

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

NOTES UPON THE TWENTY-FIRST MEETING

Held 23 February 1948 at 2.30 p.m.

Chairman: Mr. COUILLARD (Canada)

After a full discussion of the question regarding the relationship between Chapter VIII of the Charter and arbitration treaties concluded by Czechoslovakia with other states, the Sub-Committee agreed to insert the following note in its report:

"The Sub-Committee examined the question referring to the relations between the texts of paragraph 1 of Article 88A and paragraph 2 of Article 89 in connection with procedures for arbitration as agreed between Members under existing or future bilateral or multilateral treaties. The Sub-Committee decided that no clarification is necessary as to whether the procedure established in the Charter or in other treaties should have priority since procedures for arbitration under other treaties would not be inconsistent with the procedures of the Charter."

The Sub-Committee then continued its second reading of the text of Chapter VIII as contained in document E/CONF.2/C.6/W.106/Rev.1. Articles 89 to 92 inclusive were examined and where no amendment to the text was recorded in those notes the text was accepted without change.

The Sub-Committee agreed that the words "to be" in paragraph 2 of Article 89 should be deleted.

Paragraph 3 of Article 90 was redrafted as follows:

"3. If the Executive Board considers that action under Article 90 (2) (iv) and (v) is not likely to be effective in time to prevent serious injury, and that no nullification or impairment found to exist under Article 89 (1) is sufficiently serious to justify such action, it may, subject to the provisions of paragraph 1 of

/Article 90A

Article 90A, release the Member or Members affected . . . .  
nullification or impairment."

In reply to a query made by the representative of India, it was agreed that the rules of procedure of the Executive Board would take care of the question as to whether an action, decision or recommendation by the Board taken or made pursuant to Article 90 would operate immediately or not until after the lapse of thirty days mentioned in paragraph 1 of Article 90A.

The phrase "a Member or Members affected" in paragraph 3 of Article 90A was amended to read "the Member or Members affected". The word "similarly" was inserted before the word "authorize" on the second occasion of the use of that word in the same paragraph. The representative of Australia reserved his position on the question whether this paragraph should not be amended in the same fashion as paragraph 3 of Article 90.

The representative of Iraq questioned whether the second period of sixty days mentioned in paragraph 4 of Article 90 should not be extended to six months. Upon this suggestion being opposed by some representatives and although it was supported by others, the representative of Iraq stated that he did not insist upon his suggestion.

The representative of Poland raised the question whether provision should not be made for the re-admission to the Organization of a Member which had withdrawn pursuant to paragraph 4 of Article 90A. The Sub-Committee came to the conclusion that this proposal should, if it was considered necessary, be raised elsewhere.

The square brackets in paragraph 4 of Article 90A were deleted.

The second sentence of paragraph 2 of Article 92 was, in view of the contents of the second sentence of paragraph 1 of Article 90, deleted.

It was agreed that at the next meeting of the Sub-Committee the draft resolution regarding consultation between the Organization and the International Court of Justice together with the amendment proposed by the delegations of France and Colombia (document E/CONF.2/C.6/12/Add.23) should be finally considered, together with the drafting of the report of the Sub-Committee.

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