in paragraph 1 before "majority, which I would prefer.

MR HOUTMAN (Belgium) (Interpretation): Could we say "dynamic minority"? With a view to reaching a compromise I would like to suggest the phrase "very energetic", but I do not press my point.

THE CHAIRMAN: I take it that we are agreed to strike out the word "strong"?

(Agreed)

MR PARANAGUA (Brazil): With regard to the three periods of membership of the Board set out in the United States draft Charter, that is largely unquestioned; it would be unquestioned here if you did not take into consideration my proposal of five years. But as I proposed five years, I think it is questioned.

MR BURY (Australia): Mr Chairman, as the Delegate of Brazil will note, his proposition is mentioned on page 4 of the report, and it was just to cover that point that we did insert the words "largely unquestioned." But there is that one proposal, that in certain circumstances the time should be five years. That is the whole point. We thought that the word "largely" would perhaps draw attention to that. But if the Brazilian delegate would be in a position to suggest some other way of indicating that, perhaps in the vast majority of cases it was never in doubt, perhaps he would do so.

MR PARANAGUA (Brazil): I should like to drop No. 4 because we talked very little about three or five years; there is only the proposal of three years in each case. This proposal of five years was discussed very little in regard to the term of executive directors. The discussion was on other subjects.

MR BURY (Australia): It was largely, Mr Chairman, for that very reason that
it was not discussed that we thought it advisable to insert it here to bring it before people's attention. It definitely was not discussed, but we thought it might be helpful if the fact that it was not discussed was made fairly obvious.

MR PARANAGUA (Brazil): I am looking at the first recommendation about delegates favouring weighted voting and preparing schemes. I would like to amend that to read, "prepare an alternative scheme" because we start from the American draft, and, as an alternative, it would be another scheme, not something mandatory. That means you should prepare a scheme like that; it is an alternative to the American scheme. That is, as it is already in No.2, speaking about alternative drafts. That is all I have to say.

MR HOLMES (UK): Mr Chairman, I would like to say a word if I might about the first recommendation. My idea had been that we were agreed in principle that the drafting committee should be invited to illustrate in concrete terms for consideration by the next meeting of the Preparatory Committee the effect of the alternative combinations of the suggested elements in weighted voting. I think that would represent a little better guidance to the drafting committee; it would give them something they could do quietly with reference books at their hand; and it represents a little more closely what we had in mind.

MR BURY (Australia): Mr Chairman, the point just raised by the delegate of the United Kingdom was one that caused us some concern, and we were not quite sure what we should recommend in this case. As he said, that was suggested - in fact, he suggested it - but the ruling of the Chair at the time was that it perhaps would be rather outside the terms of reference of the drafting committee. There was also another suggestion, that those who favoured weighted voting should form a sub-committee and draw up something specific which would perhaps form the basis of consideration by the drafting committee. We felt that nothing yet had emerged in a sufficiently concrete form to send on to the drafting committee. I
would suggest, however, that it may be suitable for that sub-committee still to function and draw up something specific which could be handed to the drafting committee.

THE CHAIRMAN: The Chair would like to say that his recollection was that he did, on at least two occasions in the course of one of our meetings urge that the delegates who favoured a weighted system of voting should try to concert their views and come to some uniform set of recommendations as to how it should be carried out. I believe that this first recommendation does effectively reflect that, but there was no dissent expressed to that. On the question as to whether the interim drafting committee could appropriately concern itself with a study of the various alternative possibilities for a weighted system, I did say that I had some doubt, in view of the discussions that had occurred at the meetings of the Heads of Delegations, whether that would be a proper function of an interim drafting committee. I notice that on that latter point there is a reference to that on page 2. I am not sure that I may not have overstated the case, and perhaps it would have been better to have said on page 2, in the next but last paragraph, "though there might be a question as to whether this function would be outside its terms of reference." It is conceivable that an interim drafting committee might give some attention to this matter and try to find a way out, although I had felt that it might be somewhat outside its terms of reference.

The Chair would like to see Recommendation No. 1 stand as it is and would like to urge, for a third time, that the delegates who favour a weighted voting system draw up something more than has been prepared thus far for the use of the interim drafting committee.

MR HOLMES (UK): Mr Chairman, I had been about to suggest that that reference to yourself on page 3 was perhaps not altogether appropriate in this report, though I would have no objection whatever to it being altered to some such phrase as, "though it was questioned whether its function would be within the terms of reference" or something like that.

THE CHAIRMAN: I should like to have that.
MR HOLMES (UK): Yes; but as regards the other suggestion, I think it is very difficult to include as a recommendation in a final report of this Session of the Preparatory Committee, but that delegates to the Session, who will then each of them be functus officio, should get together and produce a scheme. That would be, so to speak, projecting the activities of the Session beyond its close. That, I think, deals with what I want to say on that point. On the point as to whether we should still try to produce a scheme out of the various suggestions which have been made for the elements of weighted voting, the difficulty, as I see it, is this, that this requires a great deal of quiet research and study if you are going to try to translate that into terms of votes, because you have to study it rather carefully.
I would illustrate my point by taking one of the criteria here, "national income". If you take that as an illustration, you would find that a certain amount of research would be required as to what national income meant and what it was, which is a thing that it is very difficult for us to do here and now in the welter of this Conference. That is why we felt that it was not at all inappropriate that, with some general guidance as to the elements which various people wished to be included, the Drafting Committee would be able to do what we cannot very well do ourselves here and now. For instance, they could take the original United Kingdom scheme that we put up in a paper and say what they think that would look like; and they could say that if other elements were added, or one of them, it would make such and such an alteration in terms of votes. I think it is very difficult for us to do that here because, as I say, a good deal of research and quiet study would be needed. Of course, if the Committee feels that it is not prepared to invite the Interim Drafting Committee to do any such thing, then I take it that the view of the minority must be left on record, and it would be, I think, the wish of my delegation at least to have it recorded that a suggestion in these terms for an invitation to the Drafting Committee was made.

THE CHAIRMAN: The Chair desires to note that on page 3 of this report it is already noted that the Interim Drafting Committee could take note of the schemes for weighted voting which governments might consider, and in addition it is proposed that in the detailed instructions to the Drafting Committee there should also be a specific notation made of the desire of the United Kingdom that their suggestions as to weighted voting be taken into account.

MR BURY (Australia): I think there is a lot of substance in what Mr Holmes says— that this is, when it comes to detailed study, much more the kind of thing which the Drafting Committee might devote its attention to than a Committee of this character, where it would be quite out of place. But I cannot help looking at it from the point of view of the Drafting Committee. It does not seem to me that there is anything sufficiently concrete to guide them. If we could pass on to them a recommendation (or a minority recommendation) that they consider various schemes of weighted voting, the criteria which are to be taken into account are set forth and the relative weights or some
indication of relative weights to be given to each kind of element, or a number of alternative arrangements between the criteria, and then they were asked to draw up a detailed scheme showing the points which would be allotted to each nation according to the weights given, then the Drafting Committee might have something to go on. It does not seem to me at present that they really would know where to start on the problem.

THE CHAIRMAN: The feeling that I have about that is that it is really not a matter that can be satisfactorily handled by the Interim Drafting Committee, nor is it a matter of which we can dispose at this time, and it would seem to me that about all that can be done is to leave the matter open for the next meeting of this Conference, and meanwhile one would hope that the countries that are interested in having a weighted voting system would either jointly or severally do a great deal more work on the subject and appear at the next Conference with some streamlined suggestions for the implementation of their ideas.

MR DAO (China): I am in entire agreement with your remarks.

MR PALTHEY (France): So am I — wholeheartedly.

MR HOUTMAN (Belgium): I also agree.

THE CHAIRMAN: The Chair seems accidentally to have hit upon a solution of something!

MR NAUDE (South Africa): Does that mean you will strike out of this report on page 3 the suggestion that it should be referred to the Interim Drafting Committee for the formulation and exposition of alternative schemes, etc.?

MR HOLMES (U.K.): That is a matter of fact. I think it was suggested —

THE CHAIRMAN: That suggestion was made and this is merely recording the fact. Now we are apparently agreeing not to follow up the suggestion.

MR NAUDE (South Africa): In effect, on your interpretation, that means that the interested members will not be able in the Interim Drafting Committee to raise the issue at all?

THE CHAIRMAN: I take it that they are free to raise that matter individually if they care to do so, but this Committee is not recommending that that sort of thing be done on any systematic basis. Is there
any further discussion on any part of this document? We have been considering chiefly the conclusions, and the delegate of France had raised a question at the beginning of our discussion of which I have not lost sight at all, but I thought meanwhile, since we are considering this as a narrative and not at the moment considering what the draft instructions might be, we might pass on it first as to its acceptability as an account of what the Committee did do.

MR HOLMES (U.K.): If it is in order, could I raise a point on page 1?

THE CHAIRMAN: Yes.

MR HOLMES (U.K.): I do not think there is anything controversial about this: it is the last line of the second paragraph. There is a reference to "dependent territories, the economies of which differed radically from their own". I have no objection to that phrase, which is, of course, perfectly true, but it does not perhaps represent the full story, and I would suggest for consideration that some such expression as the following might be added, putting a comma instead of a full stop at "own": "some of which had an effective measure of autonomy in matters within the scope of the proposed Organisation."

THE CHAIRMAN: Is there any objection to that change? ... Apparently not. Are there any other points?
MR. NAUDE (Union of South Africa): I am sure this weighted voting will be heard of again, so in order that the Interim Drafting Committee may have the complete picture I would recall that, in working out the formulae for weighted voting, not only would there be a minimum, there would also be a maximum.

MR. HOLMES (United Kingdom): There might be.

THE CHAIRMAN: Is that acceptable? Where does that come in the text?

MR. NAUDE (Union of South Africa): It does not appear, so far as I know; I only saw the document this afternoon. We could leave it to the Rapporteur to put it in.

THE CHAIRMAN: Any further comments?

MR. KELLOGG (United States): I would like to ask what this does to Recommendation No. 1? Is it totally struck out?

MR. BURY (Australia): I suggest it could well be struck out, and left to the countries concerned.

THE CHAIRMAN: Recommendation 1? I think that is a good suggestion, if I may so.

MR. BURY (Australia): I may say that in putting it in we did it just to draw attention to the conclusion we had come to, not so much because of its own importance.

THE CHAIRMAN: The Chair would like to suggest one or two slight alterations, if it is in order. I do not want to get in ahead of the members of the Committee. They are not important changes and I think they could be very quickly considered. In the first place, on page 1, the next to the last paragraph, first line. Probably the Delegate of Brazil and probably some other Committee members would be pleased if we took out the words "seemed to" and just said "the majority of Delegations favoured in principle."

MR. PARANAGUAS (Brazil): That would be in accordance with my conclusions.

The CHAIRMAN: On page 2, near the bottom of the page, paragraph (a). I will read what proceeds it:

"Others only discussed the proposals on the hypothesis of a weighted system being adopted, without prejudice to their preference for the one nation one vote principle. The criteria put forward were criticised on the following grounds:

(a) Undue weight would be given to small interests at the - 41 -
I do not recall that discussion, but it is impossible, reading it in isolation here, to understand what could possibly have been in anybody's mind in connection with (a) as related to weighted voting. Let me add that I do not say that it is wrong, but I am sure that it is not complete.

MR. BURY (Australia): I must confess that I was not quite clear myself, but I wanted to be complete and it is a point made by the Indian Delegate, and this is lifted from the record. That is what was said. Perhaps it would be fairer to suggest that if the Committee would leave it to me I would seek some clarification from the Indian Delegate, and make it clearer.

THE CHAIRMAN: It is not clear to the Chair how any system of weighted voting would have the result of giving undue weight to small interests at the expense of larger ones. I think the argument ran just the other way. Therefore I think the Interim Drafting Committee is entitled to some clearer information. These are not instructions, but I think the Conference is entitled to have a clear statement on the point.

My final point is on page 3, under "Executive Board". The first sentence reads:

"The sponsors of weighted voting suggested that an alternative might be the provision of permanent seats on the Executive Board for members of chief economic importance."

It seems to me that to start that paragraph with that sentence is somewhat misleading. It would be better, I think, to start the paragraph in this way:

"Many of the Committee, including both the sponsors of weighted voting, felt that there should be provision of permanent seats on the Executive Board for members of chief economic importance."

Then I think the rest would run along all right.

MR. HOLMES (United Kingdom): If I might just go back to the two paragraphs before that. It says,

"It was generally agreed that delegates favouring the weighted principle should constitute themselves into a small committee..."

Perhaps it might be better to say "could constitute themselves" etc.

"but the difficulties of dealing with the subject in detail in the middle of this Conference," or some such words, "were pointed out".
THE CHAIRMAN: I do not believe the Plenary Conference would miss it if we simply struck out that sentence.

MR. HOLMES (United Kingdom): No.

MR. DAO (China): On page 4 it is stated:

"It was suggested that it would be better to establish criteria for selecting permanent members rather than to name them in the Charter."

I believe the suggestion was also made that they should be named in the Charter. We have not come to any conclusion, but I think the possibility of naming them should be mentioned.

MR. LAURENCE (New Zealand): In paragraph 3 of page 1 we have already struck out the words "seemed to". We might also strike out "it seemed" in the fourth line of the same paragraph and substitute "was" - "it was generally agreed."

MR. BURY (Australia): I do not think that would be true.

THE CHAIRMAN: The Chair is not in a position to say what would be the most likely rendering without having the record. The Rapporteurs have been over it; I do not know if Mr. Bury thinks it is better that way; I will stand with him.

MR. BURY (Australia): I would not worry. It is not a point of substance, but I do not think you could say very strongly that it was agreed. It does not seem to me to matter.

MR. HOLMES (United Kingdom): I would like to support the suggestion that the word "seemed" be omitted, if the Committee would agree, because I think it is in accordance with the general spirit in which we have been meeting that we should not press for agreements quite so much perhaps as for getting a full exchange of views. That is really what we came here for.

MR. BURY (Australia): I would agree to that. Let us put "was".

THE CHAIRMAN: Apparently the preponderance of view is to make it "was generally agreed". Are there any other points to be brought up with reference to this document as such?

The Delegate of France raised a question at the beginning of our discussion that really has not been faced by the Committee. We passed on
to a consideration of the content of this document, but he raised a very pertinent question; would he like to take the matter up again?

MR. PALTHEY (France) (Interpretation): The conclusions which have been reached seem to me to be correct but in paragraph 5 of the conclusions there are a number of questions which have not yet been answered. I therefore want to know whether the Committee wishes to give no answer to these questions for the time being? In that case they would naturally wish to take them up in the second session of the Preparatory Committee. Or do they, on the contrary, want to give instructions to the Interim Drafting Committee?

THE CHAIRMAN: I should be glad to hear the views of the Committee on that.

It is a very pertinent question.

MR. HOUTMAN (Belgium) (Interpretation): I for one would be satisfied if we referred them to the second session of the Preparatory Committee.

MR. PALTHEY (France) (Interpretation): I think in that case we should add another sub-paragraph regarding the system of voting on the Executive Board, because if the majority has been against the weighted system in the Conference it may very well be that the same majority will be in favour of the weighted system in the Executive Board. At least, the question may arise again.

MR. PARANAGUA (Brazil) (Interpretation): This question has been dealt with already and we have approved a suggestion to the effect that in paragraph 1 we should mention the Conference and the Executive Board. However, if the majority is in favour of having one vote one country in the Conference and in the Executive Board, then the question is settled. We dealt with that when we dealt with the setting up of the Executive Board.

MR. PALTHEY (France) (Interpretation): I only thought it had been dealt with regarding the Conference, and it might be taken up again.

MR. PARANAGUA (Brazil) (Spoke in French - not interpreted)

MR. PALTHEY (France) (Spoke in French - not interpreted).

THE CHAIRMAN: I think some of the English-speaking members are getting into a corner. Could we have the translation please? Or start again?
MR. PALTHEY (France)(Interpretation): The situation is this. I raised the problem of the vote in the Executive Board, then the Delegate of Brazil said that the voting in the Executive Board was decided when we dealt with the question of the Conference, and he said that the system of one vote for one country had been adopted with respect to the Executive Board. I myself agree, but I wish to know if the Committee has now adopted that proposal.

THE CHAIRMAN: I think the Committee have adopted that proposal but I think it might be possible to go a little further in the case of voting in the Executive Board. As the Committee adopted this it was with a majority of the Delegates favouring the principle of one country one vote in the Conference and, in the Executive Board, I suspect that if we separated the two and asked whether there was any dissent from having the principle of one country one vote in the Executive Board the answer would be that we should not have a majority, we should have unanimity. I wonder whether we cannot agree unanimously here, that in the Executive Board there should be one country one vote? In the absence, I should add, of any system of weighted voting in the Conference. If we agree to that we can set out the conclusions that way. I believe the Delegate of Belgium asked to speak?

MR. HOUTMAN (Belgium)(Interpretation): I wish we could come to a conclusion, because it is 7 p.m. We have studied the problem in all possible ways and the Belgian Delegation has played a considerable part in that study. So far we have not reached any conclusion. I do not believe we shall.

MR. LEFAN (Canada): I wonder if I might suggest, especially in view of the fact that some of the members have had to leave, that we leave (1) exactly as it stands at the moment?

THE CHAIRMAN: There is apparently no unanimity, so the only thing we can do is to leave it to stand that way.
THE CHAIRMAN: Very well. There is apparently not the unanimity I was hoping for, so let it stand that way. It is getting very late now, and if we can close now I think we should do so. There are just one or two things I want to say.

MR. HOLMES (United Kingdom): Might I say one word, Mr. Chairman? That is, I think it might be found, if we had more time to look at the whole Report, that the sole Recommendation reads rather peculiarly, because most of the objections which have been made to the Interim Drafting Committee being instructed to prepare something about weighted voting on the basis of the rather conflicting views and elements which have been mentioned really applies to them being told to produce alternative drafts about seats, or the number of seats, for instance. Would it not be better to leave the whole Report with the Conclusions, without a Recommendation at all?

MR. BURY (Australia): Mr. Chairman, our initial reaction, I think, was just the same as that of the delegate for the United Kingdom, that there really was not enough meat for them to draft alternatives, and, even if they did, that it would not really serve very much purpose because there are such major questions of substance to solve, and probably it has not yet reached a suitable stage for drafting.

THE CHAIRMAN: Is there any further discussion on this matter?

MR. BURY (Australia): It is a question of whether the Committee wants them to do anything about this or not, Mr. Chairman.

THE SECRETARY: Mr. Chairman, as far as the Recommendation is concerned it will be my understanding that that would not remain in the Report in that form. That was put there more for the purpose of focussing discussion this afternoon, unless the Rapporteurs correct me. Naturally, any instructions to the Drafting Committee will be set out in the appropriate part of the report, namely, Part 2. It would not come in Part 1, which is intended to be rather narrative in its form.
MR. BURY (Australia): That is correct, Mr. Chairman. This is merely what people in this Committee should do about it. It is not what they should necessarily pass on.

THE CHAIRMAN: The Chair would just like to say that it shares the view expressed by some others in the Committee, that the Rapporteurs have done an excellent job on this part of the Report ("Hear, hear"); and, secondly, to mention the plans for the next meeting. The tentative plan, I think, is to meet again on Tuesday morning. Now there will be, I suppose, a great deal of material for this Committee to go over as the Rapporteurs complete their work, and I should suppose that if the Report could be available sooner than that and could be considered late on Monday, it would be better to meet sooner than Tuesday morning, but I do not suppose that anybody knows now whether it would be possible to have a meeting late on Monday. I suggest, therefore, that we plan that at the latest there should be a meeting on Tuesday, but that there might be a notice on Monday to have a meeting earlier than that. I wonder whether that is a suitable disposition of the matter?

MR. BURY (Australia): I hate to prolong this meeting, Mr. Chairman, but it would be some help to the Rapporteurs to have the feeling of the Committee on whether the Report should be fairly long and detailed. In the case of voting it was so much a subject of dissent and varying views that it was perhaps desirable to deal with it in greater detail than some of the other matter, but we would like the feeling of the Committee on how detailed they would like their Report to be.

THE CHAIRMAN: Of course, I do not want to anticipate the views of the members of the Committee, but one thing occurs to me immediately, and that is, that it seems to me that some effort should be made to find out in that detail the Rapporteurs of the other Committees are treating their material; that there ought to be some consistency in the manner of treatment of...
the subject-matter as amongst the various Rapporteurs, and I should think it might depend in part upon how much detail relative to what there is to be done — it is all a relative matter — is worked out by the other Committees.

MR. PALTHEY (France) (Interpretation): Mr. Chairman, I think the Report should be fairly brief, but it will be up to the Rapporteurs to decide on what points they are going to dwell at greater length than on others. In fact, I think there would be every advantage in having a short Report, because it will be more quickly completed and we will have shorter discussions.

THE CHAIRMAN: Somebody once asked President Lincoln in my country how long a man's legs should be, and he answered "Long enough to reach from his body to the ground"! Maybe that is the answer to this question.

If there is no further discussion we adjourn.

The Committee rose at 7.17 p.m.