UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL
PREPARATORY COMMITTEE
of the
INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report

of the
NINTH MEETING
of
COMMITTEE V
held at
Church House, Westminster, S.W.1.
on
Wednesday, 7th November, 1946
at 10.30 a.m.

CHAIRMAN: MR LYNN R. BDMINSTER (U. S. A.)

(From the Shorthand Notes of
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58, Victoria Street,
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THE CHAIRMAN: I call first upon the Secretary for a statement with reference to the report of the sub-committee.

COMMITTEE SECRETARY: Mr Chairman, there has been distributed a document No. W/2, which is the report of the sub-committee set up to consider Articles 52, 54, 55, 59, 60 and 62. I think that I have explained to certain members of the Committee that owing to the short time available between the completion of the sub-committee's work and this meeting it has not been possible on this occasion to circulate the document simultaneously in both working languages. That is a rule which as you know the United Nations adheres to very strictly; and it is hoped that in the exceptional circumstances of this occasion that remissness on our part will be overlooked. Secondly, there has just been circulated a typewritten copy of the re-draft of Articles 75 and 79 as agreed to by the sub-committee set up to deal with the question of amendments and withdrawals. If sufficient copies are not available of that document now and if anybody does not have one, more will be coming in very shortly. I think that is all that is necessary.

THE CHAIRMAN: The first item of business this morning is the report of the Ad Hoc sub-Committee on Articles 52, 54, 55, 59, 60 and 62. I am sorry. The Secretary corrects me. We will proceed with the report. I was under the misapprehension that there was a Chairman of the sub-Committee who was going to make a statement upon it.

THE COMMITTEE SECRETARY: I should explain that the sub-committee conducted its business in a rather informal way and dispensed with electing a Chairman; so that I think I would suggest, if it is agreeable to you and to the Committee, that we might simply take up each of the recommendations in turn.

THE CHAIRMAN: Yes. The first Article referred to is Article 54. It is recommended that this Article be approved without change; but there is a note which states: "It was agreed that the Committee's report might recommend that consideration be given, when the rules of procedure of the Conference are being drafted, to the possibility of including some appropriate provision..."
which would enable a special session of the Conference to be called at the request of less than a majority of the members, e.g., for the purpose of appealing against decisions of the Executive Board." Are there any comments on this recommendation?

MR ALAMILLA (Cuba): Mr Chairman, I just want to call the attention of the Committee to this, that the sub-committee had to deal with Articles 75 and 79 thought that a majority, say, of ten per cent. could call a meeting if some new obligations were to be placed on members. Therefore, I just call the Committee's attention to that, because that was a case where less than a majority was supposed to be able to call a meeting.

THE CHAIRMAN: Are there any further comments? If not, is this Article approved? (Agreed).

Now we come to Article 55, paragraph 1. It is recommended that this paragraph be approved without change.

Paragraph 2. It is recommended that this paragraph be approved without change. It is noted, however, that, "With reference to matter of voting in this and other articles, it was agreed to recommend that where it is desired to provide for a two-thirds vote of all the members of the organization (including those abstaining or absent), the following formula should be used: 'by a vote of two-thirds of the members,' and that in the cases where only two-thirds of the actual votes cast is deemed sufficient, the appropriate formula should be: 'by a vote of two-thirds of the members present and voting.'" There are so many paragraphs here to be taken up in this Article that I think it might be better if we paused and acted on these paragraph by paragraph, rather than that I should read them all through first; so that I think I had better pause at this point and ask for comments paragraph by paragraph. I have already read two paragraphs. Is paragraph 1 agreed without change? I take it that it is? (Agreed). Is paragraph 2 agreed without change, and also is the note appended thereto approved?

MR FALTHEY (France) (Interpretation): Mr Chairman, regarding paragraph 2, I should like to propose a slight modification in the last sentence,
which reads, "obligations of Members undertaken pursuant to Chapter IV of this Charter." Alter that to read, "pursuant to the present Chapter."

THE CHAIRMAN: I would ask that the proposed amendment be repeated. The Chair is not clear as to what the proposal is. Give us the exact wording.

MR PALTHEY (France) (Interpretation): "obligations of Members undertaken pursuant to the present Chapter," instead of "pursuant to Chapter IV of this Charter."

THE CHAIRMAN: Would the French Delegate be willing to comment as to what the force and purpose of his suggested amendment would be?

MR PALTHEY (France) (Interpretation): According to the present text, it provides that some exemptions should be given to particular members in particular cases from the obligations pursuant to Chapter IV, that is Tariffs and Customs obligations. It was thought that if we want to preserve a certain amount of flexibility, though that flexibility must not necessarily entail substantial modification of the Charter, we can leave it to the Conference to envisage the possibility of suspending the obligations on some members under the provisions envisaged in Chapter IV, or more particularly in Chapter V and Chapter VI, which would also be revised if the need arose.

THE CHAIRMAN: You have heard the proposal of the French delegate. Are there any comments?

MR VAN TUYLL (Netherlands): I would like to support the proposal, which, if I understood correctly, is to delete the words "Chapter IV" in the last line of paragraph 2.

MR LAURENCE (New Zealand): Mr Chairman, I am wondering if we can have it on record as to exactly what this phrase "by a vote of two-thirds of its members" means. Taking a hypothetical case----

THE CHAIRMAN: I see that you are raising another question.

MR LAURENCE (New Zealand): Yes, that is right.

THE CHAIRMAN: Perhaps we had better postpone that until we have disposed of this matter.
MR HOUTMANS (Belgium) (Interpretation): Mr Chairman, I wish to call the attention of the Committee to the importance and scope of the French amendment. Indeed, if under paragraph 2 of Article 55 we have envisaged the possibility of exempting members from the obligations pursuant to Chapter IV it is because Chapter IV bears on the question of general commercial policy, and there in particular under Article 29 we envisage the possibility of emergency action on imports of particular products. That is the reason why in Article 55 few exceptions are envisaged. I do not wish to oppose the French amendment; I simply wish to emphasize that if we adopt it, then members can be exempted from all obligations as soon as the exemptions are said to be of an exceptional character, and that might lead us to having a member exempted even from the obligations which they have undertaken under the general principles such as the principle of full employment in particular. I only wish to underline the implied importance of the French amendment, and I really wonder whether it is desirable that we should envisage a rule for exemption in all cases.

MR KELLOGG (USA): Mr Chairman, I should like, with the permission of the Committee, to reserve the position of the United States on this suggestion until a forthcoming meeting.

THE CHAIRMAN: In view of the fact that there has been some difference of opinion expressed on the suggestion of the French delegate, and that one delegate wishes to reserve the position of his Government upon that, I wonder whether the French delegate would be agreeable to our coming back to this provision at a later meeting?

MR PALTEY (France) (Interpretation): I agree.

MR LAURENCE (New Zealand): Could we have it on record, Mr Chairman, just what we say is the meaning of this phrase "by a vote of two-thirds of its members"? Assuming that the organization has 33 members, does the phrase mean that if 22 vote and there is a simple majority the proposition is carried, or does it mean that the proposition would have to earn the support of 22 of the 33 members in order to be carried?
THE CHAIRMAN: The Chair will answer that, subject to correction. It is the impression of the Chair that it means precisely what it says, namely, that two-thirds of the members of the Conference must have approved; in other words, if there were 30 members and 20 approved it would carry by a two-thirds majority vote.

MR LAURENCE (New Zealand): I would respectfully suggest, Sir, that if that phrase as it stands became the subject of argument in a court of justice the learned judges would not necessarily agree with your view.

THE CHAIRMAN: Well, Sir, far be it from me to assert that I am more learned than the learned members of a court of justice, but that would be my understanding of this rule; and I would be glad to have the views of others with reference to what it means, and if there is a clearer way of formulating it, of course, we ought to make it clear.

MR BURY (Australia): Mr Chairman, I think that the point raised by the delegate of New Zealand is already taken care of because in all cases where it is not two-thirds of the total membership there is some phrasing used, such as "by two-thirds of the votes cast," or that will be altered slightly; but the term "votes cast," or "members present and voting." We decided upon that question in one of the sub-committees; so that if in all cases other than where it is two-thirds of the total membership voting, we have stated that it is the members present and voting or the votes cast, that point surely would be looked after.

MR LAURENCE (New Zealand): If I may speak again, I would suggest that it should not be necessary to look beyond the words themselves for the meaning of those words, and while I do not want to take up time, if the Conference has recourse to skilled legal advice, if there is a difference of opinion, I would like to have the assurance of a legal opinion that this is clear and not capable of more than one construction.

THE CHAIRMAN: The Secretariat could very well be instructed to consult legal advice on the form of words. I think we are all agreed as to our purpose, and if there is a better form of words I am sure this Committee...
would concur in the use of it.

MR MARTEN (UK): Mr Chairman, I suggest that we change the words from "by a vote of two-thirds of its members" to "by a vote of two-thirds of the members of the Conference." That would cover the point raised by the New Zealand Delegate, I think.
THE CHAIRMAN: If there are no further comments on paragraph 2, we proceed to paragraph 3.

MR LAURENCE (New Zealand): Do I take it that this will be the subject of legal opinion?

THE CHAIRMAN: In the absence of any comment I assume that that will be done.

MR LAURENCE (New Zealand): Thank you.

MR COUILLARD (Canada): I have a further question in connection with paragraph 2, and possibly the delegate for the United States could clarify this matter. With regard to the French amendment, namely, that "Chapter IV" should be deleted from paragraph 2, I would ask the drafting country to confirm my impression of the wording in paragraph 2 that the Conference will establish criteria and set up procedures only in those cases where escape clauses are provided in the charter and will not provide criteria and procedures before the event, so to speak. Is that correct?

MR KELLOGG (USA): In reply to the question of the delegate of Canada, it was the thought of the U.S. in drafting this section that members would take advantage of such escapes as exist in the rest of the charter first, and this was meant merely to cover cases which were exceptional and caused particular hardship to any particular member and were not covered by the other escapes provided in the charter. This is to cover cases which are not covered elsewhere.

MR ALAMILLA (Cuba): Mr Chairman, I think we are talking here of the possibility of a member waiving the obligations of Chapter IV, and it seems to me that we are getting the impression that that member would be able to do it just by applying to that. I believe paragraph 2 says that the Conference, by a vote of two-thirds, is going to say when and how those obligations may be waived; therefore it is not for the member to waive; it is for the Conference itself to apply the two-thirds vote and determine those criteria, and also the rules as to how those criteria are going to be applied. That is how I understand it.

MR PALTHLY (France)(Interpretation): Mr Chairman, since the Committee is
going back to the discussion of the amendment which I proposed, I think it is desirable that I should here clarify my thoughts. I agree with the United States delegate when he said that in paragraph 2 they envisaged only exceptional cases under Chapter IV, cases for which there would be no other escape clause in the charter; and I agree with him when he says that these should be only exceptional cases; and I do not think that my new proposed wording for paragraph 2 should lead us to infer that a member would take the initiative of waiving the obligations undertaken pursuant to the charter. Nevertheless, I do not agree with the delegate of Cuba - at least, not quite - for according to Article 2 the Conference would establish a procedure and would determine the criteria with a view to exempting certain countries from the obligations undertaken; but not always, because the Conference would not always vote by a two-thirds majority. In other words, it might happen that the Conference would empower the Executive Board to take decisions with a view to granting these exemptions according to rules of procedure which would have been fixed by the Conference already, and perhaps even the Conference might indicate to the Executive Board what the nature of these exemptions should be. So in fact the scope of my new amendment would not be so wide as the Belgian delegate was pleased to say. If you accept that some countries in exceptional cases can appeal to the Conference or to the Organisation which this Conference is going to set up in order to be allowed to waive the obligations undertaken under Chapter IV, there is then no difficulty in having the same provisions for the same members regarding other parts of the charter. No country should escape the obligations which it has undertaken. It is understood that that would not be the case. All we suggest is that in more exceptional cases temporary exemptions might be granted when the precise obligations of the charter would impose some economic hardships on some countries, those hardships, I repeat, being of a temporary character.

THE CHAIRMAN: We had agreed that the decision on the suggested amendment
of the delegate from France should be deferred this morning, and we will be coming back to it. It may be that this particular paragraph should be remanded to a Sub-Committee for further consideration when we set up new Sub-Committees to deal with other paragraphs. At any rate, I think for the moment it might be best to pass over it, as some of the members of the Committee may wish to consider the matter further in the light of the comments which have been made.

THE CHAIRMAN: Once more we pass to paragraph 3. It is proposed "That the words 'under the provisions of Chapters II and VII' be deleted." This amendment had been provisionally accepted by the full Committee. Is it agreed?

MR ALAMILLO (Cuba): I just want to comment on this, because Chapter II is the one to determine membership and Chapter VII is the one which deals with the Organisation. I think it would be rather awkward that the Executive Board may be entitled to change the Organisation and to change the membership, on which substantially the Organisation will be based; therefore, without making a strong point of it, I want to call the attention of the Conference to the fact that those are essential things which should be left always for the Organisation; and if the words are to be deleted and it is to be left to the Executive Committee, this should be done only with a very strong majority. (After interpretation): I would like to add this, Mr Chairman. I understand now that it is even stronger than I was asking for, and so I am perfectly satisfied with it.

THE CHAIRMAN: I take it, then, that paragraph 3, with the amendment recommended by the Sub-Committee, is now approved. (Agreed.)

Paragraph 4. It is recommended "That this paragraph be approved without change." But the Sub-Committee appends a note, which states as follows: "The Sub-Committee was not able to give final consideration to this paragraph as it had not had the benefit of hearing the views of the Delegate of Cuba, with respect to the amendment which his Delegation had submitted in writing (Document E/PC/T/C.V/9). It was
also suggested that the Preparatory Committee might recommend in its report to the Economic and Social Council that the expenses of the organisation should be apportioned among members on the same principles as applied to their contributions to the United Nations."

Is there any discussion on this?

MR ALAMILA (Cuba): Mr Chairman, the main point that we make here is a point that is common in every business. If we are going to come into something, we would like to know how much it is going to cost us. The only thing is this. Before we start to discuss our two suggestions in here I would like you, Mr Chairman, to ask the delegate from Norway (I understand he is an expert on United Nations matters) if he would be kind enough to give us a very brief idea of how this matter is dealt with in the United Nations; because, as I see it, in the general provisions of the United Nations it was left to the Assembly to decide. I have not had time to go into this, as our delegation is working night and day, but perhaps after I have heard an explanation from the delegate of Norway I will be able to drop our suggestions.

MR COLBAN (Norway): Mr Chairman, I am afraid I am not as much of an expert as my Cuban friend believes, but I can tell you (most of you probably know it) that the United Nations have not yet finally decided the apportionment of the contributions amongst the members. The Assembly at its first session here in London in February last asked for the constitution of a special committee to go into that matter, and, as far as I know, that committee has not yet made a final report.

MR ALAMILA (Cuba): I just want, then, in the absence of these precedents that I thought might have been already established, to give you a very general idea of what I mean. It is said here that it is going to be left to the Organisation. As you know, we are going to be tied up when we get into this business for some time, and therefore we think it is a very important point to be looked at now. We have suggested two alternatives, and I understand clearly that it may be very difficult for us at this moment to decide on either one of them. One was that the allocations be based on the ordinary budget of each member, which I
understand to be a very difficult point to decide, because we do not know what this budget may be. The second proposal was to base it on the volume of the foreign trade of each member. In the second case I think that we have there a very specific point on which we could base our contributions here, because each member is interested in this Organisation and hopes that it will promote its foreign trade; therefore they should be obliged to pay as much as they get in advantage as a result of it. But on this second point I am not insisting because even here I can visualise all the difficulties we may find. Cuba is a member of the United Nations and I hope that she will continue to be a member, and whatever is decided there we will accept. I suggest, then, that we approve here this suggestion made by the Sub-Committee that the way that we should pay our contributions to the Organisation should follow the rules to be established by the United Nations for payment by member governments, not making it a strict rule but only a recommendation. I really think we should have some kind of provision here.

MR BURY (Australia): Mr Chairman, there is nothing in this suggestion which in any way precludes the final decision being made by the Conference. It would in fact have to be made by the Conference. All this is is just a suggestion that the Committee in its report should perhaps point out the advantages of adopting the same scale of contribution; but the object of making this suggestion is that unless there is some strong reason why the same scale that applies to the United Nations should not apply to this Organisation, it would save an immense amount of dispute and questioning between members, I feel sure, as to what their relative shares should be. The fact that the members of I.T.O. and United Nations are not the same does not vary the principle; their relative contributions to the United Nations amongst themselves should be the same relative contributions as they make to I.T.O. If in the final analysis for some reason the scale which the Contributions Committee of United Nations eventually
decides on is not suitable for I.T.O., it will still be perfectly possible for any other system to be brought up. That is the point of this suggestion. It does recognise that the position is still flexible.

MR ERASMUS (South Africa): The Australian delegate has said what I more or less wanted to say, and it seems to me that the Cuban delegate, while not withdrawing his proposal, has to some extent fallen back on his position as regards apportionment, in accepting the view that the United Nations procedure should be recommended here. I suggest that we leave the matter open until we are able to see what is decided in the United Nations, and then the matter can be taken up again; and we can take that as a lead or guide, and if it is not suitable we can try to work something else out.

MR QURESHI (India): Sir, after listening to this discussion I feel that we should not go into all the final details at this stage. The question of contributions would come up later. All we have to do at this stage is to find what is the general agreement, and, of course, some sort of agreement would have to be arrived at for apportioning the expenses. The United Nations have not yet decided and there will be plenty of time for this Committee to do so. When my friend from Cuba knows exactly what the United Nations have decided he will be in a better position to give his views. Therefore I suggest that at present we merely agree to this principle and at a later meeting we can formulate our views more definitely, when we know what the United Nations have done.
MR DAO (China): Mr Chairman, if I am not mistaken, the delegate of Cuba is not insisting on these amendments. Therefore I will address myself to this recommendation in the report of the sub-committee "that the expenses of the organization should be apportioned among members on the same principles as applied to their contributions to the United Nations." I take it that the same principles as here suggested do not mean the same scale. As I understand, the principles as embodied in the recommendation of the Preparatory Commission of the United Nations, are "capacity to pay," with due consideration to be given to the temporary dislocation of economies due to war and the exchange reserve of member states. On this understanding, the Chinese delegation has no objection to the recommendation here, that the same principle be applied in the apportionment of contributions of the members of the I.T.O. Furthermore, as we have pointed out, that this principle may be adopted on the assumption that the voting system will be that of one country one vote and that the members sitting on the Executive Board will be on a purely elective basis without any preference or any permanent arrangement for some other members to be sitting on the Executive Board. On these two assumptions we have no objection to this recommendation.

MR ALAMILLA (Cuba): Mr Chairman, what I was really not insisting on was my two specific amendments, but when I finished I said that I wanted to qualify paragraph 4 of Article 55 and that I accepted gladly the suggestion of the sub-committee, but that that should be either by way of an appropriate Article or in the way of a specific recommendation from this Preparatory Committee that this voting should be on those principles to be applied to the contributions made by each government to the United Nations. Therefore, I would ask that this kind of suggestion be taken into consideration. I do not want it to be a specific article, but I would like, and I would strongly support, the suggestion that a specific recommendation should be made on those lines.

MR COLBAN (Norway): I quite appreciate the desire of the delegate of Cuba
to have some idea of the contribution when he signs and ratifies our Charter, and I also think that the recommendation which it has been suggested should be made to the Economic and Social Council should to some extent give him satisfaction. If we all agree to that recommendation being presented more or less as explained by the delegate of Australia, and in order to make my own ideas perfectly clear, I see it like this. In the absence of any other agreed solution, we fall back upon the principles of the United Nations for the contributions, and that should be perfectly satisfactory to everybody. It would give the Cuban and all other delegates the assurance that we are not simply going out into the unknown, but that we have really something to fall back on. On the other hand, it may be that our Conference, when it meets, may find it desirable to adopt a special scale of contributions for our Organization, and I would not cut that out before it is necessary. So that I would simply make this recommendation, that the expenses of the Organization should, in the absence of any other agreed arrangement, be apportioned among members on the same principles, and so on.

THE CHAIRMAN: There are two or three members who have requested the floor and, of course, I am going to give it to them; but I do suggest that we have been on this note in this report for quite some time and we have got a lot more business to transact this morning, so that I hope that we can shortly pass on to the next paragraph.

MR ERASMUS (South Africa): Mr Chairman, I just want fully to support the delegate of Norway and suggest that we postpone discussion of this question now, seeing that we cannot get any further on it, and that we wait until such time as we hear from the United Nations and get some other documents.

MR KELLOGG (USA): I merely want to support the suggestion of the delegate of Norway also.

MR ALAMILLA (Cuba): I accept the proposal of the Norwegian delegate, as I understand that a recommendation on the lines suggested is going to be made.
THE CHAIRMAN: I take it, then, that the Committee is agreed that a recommendation should be made to the Economic and Social Council in the context suggested by the Delegate of Norway. (Agreed). We pass next to paragraph 5. The sub-committee recommends that this paragraph be deleted, and it appends a note as follows: "It was decided, after full discussion that no useful purpose would be served by retaining this paragraph in Article 55 in view of the fact that its provisions were already covered by Articles 57 (1) and 68 (1). Is there any comment?

MR LAURENCE (New Zealand): Mr Chairman, I would like to voice this view. If there is a case for deleting paragraph 5 from Article 55 there is an equivalent case for deleting paragraph 6 and paragraph 7, and possibly paragraph 8, from the same Article. It raises a point of principle in drafting of whether the powers or the obligations that are specifically imposed on the Conference are recited in this Article or whether the powers and obligations that are specifically either covered or imposed by other Articles are left to those other Articles. I do not want to pursue the matter further than that; but I made the point in an earlier discussion that there should be consistency in drafting. Just to illustrate the point, taking Article 25, we have paragraph 4 reading: "Any determination required or appropriate to the operation of this Article shall be made under procedures established by the Organization in accordance with paragraph 6 of Article 55." All that we have to do to make paragraph 6 unnecessary is to say, "shall be established by the Conference in consultation among the members having an important interest in the particular product concerned. I do not mind whether the provisions are in Article 55 or not, but I do ask for conciseness and consistency in drafting the document.

MR BURY (Australia): On the point just raised by the New Zealand delegate, there does seem to me some slight difference or distinction to be drawn. The paragraph that the sub-committee proposed to delete was in another part of Chapter VII, and it does seem to me that there is a
difference between having everything that the Organization, as such, does all in one form or in one chapter and that there is more ease for deleting overlapping provisions within that chapter than there is in deleting things from Chapter VII just because they refer back to earlier chapters.

MR KELLOGG (USA): Mr Chairman, I agree with what the Australian delegate has said; and possibly it might be of some value to explain to the New Zealand delegate the basis upon which this Charter was drafted. We tried with one exception, which I will mention in a minute, to put all the provisions in which various functions and duties are delegated to organs in Chapter VII of the Organization. There is one exception, and that is Chapter II dealing with membership; we thought that it might be convenient to put the delegation of functions into the chapter dealing with the actual substance of the matter. We might, in conformity with your suggestion, move that back into Chapter VII and that would make for more consistency; but, other than that, we have tried to put all the provisions dealing with the way the work is carried on in one chapter. Hence for consistency's sake we put in paragraphs 6, 7 and 8 in Article 55.

THE CHAIRMAN: It seems to the Chair that the record has been made sufficiently clear on the point raised by the delegate from New Zealand and that it becomes the duty of the interim drafting committee to wrestle with the matter.

Next we come to paragraphs 6 and 7. The sub-committee recommends that these paragraphs be approved without change. Is there any comment? (Agreed).

Paragraph 8: it is recommended that this paragraph be amended to read: "The Conference may, by a vote of two-thirds of its members present and voting, adopt" and so on. Is there any comment?

MR PALTHEY (France) (Interpretation): I apologize once again for asking a question which I am very much afraid the Committee will not be able to answer. Under paragraph 8 of this Article of the Charter the
Conference "may by a two-thirds majority of the votes cast, adopt the standards, nomenclature, terms and forms described in paragraph 7 of Article 16." Yet in the Charter there are some decisions which are to be taken by the Conference for which a majority has not been decided upon; but no precise indication has been given; according to the terms as they stand now, we should therefore conform to the provisions of Article 53, that is, a simple majority. I wonder whether we could not envisage the possibility, in some important cases, of having a two-thirds majority. To give you a few instances: We could have a two-thirds majority in the cases envisaged under Article 20 (3), "... shall be entitled to impose balance-of-payments restrictions, whether during or after the transitional period provided for in paragraph 2 of this Article, subject..." and so on. In this case it is the balance-of-payments restrictions. Then under Article 25, 3 (b) we deal with the question of the elimination of export subsidies, exceptions and so on; then again when we come to the problem described in Article 29, Emergency Action on imports of particular products; or again Article 30, when we come to discuss the problem of consultation between members; Article 35, recommendations on cartels; or Article 45, where it is envisaged that surpluses are to be entered before any intergovernmental commodity agreement can be passed. So that I think we should consider whether we could not adopt the principle of the two-thirds majority in such important cases.

THE CHAIRMAN: I take it the suggestion of the French delegate is not intended to depart in any way from the phrasing of Article 8, and that he is not recommending any change in the amendment as put forward by the sub-committee, and that he is merely making some collateral suggestions with regard to the rest of the Charter. Do I understand him correctly?

MR PALTHEY (France) (Interpretation): I have no objection to deferring the discussion of this Article to a later date and to link it up with the discussion on any other Article, to one which would seem most appropriate 18.
to the Committee. If the problem is not relevant to Article 8, then I see no objection to having it deferred and to study it in connection with another Article.

MR. COUILLARD (Canada): Mr Chairman, the French delegate has just opened up a very broad and important subject; but it does strike me that all the Articles which he has mentioned form the basis of discussions in various other Committees, and those Committees presumably had in mind at the time of their discussions all the pros and cons, for example, in connection with Article 25, 3 (b), voting arrangements which would govern the acceptance of any other article, litigation, cartels, surpluses, and so on, as provided for in the Charter; and it does seem to me that the voting arrangements under those various Articles were considered in detail and form an inherent part of the discussions in those Committees and that this Committee would be really undertaking too huge a task to review their work. For that reason I would suggest that if there is any possibility that the other Committees have not studied these questions we might approach the Chairman of those other Committees, but that certainly we should not go into the problem here.

THE CHAIRMAN: It occurs to me that this is pretty much the point which the French delegate has put, that in the case of Articles 6 and 7 it is left to the Conference to establish procedures for carrying out certain matters mentioned therein, but in the case of Article 8 it is explicitly provided that any such procedure would have to be carried out on the basis of a two-thirds majority of the votes cast. I suppose the question is why so much flexibility is provided for the Conference in the case of Articles 6 and 7 in view of the provision requiring a two-thirds majority is inserted in Article 8. Is that the question that is really at issue?
MR PALTHEY (France) (Interpretation): Mr Chairman, the question asked by the French delegation indeed corresponds partly to what you said. We may indeed wonder why in the charter there is such a careful consideration regarding questions of procedure, as regards Articles 25, 45 and so on, and why the charter insists so much on a rigid two-thirds majority in the other case. That is a purely formal question, but I think beyond that we must also study the question of voting on important issues. Surely, as the Canadian delegate said, that question should be left to each Commission; it should be the task of each Commission and each particular Committee should study the problems arising from the subject matter which they are studying, and they should decide whether it is going to be a two-thirds majority or a simple majority. But I think that this has not been discussed and I think that the question of voting in the Organisation falls within our purview, and we could consider it, subject naturally to the setting up of a Joint Committee of Committee III and any other Committee which would be interested in the question.

MR BURY (Australia): I did see wisdom in the draft as it exists for having it fairly specific in the case of Article 16, where I think the problem can be foreseen fairly accurately, and leaving it flexible in the cases of Articles 25, 45, 29 and 30, where the future procedure is far less clearcut; particularly in the case of Articles 25 and 45 that Committee looks at the moment as if it will re-cast them entirely, so there is a certain wisdom in the charter as drafted, although, as the French delegate points out, it should be considered in relation to those committees a little later on as to what vote shall determine those procedures.

MR HOUTMAN (Belgium) (Interpretation): Mr Chairman, I do not agree with the various opinions which I have heard. I think it is the exclusive competence of this Committee to decide on the question of voting, because if we proceed to consultations within the frame of a Joint Committee it may very well happen that we will reach different solutions according to whether we discuss this with Committee I,
Committee II, and so on. I think here we are a Committee for organisation and we must envisage a system of voting common to all different Commissions. It follows from the text of the charter that all decisions should be adopted by a simple majority, except in some particular cases when a larger majority is envisaged for important questions: that is the case, for instance, with Article 75, on amendments. The question of amendments is a very important one, and there I understand fully why a two-thirds majority should be required; only we should like to know why the U.S. delegate, when drafting this charter, envisaged the possibility of requiring a two-thirds majority for far less important issues.

MR KELLOGG (USA): In reply to the question of the delegate of Belgium, Article 16, para. 7, is a case which is comparatively new in international organisation. That is a case where we had to some extent a case of international legislation. Under Article 16 the Organisation would have the power to adopt certain standards and so forth, which would bind all the members without ratification. That is not entirely without precedent. The Health Organisation has similar provisions in it. But, nevertheless, in the field of international organisation previous to the present time there have been very few examples of organisations which can bind members without their ratification or agreement. That is provided in Article 16, para. 7, and because the matter is comparatively new and because members are thus being bound without their express agreement, we thought protection should be given by having a two-thirds vote.

THE CHAIRMAN: You have heard the various views on the matters that have been under discussion. It seems to the Chair that perhaps the best way to leave the matter is to endeavour to secure provisional agreement on these paragraphs in line with the recommendations made by the Sub-Committee, but with the understanding that there will be consultation by Committee V. with the other Committees of this Conference and that their attention will be called to this matter; and if any of those Committees wishes to recommend some different language,
in view of the particular problems that they have in their respective fields, we will be advised of that and we can come back to consider the matter later.

MR PALTHEY (France) (Interpretation): I am agreeable.

MR COUILLARD (Canada): I am also agreeable.

MR HOUTMAN (Belgium) (Interpretation): I am also agreeable, but as here we are dealing with a matter of consultation, I consider we should only have consultations with the other Committees to set up Joint Committees for the study of this problem. The question of vote is a matter of principle and is for Committee V. to decide, and the final decision should be the responsibility of this Committee.

THE CHAIRMAN: With that understanding, then, I think we may now proceed to paragraph 9: "That this paragraph be approved without change." Is there any comment? I take it that the recommendation is agreed to. (Agreed.)

We pass next to Article 59. The Sub-Committee recommends "That this Article be amended to read as follows: '1. The Executive Board shall adopt its own rules of procedure, including rules concerning the convening of its sessions. 2. The Executive Board shall annually elect its chairman and other officers who shall be eligible for re-election. 3. The chairman of the executive Board, as such, shall be entitled to participate, without the right to vote, in the deliberations of the Conference.'" Are there any comments?

MR ÖLDBNAN (Norway): Mr Chairman, as to point 2 of Article 59, in a previous meeting I made a suggestion to strike out the words "and other officers", but, in the light of what is said in a note to Article 62, paragraph 2, namely, "It was agreed that the Committee's Report might recommend that the regulations referred to in this paragraph, should include provisions that would enable the services of a permanent Chairman and Secretary to be made available to each Commission", I think it is now beyond doubt that "other officers" does not imply members of the secretariat, and in that case I have no objection to the words being kept.
MR KELLOGG (USA): In commenting on the suggestion of the delegate of Norway, I think it was thought by the Sub-Committee which worked on Article 62 that the Secretary would probably be supplied by the Secretariat. I therefore would not want it to be believed by this Committee that the new paragraph 2 of Article 59 suggests that the Secretary should be elected by the Executive Board. I was a little confused by your remarks.

MR GULBRAN (Norway): That is exactly what I wanted: that that term "any other officers" should not include the secretariat staff.

THE CHAIRMAN: Are there any further comments on Article 59?

MR DAO (China): I would like some clarification of paragraph 3. Does it imply that the Chairman of the Executive Board, if he is a representative of a country at the Conference, can make his choice as to whether he will be the Chairman of the Board or be the representative of his country?

BARON VAN TUYLL (Netherlands): As the insertion of 3 in Article 59 was made at my suggestion, I would like to answer the point of the delegate of China. It is very probable that the Chairman of the Executive Board will be his Government's representative at the Conference, and therefore it may seem that there is not a case for including paragraph 3, as has been suggested by the Drafting Committee. On the other hand, the representative of that Government might want to make remarks in his function as Chairman of the Executive Board, and therefore the words "as such" have been included in the wording of this paragraph.

THE CHAIRMAN: If there is no further comment, I assume that Article 59, as amended, is agreed to. (Agreed.)

Article 60, paragraph 1. It is recommended "That the word 'supervise' be substituted for the word 'review' in the third line." That is a matter that was discussed, I believe, in one of our earlier meetings, and I take it there is no objection to that change.

Paragraph 2: It is recommended "That this paragraph be approved
without change. Is that agreed? (Agreed.)

Paragraph 3. It is recommended "That the word 'may' be substituted for the word 'shall'." I believe that also was suggested in one of our general sessions, and I take it that that is also agreed to. (Agreed.)

Paragraph 4. It is recommended "That this paragraph be approved without change." But there is a note, which states: "It was agreed in full Committee that the last sentence of paragraph 1 may need later consideration in the light of the recommendations of the Joint Committee on Industrial Development." I should state for the record that the note to which I have just referred really relates, of course, to paragraph 1, and should be read in connection with the remarks addressed to paragraph 1. Is that paragraph agreed? (Agreed.)

Article 62, paragraph 1. It is recommended "That this paragraph be amended to read: 'The Commissions shall be composed of persons invited by the Executive Board and who are qualified....'" There is a slight mistake in that wording. The two words in the second line, "who are", should be omitted, and it should read, "The Commissions shall be composed of persons invited by the Executive Board and qualified...." There is a note stating that "It was agreed that the Committee's Report might recommend that in inviting qualified individuals to serve as members of Commissions, due regard should be paid to the importance of selecting such members on as wide a geographical basis as possible." Are there any comments?

MR DAO (China): I am not certain whether the two observations the Chinese delegation made at the last meeting should come into this note or the note following. We made observations to the effect that in inviting qualified individuals to serve the Executive Board may consult with the Governments of the countries of which the persons invited are nationals; and we also observed that not more than one person should be selected from any single country. I do not know whether it is appropriate to consider the two remarks in conjunction with the note here or the note following, which refers to regulations.
THE CHAIRMAN: It seems to me that the matter raised by the delegate of China makes it desirable for us to consider paragraphs 1 and 2 together, and I therefore lay before the Committee the recommendations of the Sub-Committee with reference to paragraph 2, so that they can be considered in conjunction with each other. With respect to paragraph 2, the Sub-Committee recommends that "on the second line the word 'service' be substituted for the word 'office'"; and there is this note: "It was agreed that the Committee's Report might recommend that the regulations referred to in this paragraph should include provisions that would enable the services of a permanent Chairman and Secretary to be made available to each Commission."

MR ERASMUS (South Africa): Mr Chairman, I note here it should include provisions that would enable the services of a permanent Chairman and Secretary to be made available. I wonder whether it would not be better if we put "It should include provisions for the appointment of a permanent Chairman", and strike out the words "and Secretary", because the Secretary would be appointed by the Director-General under his powers, and I do not see why we should write into the charter these other words. The idea there really was that there should be a permanent chairman appointed and that chairman will most probably, through discussion with the Director-General, get a secretariat to help him, but I do not think we should put that in about the secretary; we should strike that out and just put in about "a permanent Chairman".
COMMITTEE SECRETARY: If I may be allowed to speak for the sub-committee, or rather to explain what the contention of the sub-committee was, it is my understanding that the reference to the secretariat was not intended to imply that he would be drawn from outside the ranks of the permanent secretariat. It is fully understood that he would be a member of the staff made available by the Director-General; but the idea was that he should be more or less permanently attached to a particular committee so that there would be continuity in the secretariat of commissions as well as in the Chairmanship of commissions. I mean, he would not be attached to a particular commission one week and then another commission another week and do another job the following week. I think I am correct in that — and the Belgian delegate will correct me if I am not — but I think that was the intention of this suggestion.

MR COLBAN (Norway): I am in entire agreement with the proposal of the South African delegate, and I consider that making a specific mention of the country is really a vote of censure on the Director-General. We cannot imagine that he would be foolish enough to have the same secretary working with all committees, walking about from one to another. He will certainly try to find out who is most fitted for each particular job and he will keep him there so long as he does his work well.

MR HOUTMAN (Belgium) (interpretation): Mr Chairman, I do not insist on this question of the secretariat, but it is an important one, because I was struck by the importance of the several duties which were to be assumed in these commissions, particularly pursuant to the provisions of Article 65, and so on; the commissions will receive complaints and study them and then they will proceed to take various kinds of action, advise the Executive Board, and so forth; so that I think it would be preferable to have a Chairman and Secretary who would look after the good working of these commissions and thus ensure continuity in their work. But I agree that we should have a permanent Secretariat in
order to ensure this continuity without any amendment or any note whatsoever.

THE CHAIRMAN: Is it agreed then that we should strike out from the note under paragraph 2 the words "and Secretary"?

MR ERASMUS (South Africa): Mr Chairman, there is absolutely no disagreement here, and it is just a question of wording. But my point was this, that I wanted to bring out the importance of the Chairman and not to curb or censure the Director General, so that, as a compromise, we could most probably put in words to cover the appointment of a permanent Chairman, the Director-General ensuring the services of the permanent secretariat to each commission, so that we definitely do give him the right to make appointments, and it is within his powers; but, as I say, we need not put it in. It is not a matter of disagreement, it is just a matter of wording.

THE CHAIRMAN: It seems to the Chair that the situation is taken care of by the mere omission of the two words "and Secretary" and I hope that will be agreed to. (Agreed).

Now the hour is getting late, and I am sure there are various delegates who have appointments. On the other hand, we are so near to being through with Article 62 that I had hoped we could complete it. The Delegate for China, however, has made some suggestions which are substantive in character. He has suggested, as I understand him, that in the selection of members for commissions the governments of the various countries involved be consulted, and, secondly, that no more than one member of a commission be designated from the same country. Am I correct in my interpretation?

If it appears that these suggestions are going to provoke prolonged discussion we shall have to carry over. I am not able to tell at this moment what the situation is going to be.

MR COBLEN (Norway): I fully appreciate the importance of the two Chinese suggestions, but I venture to appeal to the Chinese delegate not to insist on them being put in writing in any chapter or any recommendation.
I take it that the Executive Board will in appropriate cases ensure that a committee member is persona grata with his own government; and it is quite superfluous I should think to make this an imperative rule. Also, I take it that the Executive Board would most carefully avoid putting two people of the same nationality on the same committee. There would be such competition for the highest and honourable posts that certainly the different governments would put forward, without being asked to do so, candidates for each one of these posts; and therefore I think that the Chinese delegate will obtain absolute and full satisfaction on the two points raised without anything being said in the Charter or even in a recommendation about it.

THE CHAIRMAN: Does the delegate from China still feel that he would like something written into the Charter in regard to these matters?

MR DAO (China): Mr Chairman, it is not intended to write into the Charter anything on these points but to include it in a recommendation. I do not say that the Charter should contain such detailed provisions. What we desire to see is some sort of mention made in our recommendations. Now, with due deference to the Norwegian delegate, I see that part of the provisions is somewhat covered by the reference to the geographical basis; but we envisage that in inviting individuals to serve as members of commissions names may be put forward of people other than nationals of the particular country concerned without prior consultation, which may give rise to an embarrassing situation to the particular member concerned. That is why we would like to have some mention made to the effect that prior consultation is desirable when putting forward names of members of commissions. I will make a compromise suggestion - whether the first part of our proposal can be included in the first note, that consultation should be made with the government of the country concerned, and then due regard had, and so on.

MR COLBAN (Norway): I do not insist at all, but I have just explained my own personal view, that it is unnecessary to make such a rule especially with regard to consultation. I was a little bit afraid that it might
lead to difficulties always to oblige the Executive Board to consult with individual governments, because then they could not address themselves to a very suitable candidate without having beforehand asked his Government whether they would agree, and it would normally start by sounding the person himself beforehand, so that there could be complications, but I do not insist.

THE CHAIRMAN: In view of the fact that no delegate has expressed support for the suggestion made by the Chinese delegate, I am wondering whether he would be satisfied if we simply agreed that in transmitting our report the views which he has expressed be incorporated as his views?

MR DAO (China): Since no one has spoken in support of my compromise suggestion, then I would be satisfied with the ruling from the Chair.

THE CHAIRMAN: Thank you.

Now I realize that it is late, but we have just one paragraph to deal with which I suspect is rather a routine matter. Could we get it approved? Paragraph 5. It is recommended that this paragraph be amended to read: "As set forth more fully in paragraph 2 of Article 71, the organization may make arrangements for representatives of other intergovernmental organizations." Is there any comment upon that? In the absence of comment, I take it it is agreed. (Agreed). The next question is our next meeting. I assume that we will want to arrange for a meeting as soon as possible. We have yet to take up the report of the sub-committee on amendments and withdrawals, and that would be the first order of business at our next meeting, which I rather assume will be tomorrow. The meeting is adjourned.

(The Meeting rose at 1.5 p.m.)

29.