

ECONOMIC AND EMPLOYMENT COMMISSION  
SUB-COMMISSION ON ECONOMIC DEVELOPMENT

Third Session

Summary Record of the Seventieth Meeting

Held at Lake Success, New York  
on Wednesday, 6 April 1949, at 2.30 p.m.CONTENTS:

Discussion of the basic problems of economic development with special reference to the mobilization of financial resources for economic development: second part of the draft report on the mobilization of financial resources for economic development

Present:Chairman:

Mr. V. K. R. V. RAO

Vice-Chairman and Rapporteur:

Mr. M. BRAVO Jimenez

Members:

Mr. J. N. GUIMARAES

Mr. J. PATEK

Mr. A. P. MOROZOV

Mr. E. G. COLLADO

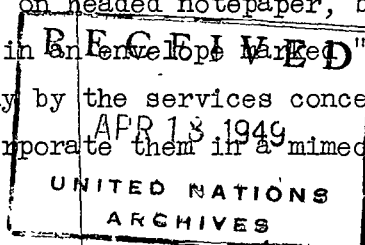
Representatives of specialized agencies:Mr. E. LOPEZ-HERRARTE International Bank for Reconstruction  
and Development

Mr. H. van der VALK International Monetary Fund

Secretariat:

Mr. A. DORFMAN Secretary of the Sub-Commission

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DISCUSSION OF THE BASIC PROBLEMS OF ECONOMIC DEVELOPMENT WITH SPECIAL REFERENCE TO THE MOBILIZATION OF FINANCIAL RESOURCES FOR ECONOMIC DEVELOPMENT: SECOND PART OF THE DRAFT REPORT ON THE MOBILIZATION OF FINANCIAL RESOURCES FOR ECONOMIC DEVELOPMENT

The CHAIRMAN announced that although Mr. Collado did not approve the contents of the draft report and reserved the right to formulate a minority opinion, the text of which would be published as an annex, he had, nevertheless, consented, at the Chairman's request, to take part in drawing up the text in question.

Paragraph 29

Mr. MOROZOV wished to replace the words "necessary conditions" in the first sentence of paragraph 29 by the words "demands which are put forward by exporters of capital", in view of the fact that a distinction must be made between what was necessary in the interest of the countries in question and the selfish interests of exporters of capital.

The CHAIRMAN approved the purpose of the amendment but proposed instead to insert in the second line, before the words "capital-importing countries" the words "will be regarded as governing the entry of private capital into", and in the fifth line, after the word "export", "from capital-exporting countries".

Mr. MOROZOV thought that his version had the advantage of being more precise than the wording proposed by the Chairman.

The CHAIRMAN, on the other hand, preferred not to include superfluous details so as to avoid possible grounds for criticism, the more so as a minority opinion would be put forward by Mr. Collado. It was simply a question of stating the opinion of exporters of capital.

The Sub-Commission supported the Chairman's opinion.

Mr. MOROZOV proposed the deletion of the words "not only" and "but also" in the second sentence, and the insertion of the words "national development in the direction of independence as provided in the United Nations Charter".

/Mr. BRAVO Jimenez

Mr. BRAVO Jimenez pointed out that Mr. Morozov's intentions were already taken into account at the end of the sentence; if Mr. Morozov's amendment were to be accepted, he proposed that all the rest of the sentence should be deleted.

The CHAIRMAN drew Mr. Morozov's attention to the fact that the purpose of his amendment seemed to be covered by the wording of the last sentence of the paragraph.

Mr. MOROZOV, however, preferred his own wording, as his reference to national independence was wider than the terms used in the Chairman's draft.

The CHAIRMAN opposed Mr. Morozov's amendment in view of the fact that in the text concerned it was a question not of the opinion of the Sub-Commission, which had already been expressed, but of the opinion of the countries involved.

Mr. MOROZOV said that since the Sub-Commission had adopted a general principle, it must be applied in each specific case and particularly in the case under discussion where it was a matter of stating the wishes of the underdeveloped countries. He thought that if the principle was not respected, that paragraph would clash with the preceding paragraphs.

Mr. BRAVO Jimenez proposed that the text of Mr. Morozov's amendment should be transferred to the last sentence of the paragraph.

It was so decided.

Mr. Morozov's two other proposals regarding the deletion of "but also" and "not only" were adopted.

Mr. GUIMARAES proposed that the reference to past experience should be deleted, as it might give rise to controversy. He emphasized that all the underdeveloped countries were interested in attracting private capital from abroad.

/The CHAIRMAN

The CHAIRMAN asked Mr. Collado's opinion.

Mr. COLLADO explained that since his point of view was not reflected in the draft report, he did not support either of the suggested formulae. However, he thought it preferable to make the deletion suggested by Mr. Bravo Jimenez.

The CHAIRMAN thought it would be advantageous to delete all inessential items which might give rise to controversy.

Mr. MOROZOV did not support any such deletion.

It was decided to delete the passages in question.

Mr. PATEK, supported by Mr. MOROZOV, proposed that the next sentence should be deleted.

Having noted the objections of Mr. Morozov and Mr. Patek, a majority of the Sub-Commission opposed the deletion.

Mr. MOROZOV suggested that, in the last sentence of the paragraph, the word "welcome" should be changed to "consider possible"; in the penultimate sentence of the paragraph, he proposed that the following should be added after "foreign capital": "in normal commercial conditions and as a source supplementary to their own resources."

The CHAIRMAN said he did not wish to strengthen the report in the exclusive interests of capital-importing countries, but hoped to produce a more balanced draft, giving equal weight to the requirements of countries exporting capital. The word "welcome" actually corresponded to the view expressed by many underdeveloped countries.

There being no general support for Mr. Morozov's suggestion, the Sub-Commission took note of his objection and of the abstention of Mr. Bravo Jimenez.

Mr. BRAVO Jimenez proposed that the Sub-Commission should change the words "economic development of their territories" in the last sentence of the paragraph to "development of their economy".

The proposal was adopted.

/ Reverting to

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Reverting to the end of the same sentence, as amended by the adoption of Mr. Morozov's proposal, Mr. COLLADO wondered whether it was in accordance with the sense of the Charter to speak of "development in the direction of national independence" when the phrase referred to sovereign States Members of the United Nations.

Mr. DORFMAN (Secretary of the Sub-Commission) cited Articles 55 and 56 of the Charter in support of that view.

Mr. MOROZOV said that the concept was contained in many other Articles of the Charter which it was unnecessary to cite.

Mr. COLLADO considered that the proposed wording did not conform with Articles 55 and 56, and that it appeared to throw doubt upon the sovereignty of the countries in question.

The CHAIRMAN explained that the difference of opinion resulted from the fact that while Mr. Collado was thinking of political independence, Mr. Morozov was considering only the economic independence of the countries.

Mr. BRAVO Jimenez suggested that instead of "independence", the Sub-Commission should insert the words "self-determination".

The CHAIRMAN expressed a preference for the version proposed by Mr. Morozov.

Mr. Morozov's version was adopted.

Mr. MOROZOV renewed his proposal for the insertion of the words "in normal commercial conditions and as a source supplementary to their own resources".

Mr. Morozov's proposal was adopted.

Paragraph 30

In the first sentence of paragraph 30, Mr. GUIMARAES suggested that the words "is anxious to impose" should be replaced by the words "urges the imposition of".

The proposal was adopted, subject to the reservation made by Mr. Morozov that corrections would be made in the Russian translation.

/ In the

In the second part of the same sentence, the CHAIRMAN proposed that the words "managerial contact with" should be replaced by the words "policy making of".

Mr. BRAVO Jimenez suggested that the words "within their boundaries" should be inserted instead of "when operating in their own territories".

The proposal was adopted.

Mr. GUIMARAES objected to the obligation imposed on foreign companies to reinvest part of their profits. No such ruling existed for domestic concerns, and it could not, therefore, be imposed on foreign undertakings.

The CHAIRMAN explained that in many countries companies were compelled to reinvest part of their profits by the limitation of the amount that might be distributed.

Mr. COLLADO asked whether a definite obligation to reinvest could properly be deduced from the enforced limitation of dividends.

The CHAIRMAN opposed the suggestion of Mr. Guimaraes, who withdrew it.

Mr. van der VALK (International Monetary Fund) pointed out that an obligation to reinvest part of the profits might result in over-specialization by the countries concerned and might therefore not be in their real interests.

Mr. PATEK requested a definition of the term "equity investments".

Mr. COLLADO defined it as investments specifically related to the administration of a firm, either directly or indirectly, as in the case of the control exercised by a parent company over its subsidiaries.

Mr. PATEK suggested striking out the words "equity investments" and inserting instead "foreign capital investments generally".

/ Mr. BRAVO Jimenez

Mr. BRAVO Jiménez proposed, instead of the latter, the insertion of the words "domestic participation in the capital structure of enterprises promoted by foreign concerns".

Mr. Bravo Jiménez's proposal was adopted.

Mr. PATEK maintained his preference for the wording he had proposed.

Mr. COLLADO objected to the view which he understood the Chairman to have expressed to the effect that his own conception did not reflect a desire for a balance between the respective interests of capital-exporting and capital-importing countries.

The CHAIRMAN declared that such was certainly not his view.

Paragraph 30 was adopted, subject to the reservation made by Mr. Morozov that corrections would be made in the Russian translation.

Paragraph 31

Mr. MOROZOV thought the report should regard the question of foreign investment from the standpoint of the economic development of under-developed countries, and not from the standpoint of foreign capitalists. He therefore proposed that the whole of the first part of the paragraph should be omitted, as far as "no conditions". He also desired that the remainder of the paragraph should be written from the standpoint of the importing countries and not of the capitalist countries, which would entail changing its negative sense by omitting the word "no".

The CHAIRMAN opposed that proposal, which, he considered, jeopardized the balance of the report.

Mr. Morozov's proposal was rejected.

Mr. MOROZOV asked for the deletion of the sentence beginning with the words: "It has also been suggested...".

The CHAIRMAN said that the sentence was an integral part of paragraph 31 and that it should be retained at the end of that paragraph.

/Mr. COLLADO

Mr. COLLADO thought that the contents of the sentence were not consistent with facts.

Mr. BRAVO Jimenez proposed the insertion of the following sentence at the end of paragraph 31: "It has also been suggested that an international code on private foreign investment be arrived at."

Mr. PATEK said that he would abstain.

The proposal of Mr. Bravo Jimenez was adopted.

Paragraph 32.

The CHAIRMAN felt that the first sentence of paragraph 33 as proposed should be inserted at the end of paragraph 32 as it formed an integral part of that paragraph.

Mr. COLLADO did not think that the conclusion reached by the Sub-Commission on the "participation" of the **nationals of capital-importing countries** in equity financing was logically consistent with the principles laid down in paragraph 27.

Mr. PATEK, supported by Mr. MOROZOV, asked for the deletion of the first part of the sentence; the paragraph would thus begin with the words: "The Sub-Commission...".

Mr. Patek's proposal was rejected.

Mr. BRAVO Jimenez proposed that the second sentence of the paragraph should end with the words: "contribute to their economic development."

Mr. MOROZOV had no objection to that suggestion but his attitude was based on reasons different from those of the majority.

Mr. PATEK was against deletion of that phrase.

The proposal of Mr. Bravo Jimenez was adopted.

Mr. BRAVO Jimenez proposed that the remainder of the paragraph should be deleted.

/The CHAIRMAN



The CHAIRMAN thought that the Sub-Commission should give its opinion on the point dealt with in the last part of the paragraph. Nevertheless he had no objection to the deletion of the last sentence of paragraph 32 (formerly the first sentence of paragraph 33). He proposed the insertion of the following words at the end of that paragraph: "and refrain from interference in their general economic policy."

At the request of Mr. MOROZOV, the Sub-Commission decided to delete the word "general" from the sentence suggested by the Chairman.

Mr. COLLADO remarked that the sentence as worded conveyed the impression that instead of truly contributing to the economic development of the countries concerned, foreign participation in the enterprise of those countries would always be subordinate to domestic participation. In particular, the word "interference" seemed to convey that impression.

The CHAIRMAN proposed that the words in question should be inserted at the end of paragraph 32 and not at the end of the second sentence.

Mr. COLLADO referred to the last sentence of paragraph 32 and said that although participation of the nationals of the countries concerned had to be encouraged, the sentence seemed to be inconsistent with the principles laid down in paragraph 27. Furthermore it did not seem reasonable to lay down fixed rules in such a field. He referred mainly to the words: "financing" and "direction".

The CHAIRMAN proposed the deletion of the last part of the sentence inserted previously, beginning with the words: "and to refrain from interference..." as that principle had already been recognized in paragraph 27.

Mr. MOROZOV expressed himself in favour of retaining those words.

The majority of the Sub-Commission decided to delete the above sentence.

/Paragraph 33.

Paragraph 33

The CHAIRMAN proposed the insertion of the following words in the first sentence: "foreign investors are entitled to security of their investments and transfer facilities for their interest, profits and capital."

Mr. MOROZOV proposed the addition of the following words immediately after the sentence proposed by the Chairman: "in accordance with the existing laws of the country concerned."

Mr. COLLADO remarked that the wording he had proposed in his memorandum was more accurate than the wording discussed by the Sub-Commission.

The CHAIRMAN suggested the following wording for paragraph 33: the first sentence would include the suggestions made by the Chairman and Mr. Morozov. The second sentence would begin from paragraph 32, sub-paragraph (b) of Mr. Collado's memorandum beginning with the words: "they are also entitled to the conversion and transfer" up to the end of that paragraph, including the footnote.

Mr. MOROZOV proposed that the second sentence should mention the legislation of the countries concerned.

Mr. COLLADÓ could not accept paragraph 33 in the wording proposed by the Chairman for it seemed to answer a question which had not been solved by the Sub-Commission, namely the application of national legislation in matters of expropriation of foreign investments without adequate, prompt and effective compensation.

Mr. van der VALK (International Monetary Fund) suggested the following modification in Mr. Collado's text: "for current international transactions."

That amendment was adopted.

( /Mr. van der VALK

Mr. van der VALK (International Monetary Fund) proposed to replace the words after "until" by the following: "conditions of equilibrium in the balance of payments are established." In effect, if the balance of payments of a country were not established, that country would probably present a request for a loan from the International Monetary Fund.

Mr. COLLADO suggested rather the insertion of the terms "of world trade and international payments."

Mr. MOROZOV suggested the addition of the words "in accordance with existing legislation".

Mr. COLLADO pointed out that the agreement by which the International Monetary Fund had been created imposed certain restrictions on the countries belonging to the Fund. Furthermore, capitalists should be acquainted with the legislation of the country in which they were proceeding to invest capital.

The CHAIRMAN thought that it might be better to insert a provision concerning countries which were not members of the Fund and for whose benefit the transfers should be effected in accordance with the existing legislation of the country concerned.

Mr. MOROZOV suggested that the phrase "in accordance with existing legislation of the countries concerned," should be added after the sentence ending "over a reasonable period of time."

Mr. Morozov's proposal was adopted.

With reference to the next sentence, beginning with the words "The Sub-Commission notes that the articles", Mr. MOROZOV said that he would refrain from commenting on the mention made therein to the International Monetary Fund. He urged that the end of the paragraph and the footnote should be deleted.

/Mr. LOPEZ HERRARTE

Mr. LOPEZ HERRARTE (International Bank for Reconstruction and Development) citing the last sentence of the paragraph, wondered whether the Bank could guarantee the convertibility of profits from foreign investments.

The CHAIRMAN thought that that was a question of guarantees granted not by a unilateral arrangement by the Bank, but after negotiations with the countries concerned.

Mr. COLLADO emphasized the fact that the Bank could guarantee loans but that it could not guarantee dividends.

Mr. LOPEZ HERRARTE thought that the Bank could not guarantee equity investments.

Mr. GUIMARAES said that should the need arise it would be very useful for the capital-importing countries to be granted certain guarantees by the Governments of capital-exporting countries. The main difficulty in that field lay in the transfer of capital. It seemed that the Sub-Commission should not in any case limit the possibilities of guarantees in matters of transfers. With that reservation Mr. Guimaraes then declared himself in favour of paragraph 33 of the report.

The CHAIRMAN suggested that the following phrase should be added at the end of that paragraph: "or through mutual negotiations between the countries concerned."

Mr. GUIMARAES and Mr. BRAVO Jimenez supported the Chair's proposal.

Mr. MOROZOV thought that the Sub-Commission could not mention guarantees without examining the actual substance of the problem.

The CHAIRMAN suggested the addition of the following words at the end of the paragraph: "in accordance with the principles of the United Nations."

/Mr. MOROZOV

Mr. MOROZOV said that the Charter did not contain any provisions concerning guarantees of that kind. If the Sub-Commission examined those guarantees it should then study their substance. Mr. Morozov would abstain from voting on paragraph 33 if that formula were maintained.

The CHAIRMAN said that the United Nations had proclaimed certain principles regarding the economic development of underdeveloped countries. The guarantees envisaged should thus be in accordance with those principles as well as with the proposals of paragraph 27.

Paragraph 33 was adopted.

Paragraph 34

The CHAIRMAN invited the Sub-Commission to study paragraph 34, that is to say, the paragraph in his draft concerning the question of double taxation.

He pointed out that the reference to the laws of the United States was inaccurate, and consequently corrected it.

The Chairman proposed to adopt the first part of his text (the first phrase of the sentence) and to complete it by paragraph 34 of the draft prepared by the Rapporteur, making the necessary drafting amendments to link the two texts.

Mr. MOROZOV thought that the paragraph in question should be deleted; he would vote against its adoption.

He was opposed to all recommendations for the suppression of double taxation, both for reasons of principle and because that was a matter which extended far beyond the scope of the activities of the Sub-Commission.

Mr. PATEK shared Mr. Morozov's opinion. He too would vote against the adoption of that paragraph.

Paragraph 34, as amended, was adopted.

Paragraph 35

The CHAIRMAN invited the Sub-Commission to consider paragraph 35, that is to say the paragraph in his draft which dealt with the advisability of drafting an international code concerning foreign investments.

Mr. BRAVO Jimenez suggested that the text submitted by the Chairman should be amended by omitting the end of the first paragraph,

/from the words

from the words "the Sub-Committee", and linking the first sentence, thus shortened, to the second sentence of the second paragraph, so that it would read: "the Sub-Committee considers that the whole question..." The first sentence of the second paragraph must be kept, for it expressed the opinion of the Sub-Committee on the preparation of an international code.

Mr. COLLADO did not think that the negotiations referred to in that paragraph should be initiated only by individuals, or between individuals and Governments; such negotiations should take place between the Governments of capital-exporting countries and the Governments of capital-importing countries.

Mr. MOROZOV pointed out that the paragraph dealt with general principles which required more thorough study than the Sub-Committee could devote to them.

He suggested that the Sub-Committee should confine itself to stating merely that, after consideration of the question, it did not think it advisable to submit any recommendation on the drawing up of an international code concerning foreign investments.

The CHAIRMAN did not approve of bilateral governmental agreements affecting private foreign investments. In his opinion, that matter should be dealt with by capital exporters and the importers themselves, whether individuals or Governments. In fact, if the Governments of capital-exporting countries were very powerful, as was generally the case, it was very difficult for the Governments of the capital-importing countries to conclude completely equitable agreements. The Governments of capital-exporting countries had at their disposal powerful means of pressure; moreover, they themselves might be the object of domestic pressure from influential economic and political groups. The result would be the conclusion of agreements by which capital exporters would obtain guarantees which were not in conformity with the principles of such economic development as the Sub-Commission planned.

The Chairman thought that the Governments of capital-exporting countries should not take part in any negotiations which might be undertaken.

As to Mr. Morozov's proposal, the Chairman pointed out that the Sub-Committee had been studying that question since the beginning of its work, and that the majority of the countries were interested in the solution of the problem; it was therefore the duty of the Sub-Committee to express a considered and detailed opinion.

/In conclusion

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In conclusion, he stated that he accepted the amendment of his text proposed by Mr. Brava Jimenez.

Mr. COLLADO felt compelled to protest against the Chairman's statements, which seemed to him to be unwarranted. The United States was carrying on negotiations with a view to concluding an agreement like those the Chairman had just criticized; moreover, there were many examples of similar agreements or treaties which had been concluded to the satisfaction of all the parties concerned.

Mr. PATEK pointed out that the text suggested by the Chairman did not take into account the situation of Trusteeship Territories and Non-Self-Governing Territories, which had no national government able to carry on negotiations such as those under consideration.

He added that the matter of the preparation of an international code had never been studied by the Sub-Committee, and that it was therefore difficult to reach a final conclusion. Consequently, he thought that the text suggested by Mr. Morozov was preferable.

Mr. MOROZOV wished to stress the fact that the purpose of the paragraph under consideration was to state that the Sub-Committee did not recommend the drawing up of an international code; the Sub-Committee had not thoroughly studied the matter; moreover, it might be asked what was the meaning of the words "generally speaking" in the reservation which had been made by the Sub-Committee and by virtue of which the conditions obtained must comply with the obligations imposed by the Charter.

Therefore, Mr. Morozov thought that the text which he had proposed was preferable to the Chairman's text as amended by Mr. Bravo Jimenez.

Mr. GUIMARAES asked if it would be possible to stress, in this paragraph, the advantage of having capital-exporting Governments offer guarantees when it was a question of transfers.

The CHAIRMAN remarked that such a guarantee could be given by a Government to its nationals without the matter being the subject of negotiations with the Government of the capital-importing country. If a government thought it advisable for its nationals to make foreign investments, it could very well retain the foreign currency obtained in payment of interest, or as profit, and in exchange give its nationals the equivalent in national currency.

/In that

In that connexion, Mr. COLLADO stated that it was bad policy for a Government to hold excessive sums in foreign currency.

The CHAIRMAN thought that the question raised by Mr. Guimaraes could be settled by adding to the present text a sentence stating that the Sub-Committee would, nevertheless, approve negotiations between Governments where the sole purpose was to guarantee transfers of currency.

Mr. BRAVO Jimenez and Mr. GUIMARAES approved the text as it had been amended.

Mr. MOROZOV and Mr. PATEK stated that they would abstain from voting on the first paragraph as amended, and that they would vote for the second paragraph, in which the opinion of the Sub-Committee was expressed.

Mr. COLLADO said that he would abstain from voting for the following reasons: 1) he had hoped that the question of the preparation of an international code would not be discussed; 2) that paragraph made only vague allusions to a possible international code, although discussions on national and regional levels had already taken place; 3) the Sub-Committee had never considered what the substance of such a code would be: it had not examined treaties or agreements already in force or under preparation; 4) the Sub-Committee, being composed of experts, was fully competent to make such a study and should have done so; 5) the text of the paragraph under discussion did not comply with the provisions of Chapter IX of the Charter, or with the Agreements concerning the International Monetary Fund and the International Bank, or with the Charter of the International Trade Organization, or with the Bogota agreements, or with agreements which preceded the latter; 6) the paragraph did not comply with the provisions of paragraph 33.

Paragraph 36

The CHAIRMAN invited the Sub-Committee to consider paragraph 36, that is, the final paragraph of his draft.

Mr. BRAVO Jimenez proposed the omission of the first sentence of the paragraph, as well as the reference to President Truman's inaugural address.

/Mr. COLLADO



Mr. COLLADO said that he would abstain from voting for the following reasons: first, it was to be hoped above all that private investments would be made in an economically sound manner, whether it was a question of capital or of technical resources; secondly, in view of the fact that, in the preceding paragraph, a country was denied the right to protect its nationals, it was impossible to impose upon the latter the obligation to make foreign investments, if they did not offer sufficient guarantees.

Mr. MOROZOV stated that he would abstain from voting on paragraph 36.

Paragraph 36 as amended was adopted.

The meeting rose at 7.5 p.m.