

SIXTH COMMITTEE: ORGANIZATION

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

NOTES ON NINETEENTH MEETING

Held 18 February 1948 at 4.00 p.m.

Chairman: Mr. COUILLARD (Canada)

The Sub-Committee first continued its consideration of the Report of the Working Party on Articles 91 and 92 (document E/CONF.2/C.6/W.99). Article 92 as redrafted by the Working Party was accepted, subject to the amendment of the phrase "under paragraph 3 of Article 90" at the end of paragraph 4 to read "under paragraph 1 of Article 90A." The representative of the United Kingdom suggested that the word "appropriate" be inserted before "procedures" on the second occasion of the use of this word in paragraph 3. This proposal did not meet with general approval. The representative of the United Kingdom reserved the right to raise this amendment again at a later stage.

The Sub-Committee then gave further consideration to the text of Article 90A (document E/CONF.2/C.6/W.102). It was agreed that paragraph 1 should be redrafted as follows:

"1. The Executive Board shall, if requested to do so within thirty days by a Member concerned, refer to the Conference for review any action, decision or recommendation by the Executive Board under paragraph 2 or 3 of Article 90. Unless such review has been asked for by a Member concerned, Members shall be entitled to act in accordance with any action, decision or recommendation of the Executive Board under paragraph 2 or 3 of Article 90. The Conference shall by resolution confirm, modify or reverse such action, decision or recommendation."

The Sub-Committee next considered the proposed resolution drafted by the Working Party on Articles 91 and 92 (document E/CONF.2/C.6/W.99). The text was redrafted as follows:

/THE UNITED NATIONS

THE UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

HAVING given serious consideration to the relation of the International Trade Organization and the International Court of Justice; and
HAVING provided, in Chapter VIII of the Charter, procedures for review of legal questions arising out of decisions of the Organization by the International Court

RESOLVES AND AGREES

1. that the Interim Commission of the International Trade Organization, through such means as may be appropriate including if necessary a request by the Economic and Social Council of the United Nations for an advisory opinion, shall consult with appropriate officials of the International Court or with the Court itself upon the question whether, having regard to the desirability that with respect to the Organization decisions of the Court should have the nature of a judgment, there might be improvement of such procedures; and

2. that the Interim Commission shall present a report on this question to the first regular session of the Conference of the International Trade Organization.

It was agreed that before the next meeting the Secretariat should circulate the text of Chapter VIII as it had up to the present time been redrafted by the Sub-Committee together with a draft of the Report of the Sub-Committee.

The Sub-Committee agreed that paragraph 3 of Article 92 should be made into a separate article which should be the first article of Chapter VIII and which should be entitled "Reliance on the Procedures of the Charter."

Finally the Sub-Committee commenced consideration of the following two amendments to the Report of the Working Party on Articles 91 and 92 proposed by the delegation of France:

(a) add the following words at the commencement of paragraph 3 of Article 92:

"3. Without prejudice to their rights under Article 36 of the Statute of the International Court of Justice";

(b) add the following new paragraph 6 to Article 91:

"6. When the procedure established in Chapter VIII has thus been concluded, Members may exercise the rights they possess in virtue of Article 36 of the Statute of the International Court of Justice."

/The representative of

The representative of France explained that these two amendments were mutually exclusive and that if one were adopted the other would fall. The Sub-Committee agreed to examine first the amendment to paragraph 3 of Article 92 which was the most far-reaching. After this amendment had been supported by the representative of Mexico and various other representatives had indicated their desire to speak upon it, it was decided to adjourn the discussion until the next meeting.
