

SECOND COMMITTEE: ECONOMIC DEVELOPMENT

SUMMARY RECORD OF TWENTY-SECOND MEETING

Held at the Capitol, Havana, Cuba, 23 February 1948 at 10.30 a.m.

Chairman: Mr. J. TORRES (Brazil)

Amendments to View Expressed by Joint Sub-Committee of Committees II and VI
in Paragraph 6 of its Report (E/CONF.2/C.2/36 and E/CONF.2/C.2/39)

In reply to a question by Mr. LIEU (China), Mr. BEST (United Kingdom) stated that the insertion of the words "domestic jurisdiction" would make it clear that matters which were within the jurisdiction of the municipal courts of a State should be dealt with by its tribunals.

Mr. KUNTER (Turkey) proposed that, if the United Kingdom amendment to the Australian proposal were accepted, the second sentence of paragraph 6 should begin "These provide that all controversies...." as in the original text.

Mr. GUTIERREZ (Cuba) said that apparently there was no connection between the words "certain controversies" and the words proposed by the representative of the United Kingdom, but if the former were used in conjunction with the latter it would be an admission that controversies could be the object of international justice above national justice. The word "certain" should be deleted with no substitution.

Mr. BEST (United Kingdom) agreed that the word "certain" should be deleted with or without the substitution of "all".

Mr. RUBIN (United States) disagreed that the word "all" should be inserted. It was not a question as to whether or not such problems could be resolved by international or national courts, but of certain legislation of certain members. The legislation of some members provided that certain types of controversies should be settled by national tribunals, but it was not correct to say "all".

Mr. NOVOA (Mexico) said that by using the word "certain" combined with the words proposed by the representative of the United Kingdom, which he supported, the idea would be limited so that it would be impossible to know to what the sentence referred. There would be no definition of the

/"controversies"

"controversies" which might arise within the jurisdiction of states. The word "all" should be substituted for the word "certain".

Mr. GUTIERREZ (Cuba) pointed out that the United Kingdom amendment referred to controversies which actually were under domestic jurisdiction. If it were not a case for the jurisdiction of each country, then the question might be resolved by the International Court of Justice. He was in complete agreement with the representatives of Uruguay, the United Kingdom, Turkey and Mexico, and supported the deletion of the word "certain".

Mr. RUBIN (United States) said he was not arguing a question of principle but of fact. By examining the constitutional provisions of countries such as the United States of America it was evident that they did not provide that all controversies should be resolved by national tribunals. They provided that certain controversies were to be resolved by national tribunals. He would agree to the deletion of the word "certain", but the word "solely" should be inserted before "within" in the United Kingdom amendment, which would put the correct interpretation to the paragraph. Mr. BEST (United Kingdom) withdrew the amendment of his delegation and accepted the proposal of the United States.

In reply to a question by Mr. ROWE (Southern Rhodesia), Mr. RUBIN (United States) stated that provisions of the constitutions of certain members had been brought to the attention of the Sub-Committee. No attempt had been made to describe all types of such constitutional provisions. It was accurate to say that the constitutional provisions of certain states did provide that controversies solely within their domestic jurisdictions ought to be resolved by national tribunals.

Mr. NOVOA (Mexico) and Mr. CHARLONE (Uruguay) supported the words proposed by Mr. RUBIN (United States) subject to the deletion of the word "solely". Mr. BEST (United Kingdom) concurred.

Mr. RUBIN (United States) emphasized that the legislative and constitutional provisions of certain countries, for example the United States, did not provide that all controversies arising within their domestic jurisdiction had to be resolved by national courts. There were certain cases which did arise within the national jurisdiction of states and which by international agreement other than that contained in the Charter were open to be considered by international tribunals. For that reason, purely as a question of fact, the insertion of the word "solely" improved the text. He was prepared to agree that this word be not included but he wished the record to contain his remarks.

It was agreed to endorse the view of the Joint Sub-Committee expressed in paragraph 6 of its report with the deletion of the second sentence and its substitution by the following two sentences:

/"These provide that

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

View of Committee Concerning the Deletion of Paragraph 4 of Article 11 of the Geneva Draft (E/CONF.2/C.2/36 and E/CONF.2/C.2/39 and E/CONF.2/C.2/39/Corr.1)

The text as proposed to be amended by the United Kingdom representative and appearing at the top of page 2 of E/CONF.2/C.2/39 was approved by the Committee.

Proposal in Relation to Report of Sub-Committee D on Footnote to Chapter III on "Reconstruction" (E/CONF.2/C.2/35 and E/CONF.2/C.2/39)

Mr. MULLER (Belgium) was unable to accept the Australian proposal set out in E/CONF.2/C.2/39. The war devastated countries had admitted the right of underdeveloped countries to economic development and they, in their turn, should not stand in the way of the reconstruction of those which had been devastated by the war. The reconstruction of a country's economy was narrower than the reconstruction of the country.

The CHAIRMAN speaking as a representative of Brazil, felt that some limit ought to be placed on the concept of reconstruction as to time and place. There was no departure from the fundamental concept of reconstruction.

Mr. MYAT TUN (Burma) said that not only the economy of Burma had been devastated, but the country itself, and therefore he supported the proposal contained in the Sub-Committee's report.

Mr. LORENTE (Philippines) said that the form of words in the Sub-Committee's report was more realistic than that proposed by the Australian representative. As a further suggestion, he proposed that the phrase read as follows: "together with the reconstruction of devastated countries whose economics have been disrupted by the war".

Mr. GUTIERREZ (Cuba), supported by Mr. GUTIERREZ (Bolivia) agreed that the text should take into consideration the wider concept of the reconstruction of a country and therefore he supported the proposal contained in the Sub-Committee's report.

Mr. MULLER (Belgium) drew attention to the fact that while the port of Antwerp had not been damaged severely by the bombings, the town was in ruins. Such an example showed the necessity of referring to more than the mere reconstruction of the economy of a country.

Mr. GARCIA OLDINI (Chile) urged that if a reference to reconstruction was to be included, the same principles and methods should apply to it as to economic development. In his opinion, the case of Antwerp and other

/legitimate cases

legitimate cases would be covered by the Australian proposal and because it would also prevent, abuses, he felt that it should be accepted.

Miss FISHER (United Kingdom) said that the problem of economic development had been included in the Charter not merely because the right to it had been admitted, but because the economic development of underdeveloped countries was essential to the increase of the volume of foreign trade. The same argument applied as regards the reconstruction of war devastated countries. She did not see a great difference between the various forms of words proposed, but as a result of the remarks of the Belgian representative, she was inclined to support the proposal contained in the Sub-Committee's report.

Mr. MELANDER (Norway) was in general agreement with the representatives of Belgium and United Kingdom, although he saw no very clear distinction between the reconstruction of a country and the reconstruction of the economy of that country.

Mr. LLORENTE (Philippines) withdrew his proposal on the understanding that "reconstruction" was to be interpreted in the broad sense of the word.

Mr. BRUDZINSKI (Poland) strongly supported the remarks of the Belgian representative. In the case of a country as severely devastated as Poland there was a big difference between the reconstruction of the country and the reconstruction of its economy. He did not understand the purpose of the Australian amendment, for the ITO would not be a bank, which would distribute credits which could be exhausted. The application of rights and privileges to Poland, as a war devastated country, could not possibly damage the application of these same rights and privileges to an underdeveloped country.

Mr. MACLIAM (Ireland) felt that reconstruction and economic development should be put on the same footing and to that end supported the Australian proposal. ITO was not a body designed to help in the rebuilding of war devastated cities, nor could it be expected to help an underdeveloped country with its housing shortage. He suggested that the report of the Committee should contain a note to the effect that economic development and economic reconstruction were to be interpreted in the widest possible sense.

Mr. RUBIN (United States) supported the Belgian representative for the reasons which had been given by the representative of Cuba. He drew the attention of the Irish representative to the fact that this Conference was concerned with economic matters and that therefore there was no need to make that point clear in the report of the Committee.

/Mr. LECUYER (France)

Mr. LECUYER (France) felt that it was a question of words and not of substance, for no one could have any doubts as to the equal importance of reconstruction and economic development. He saw no difference between the original text and that proposed by the Australian representative because it would be impossible to carry out the economic reconstruction of a country without reconstructing the country itself. The debate, however, had given a new significance to the Australian proposal and therefore he preferred the text contained in the Sub-Committee's report.

Mr. PAPATSONIS (Greece) was unable to accept any text which would limit the idea of reconstruction and therefore supported the original text.

The representatives of Denmark, Southern Rhodesia and Sweden urged the acceptance of the text contained in the Sub-Committee's report.

Mr. GARCIA OLDINI (Chile) wished to have it recorded in the report of the Committee that when the words "reconstruction of a country devastated by war or whose economy has been disrupted by war" were used this meant economic reconstruction in the widest sense but not more than that.

Mr. NOVQA (Mexico) drew attention to the report of the Sub-Committee which stated that reconstruction and economic development were to be treated on equal terms.

It was agreed to reject the amendment submitted by the representative of Australia and to approve the report of the Sub-Committee as a whole. It was further agreed that the report of the Committee should contain the conclusion in the last sentence of the report of the Sub-Committee.

The meeting rose at 12.35 p.m.
