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SIXTH COMMITTEE: ORGANIZATION

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

NOTES ON THE FOURTEENTH MEETING

Held 6 February 1948 at 6.00 p.m.

Chairman: Mr. COUILLARD (Canada)

The representative of Poland pointed out that paragraph 4 of Article 91 to his mind contravened ordinary judicial principles by not providing that a resolution or decision of the Conference causing resort to the International Court of Justice was suspended pending the delivery of the opinion of the Court. Upon several representatives expressing favour of the text as it was drafted in Geneva, the Sub-Committee agreed, in reply to a further question by the representative of Poland, that there might be cases for compensation arising under paragraph 4 of Article 91 and these cases would be covered by sub-paragraph (c) of Article 89.

The Sub-Committee then examined the query of the representative of Mexico whether paragraph 3 of Article 92 was not inconsistent with the obligations of Members which had accepted the compulsory jurisdiction of the International Court.

The representative of the United States did not see that there was any inconsistency. Such Members, although by depositing the declarations referred to in paragraph 2 of Article 36 of the Statute of the Court had agreed that in the case of disputes of certain types arising between them and other states which had also accepted the compulsory jurisdiction no agreement between the parties was necessary before the matter was referred to the Court, had the right to limit their own initiative to refer questions to the Court.

It was agreed that the Working Party on Article 91 and 92 should take this question into consideration. The Working Party would have the benefit of an opinion from the Legal Department of the United Nations.

The representative of France proposed that the word "sanctions" in paragraph 3 of Article 92 should be changed to "measures". This was accepted.

/The representative

The representative of France also raised the point whether the drafting of the conclusion of paragraph 3 did not mean that a Member might resort to unilateral sanctions after it had gone through the procedures of Chapter VIII. He also queried the meaning of the word "final" inasmuch as this word left a doubt whether or not recourse to the International Court was a part of the decision of the Organization. It was agreed that the Working Party should take into account the last two points raised by the representative of France which might be met by dividing paragraph 3 into two sentences.

The Working Party on Articles 91 and 92, consisting of the representatives of Australia, Colombia, France, Mexico, Netherlands and the United States, was then set up with the following terms of reference: to consider the Geneva text of Articles 91 and 92 (except paragraph 1) and the amendments submitted by the delegations of Australia, Italy, Sweden and Uruguay, and in the light of the consensus of opinions expressed in the Sub-Committee, to produce a redraft of these articles; to take into account the possibility and desirability of meeting the view expressed by the delegations of France and the United States as contained in the written proposals submitted by these delegations (documents E/CONF.2/C.6/W.73/Add.1 and E/CONF.2/C.6/W.81 respectively); and to draft an additional provision to sub-paragraph 2 of Article 92 to implement the decision of Committee VI regarding the second last sentence of document E/CONF.2/C.6/63 dealing with the avoidance of duplication of consultation or investigation.

The Sub-Committee then commenced an examination of the report of the Working Party upon Article 90 (document E/CONF.2/C.6/W.80) together with amendments to the report presented by the representative of the United States (document E/CONF.2/C.6/W.91).

After some discussion of paragraph 1 of Article 89 and of the proposal of the representative of the United States to insert the words "arising externally" at the end of sub-paragraph 1 (c), paragraph 1 was accepted as in the report of the Working Party.
