

JOINT SUB-COMMITTEE OF COMMITTEES II AND VI

NOTES ON TWENTY-FOURTH MEETING

Held at the Capitol, Havana, Cuba, 3 February 1948, at 3.00 p.m.

1. With reference to the decision of the sixteenth meeting to make an addition to paragraph 2 \* of Article 11 with regard to the equitable distribution of skills, arts, technology, materials and equipment as indicated in E/CONF.2/C.2&6/A/W.18 and the explanatory text approved at the twenty-first meeting (E/CONF.2/C.2&6/A/W.24), the Joint Sub-Committee of Committees II and VI expressed the additional opinion that agreements promoted or recommended for adoption under paragraph 2 of Article 11 would not fall within paragraph 4 of Article 74. Functions under paragraph 2 of Article 11 would be exercised by the Conference but the Conference could assign these functions to the Executive Board.
2. The Sub-Committee accepted the text proposed by Working Party No. 3 in connection with the Colombian amendment (paragraph 3 of new Article 12 A) and the Italian amendment with respect to "unfair injury", namely:  
"In the exercise of its functions the Organization shall have due regard to the economic circumstances of Members, to the factors affecting those circumstances and to the consequences of its determinations upon the interests of the Member or Members concerned."  
The Sub-Committee agreed that this text would require the Organization, in cases where the economic circumstances of Members were relevant, to give consideration to all of the factors affecting those economic circumstances. Among such factors might be the degree of assistance extended to a Member by other Members or by existing inter-governmental organizations.
3. The Sub-Committee then began consideration of its draft report on Articles 9, 10 and 11. The Representative of Belgium expressed the view that in the light of the present text of Article 12 it was unnecessary to include any references to capital or capital funds in Article 11. He thought that

\* The number of paragraphs of Articles 10 and 11 in this document are as set out in E/CONF.2/C.2&6/A/W. Paragraph 2 of Article 11 in the Geneva text becomes paragraph 1 (b) in this document; paragraphs 3 and 4 of Article 11 in the Geneva text become paragraphs 2 and 3 respectively in this document.

the words "capital funds" in the preamble to paragraph 1 and the word "capital" in paragraph 1 (b) should be deleted. The word "capital" in paragraph 2 (a) (i) and the whole of paragraph 2 (a) (ii) should be deleted.

4. It was agreed to include the words "facilitating and" between the words "with a view to" and the words "promoting industrial and general economic development" in the preambles to both paragraph 2 and paragraph 3 of Article 10.

5. With respect to the Mexican reservation on paragraphs 1 (b) and 3 of Article 11 it was agreed to ask Working Party No. 3 to examine the difficulties of the representative of Mexico due to certain constitutional problems.

6. The representative of the United States proposed the deletion from the draft report of the Sub-Committee of the words following the words "such as Article 12" in the following passage:

"The Sub-Committee took the view that in interpreting the words "unreasonable or unjustifiable impediments" in paragraph 1 (a) and the words "unreasonable or unjustifiable action within its territories injurious to the rights or interests of nationals of other Members" in paragraph 1 (b), it would be necessary 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."

7. It was decided to include in the report a number of additional views of the Sub-Committee previously included in the records and it was agreed that the Secretariat should issue a further draft incorporating these texts.

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