

SIXTH COMMITTEE: ORGANIZATION

SUB-COMMITTEE ON CHAPTER VIII (SETTLEMENT OF DIFFERENCES -
INTERPRETATION)

SUMMARY RECORD OF THE THIRD MEETING

Held 13 January 1948 at 10.30 a.m.

Chairman: Mr. COUILLARD (Canada)

The Sub-Committee first considered the relationship between Article 94 (General Exceptions) and Chapter VIII.

Five representatives agreed with the Chairman that action of the type mentioned in Article 94 could not be challenged by recourse to the procedures of Chapter VIII. However, any Member which considered that any benefit accruing to it being nullified or impaired as specified in Article 89 might invoke the procedures of Chapter VIII in order that compensatory measures might be permitted. The representative of the United Kingdom said that his delegation intended to move an amendment to Article 94 which would make clear this relationship. Two other representatives expressed some doubts as to the opinion given by the Chairman.

It was agreed that the Sub-Committee should pass on to consider Article 90, leaving the question of relationship between Article 94 and Chapter VIII for further consideration later, if necessary, after final texts of Articles 94 and 43 had been prepared. At the request of the representatives of Iraq the phrase "the matter" in Article 89 was agreed to cover the nullification or impairment referred to in the preceding parts of that article and not to refer only to sub-paragraphs (a), (b) and (c).

The Sub-Committee then considered paragraph 1 of Article 90.

Mr. GOMEZ (Colombia) asked why only sub-paragraph (c) of Article 89 had been mentioned specifically at the commencement of Article 90.

It was explained by other representatives that sub-paragraph (c) of Article 89 had been specifically mentioned because that sub-paragraph was intended to cover, inter alia, a situation arising from action taken by a non-Member where no consultation would be possible and a situation in which either speed was essential or consultation would be difficult to arrange or would have no particular advantage.

/Mr. GOMEZ

Mr. GOMEZ (Colombia) and Mr. AMADOR (Mexico) said that in view of the explanations given they would withdraw their proposal to strike out the words "or if it falls within Article 89 (c)." The former representative, however, said that different procedures should be laid down in Article 90 for cases falling under sub-paragraph (a) and sub-paragraph (c) of Article 89. He queried whether the phrase "give a ruling" in Article 90 implied that the Organization could impose new obligations upon a Member.

Mr. BLUSZTAJN (Poland) agreed with the representative of Colombia that different procedures should be specified in Article 90 flowing from sub-paragraphs (a) and (c) of Article 89. He also agreed that the phrase "give a ruling" should be carefully examined.

Mr. HOLLOWAY (South Africa) and Mr. FAWCETT (United Kingdom) replied that the phrase "give a ruling" did not, in their opinion, imply that the Organization could impose new obligations upon Members. The latter representative also said that he would not object to different procedures being specified in Article 90 as suggested by the representative of Colombia but he thought that this would be rather formalistic.
