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AD HOC COMMITTEE ON THE ORGANIZATION AND OPERATION
OF THE COUNCIL AND ITS COMMISSIONS

SUMMARY RECORD OF THE TENTH MEETING

Held at Lake Success, New York,
on Tuesday, 17 April 1951, at 11 a.m.

CONTENTS:

Organization and operation of the functional commissions of the
Council (Conference room paper No. 2/Rev.1):

Fiscal Commission

Commission on Human Rights

Sub-Commission on the Freedom of Information and of the Press

Sub-Commission on the Prevention of Discrimination and the
Protection of Minorities.

Chairman: Mr. SAKSENA

India

Members: Mr. BRENNAN

Australia

Mr. ALMEIDA

Brazil

Mr. CHANG

China

Mr. DEVINAT

France

Mr. CHERNYSHEV

Union of Soviet Socialist
Republics

Mr. CORLEY SMITH

United Kingdom of Great Britain
and Northern Ireland

Mr. LUBIN

United States of America

Representative of a specialized agency:

Mr. DAWSON

International Labour Organisation
(ILO)

Secretariat:

Mr. OWEN

Assistant Secretary-General in
charge of the Department of
Economic Affairs

Mr. STEINIG

Director of the Division of
Narcotic Drugs

Mr. YATES

Secretary of the Economic and
Social Council

ORGANIZATION AND OPERATION OF THE FUNCTIONAL COMMISSIONS OF THE COUNCIL

(Conference room paper No. 2/Rev.1)

Fiscal Commission

Mr. DEVINAT (France) thought that the Fiscal Commission might be continued on condition that it met less frequently than at present and held only one session every two years. That would not mean any real change, as the Commission's previous session had been held two years ago.

Mr. LUBIN (United States of America) emphasized that the various economic and social problems with which the Council regularly dealt had important repercussions on the public finances of Member States and were in turn affected by the amount of funds at the disposal of governments inasmuch as the implementation of the Council's recommendations largely depended on the funds available. The Committee was virtually unanimous that work on fiscal questions should be continued; the only issue was with respect to the form of organization best suited to carry on that work.

When the Fiscal Commission had been set up on the proposal of the United Kingdom delegation, it had been expected that it would devote some of its efforts to the problem of international double taxation, thus continuing the work done by the League of Nations in that connexion. The Commission had done effective work and little remained to be done in that field apart from continuing the publication of international agreements designed to prevent double taxation. There were, however, numerous problems of a different type which should be studied.

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Among the various tasks which might be undertaken was the formulation of a model fiscal organization for governments. That strictly technical work should be entrusted to experts who were acquainted with the technical aspects of maintaining government accounts, familiar with the difficulties which they involved and aware of the political implications of any recommendations they might make.

It would also be useful for a body of principles in public finance to be formulated to serve as a guide to governments and also to United Nations technical assistance missions. The USSR representative had expressed the fear that the Fiscal Commission might interfere in matters which lay within the domestic jurisdiction of States. Mr. Lubin did not feel that his proposals would lead to any such interference, since the principles of fiscal policy would be drawn up by experts from all countries and each State would be free to utilize them as it thought fit.

Great progress had already been made in the compilation and publication of public finance data. Much, however, remained to be done from the point of view of developing classifications and a standard terminology. The discussion of current fiscal changes made by member countries and their adaptability to other countries might also usefully be undertaken. Such studies would stimulate governments to adopt improved practices in taxation, government budgeting and government accounting.

The United States delegation thought that the activities to which he had referred should be entrusted to a Fiscal Commission composed of government representatives intimately and regularly associated with the formulation and administration of fiscal policies in their home countries. Progress in public finance would depend to a large extent upon the unilateral action of individual governments. The achievements of the Economic and Social Council in the fiscal field would be determined by the acceptance of its recommendations by the senior officials who decided the policies of States.

It should not be inferred that the United States delegation considered that the Fiscal Commission had made the maximum contribution to the work of the Council of which it was capable, and that it was impossible to increase its efficiency. In his delegation's opinion better results would be achieved if the

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commission met more frequently than it had in the past. As at present constituted the Fiscal Commission consisted to a large extent of technical experts. It could be strengthened by encouraging all the governments represented on it to send experts rather than representatives possessing no special knowledge in fiscal matters. In the opinion of the United States Government the abolition of the Fiscal Commission would be a serious mistake; it had never been more necessary for the world to adopt sound fiscal practices and policies. To abolish the Commission would be to reduce the importance of the work done by the United Nations in the fiscal field. To transfer the work to a group of experts sitting as individuals would be to abandon a Commission which might develop into a body with considerable prestige and influence; it would be construed as a lack of interest on the part of the United Nations in the improvement of fiscal standards. The Commission should be continued on an experimental basis rather than abolished; its work should not be terminated until it had had a chance to work out some of the problems submitted to it. His delegation therefore urged the Ad Hoc Committee to recommend that the Fiscal Commission should be continued and its title changed to "Commission of Fiscal Experts".

Mr. CORLEY SMITH (United Kingdom) said that his delegation's position with regard to the Fiscal Commission was the same as that it had adopted with respect to the Commission on the Status of Women and the Social Commission; while recognizing the importance of the Commission's work, it wondered whether the organization and operation of that body, set up five or six years earlier, were altogether satisfactory.

He recognized that a tremendous amount of work remained to be done in the fiscal field; the United States representative had just pointed to the multiple aspects of that work. Nevertheless, without wishing to criticize the Commission itself, he thought that the level of representation had not always been as high as it should have been in a body of such importance. The standard would be considerably higher if the Commission were to be abolished and the Council were to make use of ad hoc groups of experts to deal with individual problems. There was nothing to prevent the Council from calling upon the same persons for different questions if they were experts in a number of fields.

/In proposing

In proposing the abolition of the Commission, the United Kingdom delegation was moved solely by the desire to improve the quality of the work done in the fiscal field and by the conviction that the best way of doing that was through the combined efforts of the Secretariat and of groups of experts. It was therefore of the opinion that the Council should decide to discontinue the Fiscal Commission at the end of its coming session and to make use instead of ad hoc groups of experts to deal with separate problems.

Mr. BRENNAN (Australia) entirely agreed with the United States representative on the value of the work done by the Fiscal Commission. He wondered, however, whether that work was sufficiently important to justify the maintenance of a permanent body. He saw no reason why most of the activities mentioned by the United States representative could not be entrusted to the Secretariat or to groups of experts of the type mentioned during the debate. Governments wishing to obtain advice on fiscal organization could also approach the technical assistance bodies of the United Nations.

He was therefore not convinced of the need to maintain a permanent body for fiscal questions.

Mr. CHERNYSHEV (Union of Soviet Socialist Republics) thought that the activities of the Fiscal Commission were both useless and harmful and should therefore be discontinued. They were useless in the sense that, inasmuch as the budgets drawn up by the governments in the different countries were published and submitted to their legislatures, the Secretariat could consult official publications relating to public finances and a permanent organ could be dispensed with.

Any government had the right to apply the fiscal system which seemed best suited to its national economy; the Fiscal Commission had, however, disregarded that principle and had tried to impose upon governments a standardized fiscal method. It had resumed the consideration of the problem of double taxation, begun by the Fiscal Committee of the League of Nations in 1929, and had recommended to the governments of Member States that they should take active steps to negotiate bilateral agreements with a view to abolishing

double taxation. It was a matter of common knowledge that the Fiscal Commission had been the instrument of the capitalist countries which wished to protect their foreign investments and to enable their monopolies to extend their influence. No Government had proposed questions for inclusion in the Commission's agenda, but the International Chamber of Commerce, which represented capitalist interests, had done so. The statement of the United States representative could not hide the fact that the Fiscal Commission, instead of contributing to economic co-operation, had merely served to protect the interests of the principal capitalist countries. That being so, the USSR delegation formally proposed the abolition of the Fiscal Commission.

Mr. ALMEIDA (Brazil) maintained that the Fiscal Commission, which had only held two sessions so far, had by its very existence led governments to make useful studies of fiscal questions. He therefore thought that that body should be continued, but should meet only every two years.

The Council derived certain advantages from the Commission's existence, especially in connexion with the implementation of its recommendations, which he feared would be lost if it decided to replace the Commission by groups of experts, as several representatives had proposed.

In reply to the USSR representative's closing remarks, he pointed out that the under-developed countries needed foreign investments in order to be able to develop economically without lowering the standard of living of the population.

Mr. CHANG (China) wished to make a general remark. In his opinion, the Ad Hoc Committee, which had been set up by the Council because the latter had recognized the necessity for reorganizing its activities, could do useful work only if all the members bore constantly in mind the need for such reorganization.

/The CHAIRMAN

The CHAIRMAN, speaking as the representative of India, emphasized that the Fiscal Commission had important functions at both the national and the international level. In the first place, there was still a large number of countries without a scientific fiscal organization; the Commission should help them by working out a model organization to serve as a guide. Secondly, the fiscal system in effect in a given country was bound to affect its foreign trade and consequently its relations with the rest of the world; hence public finances influenced international relations. It was therefore desirable that the functions entrusted to the Fiscal Commission should continue to be exercised in the future.

Moreover, those functions should continue to be exercised by a body such as the present Fiscal Commission. The method of establishing ad hoc groups of experts would not be appropriate, as in that particular field expert studies alone were not sufficient; somebody had to see that the recommendations based on those studies were carried out in the different countries. The body dealing with fiscal questions must therefore be composed of government representatives who would have the necessary standing to take action on the Commission's decisions in their respective countries.

The apprehensions of the USSR representative, who seemed to discern in the Fiscal Commission's activities ^{an} attempt by the capitalist countries to impose some kind of fiscal system upon the rest of the world, were in no way justified. It was the Commission's duty to evolve an ideal as well as practicable fiscal system which might be useful to all the Governments concerned. The Commission's recommendations were of a purely advisory nature and could not be enforced upon any country.

Mr. CORLEY SMITH (United Kingdom) did not think that the system of ad hoc groups of experts had the drawbacks which the Chairman had attributed to it. The Secretary-General would be perfectly free, whenever it seemed necessary, to form ad hoc groups of experts composed of influential persons.

/Commission

Commission on Human Rights

Mr. CORLEY SMITH (United Kingdom) said that his delegation held the same views with regard to the Commission on Human Rights as with regard to the other functional commissions of the Council. The Commission on Human Rights had however been entrusted by the General Assembly and the Council with a special piece of work: the framing of a Bill of Human Rights, a task which took up most of its time at present. The United Kingdom delegation therefore felt that the Commission should be maintained without any change until it had completed that task, at which time the question might be considered what type of organ within the framework of the United Nations should deal with questions of human rights.

Mr. CHANG (China) remarked that the Commission on Human Rights had done very useful work in the past. It was now preparing a draft international covenant of human rights and measures of implementation, a special assignment which presumably would have to be continued in 1951 and 1952. The best solution therefore would be to maintain the Commission until it had completed its work in that field and to leave the question of its future in abeyance.

It might, however, be useful to emphasize even now that the United Nations' activities in the field of human rights were sufficiently important and wide in scope to justify the existence of a standing committee of the Council composed of other Members of the United Nations besides the members of the Council. He saw no reason why the members of that body should not be chosen on the same basis as the members of the Commission on Human Rights, the main point being that governments should be represented by highly qualified experts on questions of human rights.

He recalled, in that connexion, that he had pointed out on a previous occasion the desirability of drawing a clear distinction between the commissions and committees of the Council; the former were permanent organs which dealt with questions concerning which the Council had permanent supervisory functions, while the latter were in the nature of ad hoc groups set up to perform special tasks.

Mr. LUBIN

Mr. LUBIN (United States of America) remarked that the Commission on Human Rights had been instructed by the Economic and Social Council to carry out a specific task which could not be accomplished by any other body, and certainly not by the Council itself. In the past, the Council had made only a very limited contribution to the work of the Commission on Human Rights, whether in the case of the framing of the Universal Declaration or the draft international covenant on human rights. It would therefore be well to maintain the Commission on Human Rights unchanged until it had carried out the specific task which had been entrusted to it. The Council could then decide on the nature and form of the body which would be given the duty, not only of seeing that human rights were effectively observed in general, but also of studying all related problems which, in the Council's opinion, should be the subject of inquiry.

Mr. ALMEIDA (Brazil) thought no decision should be taken on the question of the Commission's future until it had completed the draft international covenant on human rights and measures of implementation and had had the opportunity of reconsidering its terms of reference itself.

Mr. DEVINAT (France) pointed out that the Commission on Human Rights had a political significance which was not possessed by the other functional commissions of the Council, since a large section of world public opinion construed its mere existence as a proof that the United Nations was adequately discharging its fundamental obligations in that field. His delegation was therefore inclined to think that the Commission should be continued, apart from any consideration as to its effectiveness. It was true, moreover, that the Commission had done valuable work in a difficult field in which immediate results could not be expected.

The French delegation therefore thought that even when the work of drafting the international covenant and measures of implementation had been completed, a permanent organ of the United Nations should continue to deal with that important subject, on which the world's confidence in the Organization so largely depended.

Mr. BRENNAN (Australia) observed that the Commission on Human Rights had so far devoted most of its energies to the drafting of the Universal Declaration and the draft covenant on human rights. He did not think that that important work could have been done in any other way. The Commission's existence should therefore be prolonged to enable it to complete the work it had begun. Even then, the Council would probably continue to need the collaboration of a permanent body in that field; however, that question need not be decided at once but could be taken up again in due course.

Mr. CORLEY SMITH (United Kingdom), referring to the Chinese representative's remarks concerning the membership of the standing committee on human rights which he proposed should be set up, pointed out that the current system under which commissions were composed partly of government representatives and partly of experts had not been altogether satisfactory. Some members of the Economic and Social Council considered that the members of the Commission on Human Rights, whatever their status in theory, were in fact government representatives; the Commission was in reality an inter-governmental body composed, like the Economic and Social Council itself, of eighteen members. No doubt in theory it was a subsidiary organ of the Council, and the latter could review its work; but in practice there was no point in such duplication of effort; it was better for the Council merely to transmit the Commission's work to the General Assembly. On the other hand, some members of the Council considered that the Council, as an inter-governmental organ, had not only the right but the duty of examining the work of those of its functional commissions, including the Commission on Human Rights, which were made up of experts.

When the Council considered the question of the future of the commissions, it would have to decide whether future bodies should be made up of experts or government representatives.

The CHAIRMAN, speaking as the representative of India, also thought that the Commission on Human Rights was of great political importance and should therefore be allowed to finish the work it had begun. A decision on the question of its future should be postponed until the Commission itself was in a position to submit proposals with regard to work it might undertake in the future.

/He did

He did not think the question of the membership of the functional commissions of the Council raised as many difficulties as the United Kingdom representative appeared to believe. Under the existing system governments appointed the members of the commissions on the basis of their competence and experience in a particular field. Thus those bodies were made up of experts empowered to represent their governments. That system was doubly advantageous, since members of the commissions were both technically qualified to discuss the questions before them and able to influence their respective governments to carry out the commissions' recommendations.

Mr. STEINIG (Secretariat) pointed out that, even after it had completed the drafting of the Bill of Human Rights, the Commission on Human Rights would still have much work to do. In that connexion he drew attention to the Commission's terms of reference, as adopted by the Council at its first session and amended at its second session. Moreover, the agenda of the seventh session of the Commission on Human Rights (E/CN.4/510/Rev.1), besides the question of the draft international covenant on human rights, included many points (communications, right of asylum, declaration on the rights of the child, etc.) which would be enough to occupy its time, even without its work on the draft covenant. He was not, of course, expressing any opinion with regard to the form which might eventually be given to the Commission on Human Rights.

Mr. CORLEY SMITH (United Kingdom) considered that as the Commission on Human Rights was currently engaged in very important work, the time was not ripe to examine the question of its reorganization. That Commission should not, however, be singled out for exclusion from the current general examination of the Council and its commissions. Action should merely be postponed until the Commission had finished drafting the Bill of Human Rights and in the meantime no decision should be taken as to its future. He had never, of course, meant to imply that the work of the United Nations in connexion with human rights would come to an end when the Commission had finished its work on the international covenant on human rights.

The CHAIRMAN,

The CHAIRMAN, speaking as the representative of India, and Mr. BRENNAN (Australia) supported the views of the United Kingdom representative.

Mr. LUBIN (United States of America) did not think the present was the right time to review the organization of the Commission on Human Rights. In due course it should be the subject of a general study in the same way as the other commissions, and the nature of the questions with which it would be called on to deal in the future might perhaps necessitate a reorganization of its work. Possibly a standing committee might be set up to deal with all questions connected with the observance of human rights, other problems being dealt with by ad hoc groups. His delegation therefore wished to reserve its position with regard to the nature and form of the body which would in the future deal with questions of human rights.

In reply to a question by Mr. BRENNAN (Australia), the CHAIRMAN said that in his opinion the Committee should hold a general discussion on the question of the membership of the Council's functional commissions.

Mr. CORLEY SMITH (United Kingdom) shared that view. He wondered, however, whether the Ad Hoc Committee would be able to reach final conclusions on so complex a question, which involved the relations between the Council and its commissions.

Sub-Commission on Freedom of Information and the Press

Sub-Commission on the Prevention of Discrimination and the Protection of Minorities

Mr. LUBIN (United States of America) recalled that the Council had asked the Ad Hoc Committee to delimit the respective activities of the United Nations and UNESCO in the field of freedom of information. That still remained to be done. Accordingly, the United States delegation considered that the time had not yet come to make recommendations regarding the Sub-Commission on Freedom of Information and the Press and suggested deferring the matter until UNESCO and the Secretary-General had completed their study. If the Sub-Commission were to meet shortly, however, Mr. Lubin thought that it should be asked to submit

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observations on the nature and scope of the questions with which it planned to deal in future. The United States delegation wished to reiterate that it was not satisfied by the negative approach of the Sub-Commission to the problems of freedom of information. In future the Sub-Commission should work in co-operation with UNESCO or with any other organ which might deal with the subject so as to establish a clear-cut and practicable programme of work in the light of the technical and political factors which, equally with economic factors, might obstruct freedom of information and the press.

Mr. CHANG (China) did not wish to make a formal proposal, but was inclined to think that the two Sub-Commissions of the Commission on Human Rights might be discontinued and their work taken over by the Commission and subsequently by the standing committee on human rights which he had proposed should be established.

Mr. CORLEY SMITH (United Kingdom) did not think the results so far achieved were such as to justify the continued existence of the two Sub-Commissions; their work should be taken over by the Council or by the Commission on Human Rights. UNESCO existed to deal with the technical aspects of freedom of information. If any specific problem arose, the Council could always set up an ad hoc body. Referring to the remarks of the United States representative, he stated that in his view the Council and not the Sub-Commissions themselves should determine the fate of the subsidiary bodies.

Mr. LUBIN (United States of America) endorsed the views of the United Kingdom representative respecting the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. Those problems did in fact come within the competence of the Commission on Human Rights and the Sub-Commission was redundant. Furthermore it had not in fact considered the question of the prevention of discrimination; the Commission on Human Rights itself had embodied recommendations on the subject in the draft covenant. The Sub-Commission had confined itself to matters concerning the protection of minorities; moreover, its recommendations on that subject had not been found acceptable by the Commission on Human Rights. He therefore proposed that the

Sub-Commission should be discontinued as a permanent body, without precluding the possibility of appointing an ad hoc body, if necessary, to study a specific problem.

Mr. ALMEIDA (Brazil) stressed Brazil's special interest in the Sub-Commission on Freedom of Information and the Press. As suggested by the United States representative, however, measures should be taken to avoid duplication between the Sub-Commission's activities and those of UNESCO.

Mr. CHERNYSHEV (Union of Soviet Socialist Republics) emphasized the importance of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, which had been established upon the recommendation of the USSR. It was imperative that the Council should take drastic measures to combat discrimination; that was one of the principal aims of the United Nations. The Sub-Commission should therefore be maintained in its present form.

Mr. DEVINAT (France) said that his remarks regarding the Commission on Human Rights applied to a large extent to its two Sub-Commissions. A distinction should however be made between the Commission itself and the two Sub-Commissions; the public was well informed concerning the Commission on Human Rights, but the Sub-Commissions had not been given such wide publicity. Consideration should therefore be given chiefly to the functions of those bodies. In any case, the functions of any organ were more important than the manner in which they were exercised. Hence he proposed that the Sub-Commission on Freedom of Information and the Press should be maintained in its present form, although he would have no objection to altering its terms of reference or membership at a later stage, should it appear necessary.

Mr. BRENNAN (Australia) recalled that his delegation had suggested that all the standing sub-commissions should be discontinued. He felt that the work of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities had not yielded the anticipated results on the technical level. The Sub-Commission on Freedom of Information and the Press had confined itself on the whole to reaffirming principles already generally accepted. Other agencies, such as UNESCO, for example, were better qualified to take general measures in connexion with the free dissemination of news and the technical problems it entailed.

/The CHAIRMAN

The CHAIRMAN, speaking as the representative of India, considered that the work of the Sub-Commission on Freedom of Information and the Press was important and that the Sub-Commission should be maintained at least until it had completed its work. The importance of establishing an international court of honour and a code of ethics for journalists should not be underestimated. He would have no objection to the work of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities being taken over by the Commission on Human Rights.

The meeting rose at 1.10 p.m.