

SECOND COMMITTEE: ECONOMIC DEVELOPMENT

I. PROPOSAL IN RELATION TO REPORT OF JOINT SUB-COMMITTEE OF  
COMMITTEES II AND VI ON ARTICLES 9, 10 AND 11 (E/CONF.2/C.2/36)

II. PROPOSAL IN RELATION TO REPORT OF SUB-COMMITTEE D ON FOOTNOTE  
TO CHAPTER III ON "RECONSTRUCTION" (E/CONF.2/C.2/35)

I

1. In order to meet the point raised by the representative of Uruguay at the twenty-first meeting of Committee II on 20 February 1948 the representative of Australia proposed that Committee II endorse the view expressed in paragraph 6 of the Report of the Joint Sub-Committee of Committees II and VI on Articles 9, 10 and 11 (E/CONF.2/C.2/36) with the deletion of the second sentence, namely

"These provide that all controversies which may arise out of contracts in which the State or one of its sub-divisions are parties are to be resolved by national tribunals."

and the substitution of the following two sentences:

"These provide that certain controversies, which may arise within their jurisdiction, are to be resolved by national tribunals. In some cases such controversies may arise in connection with matters dealt with in Article 11."

The representative of the United Kingdom suggested further that the words placed in square brackets in the draft suggested by the representative of Australia be replaced by the words "are within the domestic jurisdiction of such States".

2. At its twenty-first meeting Committee II had before it the view set out below with regard to the deletion of paragraph 4 of Article 11 of the Geneva Draft Charter, which the Members of the Working Party established at the twentieth meeting of Committee II (E/CONF.2/C.2/SR.20), proposed be endorsed by Committee II. The words in square brackets and the words underlined are words which the representative of the United Kingdom proposed be deleted and added respectively.

/In connection

In connection with the deletion of paragraph 4 of Article 11 of the Geneva Draft Charter it was pointed out that the paragraph merely stated that the term "nationals" as used in that Article and in Article 12 comprised natural and legal persons. However, certain delegations called the attention of the Committee to provisions in their Constitutions requiring certain types of activities to be carried on by legal entities incorporated under their domestic laws and also affecting the rights of persons holding shares of such entities. It was further pointed out suggested by certain delegations that the problem of the determination of the nationality of legal entities was very complicated and raised many questions of international law. It was therefore agreed that the text should be deleted.

The deletion is to be taken as reflecting only the desire view of the Committee to make clear that the constitutional provisions referred to are not prejudiced and are outside the scope of the Charter, without on the other hand affecting though in their opinion this does not affect the construction of the term "nationals" as used in Articles 11 and 12, without prejudice to such provisions, as including both legal and natural persons. The Committee also considered that the problem of the nationality of legal entities was not raised by the paragraph or by its deletion.

II

3. The representative of Australia proposed that the changes in Article 8 and paragraphs 2 and 3 of Article 10 recommended in the Report of Sub-Committee D on the Footnote to Chapter III on "Reconstruction" (E/CONF.2/C.2/35) be amended so that the words

"together with the reconstruction of those countries whose economies have been devastated by war"

be replaced by the words

"together with the reconstruction of the economies of those countries which have been devastated by war".