

JOINT SUB-COMMITTEE OF COMMITTEES II AND VI

NOTES ON TWENTIETH MEETING

Held at the Capitol, Havana, Cuba, 19 January 1948 at 6.00 p.m.

Chairman: Dr. E. C. COOMBS (Australia)

1. The Sub-Committee gave further consideration to new Article 11A proposed by Chile and decided to refer the Article to Working Party No. 3 to examine and make recommendations concerning the possibility of incorporating any ideas which they might feel to be appropriate either in existing articles or in a resolution.
2. The Sub-Committee approved the proposal of Working Party No. 3 to substitute the words "to enlarge to the greatest extent possible the benefits accruing to Members from the fulfilment of the obligations under this Article" in Article 11 (3) for the words "to maximize the benefits to Members from the fulfilment of the obligations under this Article", approved in principle at the fifteenth meeting of the Joint Sub-Committee (E/CONF.2/C.2&6/A/W.17).
3. The Sub-Committee gave further consideration to the Mexican proposal to delete paragraph 2 of Article 11. It was agreed to approve paragraph 2 of Article 11 at the present stage. It was also agreed that
 - (1) approval of paragraph (2) of Article 11 would in no way prejudice the right of any delegation to reopen this Article on the basis of such provisions of Article 12 or any other relevant Article of the Charter as might emerge from Sub-Committee discussion.
 - (2) on the basis of the points raised by the Venezuelan, Colombian and Mexican delegations, "national treatment" would be taken as evidence that the treatment did not constitute "unreasonable or unjustifiable" action. However, it was agreed that cases could arise where national treatment could not properly be considered to be reasonable or justifiable.
 - (3) in interpretation of the words "unreasonable or unjustifiable impediments" in paragraph 1 of Article 11 and of the words "unreasonable or unjustifiable action within its territories injurious to the rights or interests of nationals of other Members" in paragraph 2 of Article 11, it would be necessary

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to consider other relevant provisions of the Charter, such as Article 12, and these words would not be taken to prohibit any action permitted by other Charter provisions.

4. The Sub-Committee gave further consideration to paragraph 3 of new Article 12A proposed by Colombia but decided to postpone further discussion until the opinion of the Legal Adviser of the Secretariat had been made available.