

UNESCO - Working Papers - Commissions & Technical Committees - Raporteurs Report

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COMMISSION I General Provisions

Committee 2 Membership, Amendment, and Secretariat

REPORT OF THE RAPPOREUR OF
COMMITTEE I/2 ON CHAPTER XI (AMENDMENTS)

NOTE: The following report has not been discussed in the Committee. It is submitted to the members of the Commission in order that the comments of the delegations may be communicated in writing or verbally.

Due attention will be paid to such observations by the Commission's Rapporteur in his report to the Conference as it shall be submitted for approval at the final meeting of Commission I.

I. Preliminary Considerations

1. Committee I/2 was charged with the responsibility of preparing and recommending to Commission I draft provisions for the Charter of the United Nations relating to matters dealt with in Chapter XI of the Dumbarton Oaks Proposals on amendments. It should be emphasized that this involved one of the most important provisions of the Charter. The Committee gave it comprehensive and serious consideration.

2. The text of Chapter XI in Dumbarton Oaks read as follows:

"Amendments should come into force for all members of the Organization, when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by the members of the Organization having permanent membership on the Security Council and by a majority of the other members of the Organization."

3. Two additional paragraphs were suggested by the sponsoring governments providing for the coming into force of the

Charter and providing for a general conference for the purpose of reviewing the Charter. The text of these paragraphs read as follows:

- "1. The present Charter comes into force after its ratification in accordance with their respective constitutional processes by the members of the Organization having permanent seats on the Security Council and by a majority of the other members of the Organization."

/The existing text of Chapter XI would thus become paragraph 2./

- "3. A general conference of the members of the United Nations may be held at a date and place to be fixed by a three-fourths vote of the General Assembly with the concurrence of the Security Council voting in accordance with the provisions of Chapter VI, Section C, paragraph 2, for the purpose of reviewing the Charter. Each member shall have one vote in the Conference. Any alterations of the Charter recommended by a two-thirds vote of the Conference shall take effect when ratified in accordance with their respective constitutional process by the members of the Organization having permanent membership on the Security Council and by a majority of the other members of the Organization."

4. Australia, Brazil, Canada, Costa Rica, Ecuador, Mexico, Norway, and Venezuela had also submitted amendments on the amending procedure, provision for revision, and ratification of amendments.

5. The Committee held eight meetings on May 28, May 29, June 15, and June 16, to discuss that part of its work relating to amendments.

6. At its second meeting on this subject, Committee I/2 agreed to appoint a subcommittee to consider amendments to Chapter XI of the Dumbarton Oaks Proposals, the Subcommittee to include representatives of those delegations which had submitted proposals for amendment of Chapter XI.

7. The Subcommittee was composed of the President of Commission I (Belgium), Chairman of Committee I/2 (Costa Rica), Rapporteur (Saudi Arabia), and Delegates of Australia, Brazil, Canada, China, Ecuador, France, Mexico, Norway, the Soviet Union, the United Kingdom, the United States, and Venezuela.

8. The Subcommittee held nine meetings on May 30, May 31, June 8, June 12, June 13, and June 14, and reported the

result of its considerations to Committee I/2 on June 14. The Committee then took up the discussion of the recommendations of the Subcommittee on the following points: Regular amendments to the Charter, special conference to revise the Charter, and withdrawal from the Organization

II. Regular Amendments to the Charter

9. Paragraph 2, Chapter III, providing for the regular amending process of the Charter, was the subject of very little discussion or disagreement in the meetings of the Subcommittee and Committee. The Subcommittee had accepted by a vote of 6 to 5 the motion of the Delegate of Belgium to modify this paragraph to provide that amendments come into force when ratified by two-thirds of all members of the Organization, including all members of the Security Council, rather than by the permanent members and a majority of the members.

10. The Belgian Delegate suggested that this modification tended to equalize to a certain extent the difference between the permanent members of the Council and the other members of the Organization and that it reduced the risk of each of those other members of being placed in the dilemma of having to accept as valid an amendment not ratified by it or to withdraw from the Organization. Several delegates opposed paragraph 2, on the grounds that the modification rendered ratification more difficult than the requirement of the simple majority. The answer was that the amendment would not have such a consequence, experience of the League having indicated that the delay in coming into force of amendments was not due to the relatively small number of ratifications but to the difficulty of obtaining some of those which the Covenant had declared indispensable.

11. Although the representatives of the sponsoring governments had first opposed this modification in the Subcommittee, they announced to the full Committee that they would give it their support.

12. The Committee adopted by a vote of 32 to 1, with 12 abstentions, the following text of paragraph 2:

"Amendments shall come into force for all members of the Organization when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the members of the Organization, including all members having permanent membership on the Security Council."

XXXXXXXXXXXXXXXXXXXXX
delete paragraph 16,

XXXXXXXXXXXXX

add the following to paragraph 16:

This motion represented a compromise between
separate Brazilian and Canadian amendments, which pro-
vided respectively for a special revisionary conference
in the fifth and ~~xx~~ tenth years.

III. Special Conference To Review the Charter

13. The Dumbarton Oaks proposal had not provided for the calling of a special conference to review the Charter but the sponsoring governments had presented an amendment providing for such a conference and a number of other members had also suggested such a provision. The Committee voted 44 to 1 in favor of a provision in the Charter for a special conference to revise the Charter.

IV. Voting Procedure for Calling the Conference

14. The Subcommittee reported that the Delegate of the United States reported that the sponsoring governments had agreed to amend their proposal for paragraph 3 of Chapter XI by providing for a two-thirds vote instead of a three-fourths vote by the General Assembly for calling the special conference. The Subcommittee had voted unanimously to recommend the modified proposal to Committee I/2. The Committee also voted unanimously in favor of this provision.

V. Time Limit for Calling Conference

15. The Committee debated the question of whether or not a specific time should be set for the calling of the constitutional conference. The amendment proposed by the sponsoring governments had not provided for a specific date but left the decision to be made by the Organization. Amendments providing for a definite time were proposed by a number of other countries.

16. The Subcommittee had voted by 9 to 6 in favor of a joint motion by Canada and Brazil to recommend that the special conference be called not sooner than the fifth nor later than the tenth year after the coming into force of the Charter.

17. The members of the Committee favoring a specific time limit for the calling of the conference felt that if the Organization were to endure, it should be scrutinized after a number of years and modified, if necessary, in the light of its experience and the situation then prevailing. It was emphasized that provision for a special conference did not mean that the Organization established now would be temporary but, on the contrary, that in order to be an effective and lasting mechanism it should be inspected and revised in those parts which had not proved efficient.

18. It was pointed out that provision for a specific time for reviewing the Charter might assist in reducing the pressure for revision at an earlier date and before the Organization had been given a fair trial. It would also have a

tremendous psychological effect on public support for the Charter, since it would mean that certain provisions which may not have the whole-hearted support of members could be reexamined.

19. The provision of a specific date or period would not preclude the modification of the Charter before that time, since it would not prejudice the ordinary method of amendment.

20. The opponents of the proposal thought there was no need for setting a time limit for such a conference, since the General Assembly and the Security Council could call for such a conference at any time. A revisional conference might be needed within a short time but, on the other hand, it might not be needed for fifteen or twenty years. They did not oppose the holding of the conference, but they felt that if the decision were left to the judgment of the Assembly and the Council, a conference would be called whenever the need arose. If a specific revision were written into the Charter, it might result in the calling of a conference at a time when the Organization thought it unwise or unnecessary. This would constitute a contradiction in the Charter and would be contrary to the judgment of the governments.

based upon the Brazilian and Canadian amendments
21. The Committee voted on the motion to provide for the calling of a special conference between the fifth and tenth years. Twenty-three voted in favor, 17 against, one abstention. Since a two-thirds majority was not achieved, the motion was not passed.

22. The Delegate of South Africa then moved that there be inserted in the Charter a provision that "The special conference be called not later than the tenth year after the coming into force of the Charter." It was explained that according to this proposal if a conference had not been called by a vote of two-thirds of the General Assembly plus seven members of the Security Council, by the end of ten years, then the Conference must take place automatically.

23. The Committee voted 28 in favor and 15 opposed, 5 not voting, on the South African proposal. Since a two-thirds majority was not attained, the motion was rejected.

24. Following this action, the United States Delegate moved the following addition to paragraph 3 of Chapter XI of the sponsoring governments amendment:

"If such a general conference has not been held before the tenth annual meeting of the Assembly following the entry into force of the Charter, the proposal to call such a general conference shall

be placed on the agenda of that meeting of the Assembly."

It was explained that the Secretary-General would place the item on the agenda and the Assembly would act in accordance with the procedures prescribed in the Charter.

25. Many delegates commented that this proposal was offered in a spirit of conciliation and was evidence of a desire for constructive change.

26. It was pointed out, however, that a special provision was not needed for an item to be placed on the agenda, since any member state has the right at any time to have such a subject included. The amendment would not insure the convening of such a conference since it would still require the approval of two-thirds of the Assembly and seven members of the Security Council.

27. Several modifications of the proposal were suggested. The Delegate of New Zealand suggested adding a provision that if no conference had been held by the end of ten years, it should be held then unless the Assembly and Security Council decided otherwise. The Delegate of Australia suggested that only the approval of two-thirds of the Assembly be required but not the approval of any members of the Council. The Delegate of Greece suggested that the vote be by simple majority of the Assembly.

28. The Delegate of the United States explained that his Delegation considered the method of calling the special conference democratic and liberal. The original amendment calling for a three-fourths majority of the Assembly had been modified to a two-thirds majority. The vote in the Council was any seven of the members. He added that it would be difficult and certainly undemocratic to bind the future Assembly to act against its judgment in the circumstances prevailing at the time.

29. It was pointed out that requiring a two-thirds majority of the General Assembly and seven members of the Council would mean that the proposal would have substantial support. The fact that it was formally provided in the Charter would have a good effect on public opinion since it would insure that, subject to the approval of the Assembly, there would be a conference at a certain time and an opportunity afforded to review the Charter.

30. At a later meeting, the Delegate of the United States amended his motion ~~in an attempt to meet the request of many delegates for an assurance that a revisional conference would be called by the end of the tenth year.~~ The amended

5010 *so as to give greater assurance to those who desired a special Conference at the end of ten years. The amended*

proposal read:

"If such a general conference has not been held before the tenth annual meeting of the Assembly following the entry into force of the Charter, the proposal to call such a conference shall be placed on the agenda of that meeting of the Assembly, and the conference shall be held if so decided by a simple majority of the Assembly and by any seven members of the Security Council."

31. The Delegate of the United States explained that the proposal fixed a definite time ~~in which~~ ^{when} the members of the General Assembly would have to face the question of calling a conference. However, the conference would not be required unless the governments wished to have it. ^{a majority of the governments considered it wise in the light of circumstances existing at the time.}

32. The Delegates of Australia, New Zealand, Ecuador, the United Kingdom, Peru, Canada, France, Chile, Brazil, the Union of South Africa, China, Argentina, and Greece spoke in support of the amended proposal.

33. The Delegate of the Soviet Union announced his opposition to the proposal, explaining that the sponsoring governments had suggested an amendment to the Dumbarton Oaks Proposals which provided for the calling of such a conference on the demand of three-fourths of the Assembly. Later another concession to the demands of other nations was made by reducing the majority to two-thirds. To make it still easier would be to provide for reexamination when there was no need for it. He stated that his Delegation was supporting the original Dumbarton Oaks amendment. The Delegate of the Ukrainian S.S.R. proposed that the United States proposal be amended by requiring a two-thirds majority of the Assembly and any seven members of the Security Council, instead of a simple majority. The Byelorussian S.S.R. Delegate supported this proposal. The Subcommittee amendment was rejected, by a vote of 3 in favor, 40 against, 3 abstentions.

34. The Committee then voted, and adopted by a vote of 42 in favor, 1 against, and 3 abstentions, the proposal of the United States.

35. The complete text for the special conference on the revision of the Charter, adopted by the Committee by a vote of 32 in favor, 1 against, and 12 abstentions, reads:

"A general conference of the members of the United Nations may be held at a date and place to be fixed by a two-thirds vote of the General Assembly with the concurrence of the Security Council voting

in accordance with the provisions of Chapter VI, Section C, paragraph 2, for the purpose of reviewing the Charter. Each member shall have one vote in the conference. Any alterations of the Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the members of the Organization including all of the permanent members of the Security Council.

"If such a general conference has not been held before the tenth annual meeting of the Assembly following the entry into force of the Charter, the proposal to call such a general conference shall be placed on the agenda of that meeting of the Assembly, and the conference shall be held if so decided by a simple majority of the Assembly and by any seven members of the Security Council."

The Australian Delegate had announced before the vote that he would abstain from voting since the objectionable feature of the veto still remained.

VI. Ratification of Amendments Proposed by Special Conference

36. The discussions of the Subcommittee and the Committee on the method of ratification of amendments proposed by the special conference centered on the contention of those delegates who opposed the sponsoring governments that this matter should be left to the Conference itself to decide. It was argued by the delegates that the provision in the Charter for voting procedure in the Security Council would render ratification of the Charter by the parliaments of their countries difficult and even questionable, but that ratification would be facilitated if assurance were given that a special conference to revise the Charter could itself decide on the method of ratification of such amendments as it might suggest. If such an arrangement were not possible, then it might be necessary to provide for withdrawal from the Organization.

37. In answer to this position, representatives of the sponsoring governments declared that these powers could not enter upon the great responsibilities and obligations of membership which they were prepared to accept if forced to take the risk that these responsibilities might be increased without their consent.

38. The Subcommittee took cognizance of the statements of the delegates of the sponsoring governments and France to the effect that they are not able at the present moment to consent to a procedure by which the special conference should

delete paragraph 41
substitute the following:

41. When the question of the ratification was discussed in Committee I/2, the Delegate of Mexico, being informed that the sponsoring governments and France still maintained the declaration referred to in paragraph 38, withdrew the proposal which he presented as a compromise, that the Charter contained no provision for the method of ratification of amendments.

be able to decide that amendments adopted by it should come into force without the unanimous consent of the permanent members of the Security Council.

39.40 The Subcommittee rejected by a vote of 8 to 4 a proposal of the Delegate of Mexico that no provision be made in the Charter for the voting procedure to be followed by the special conference, or for the method of ratification of amendments. The Subcommittee recommended by a vote of 7 to 5 the last sentence of paragraph 3 of the sponsoring governments amendment, for ratification by the permanent members of the Security Council and by a majority of the other members of the Organization. *press*
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40.39 The Subcommittee also took cognizance of the statements of certain other delegations to the effect that if the recommendations of the Subcommittee on the ratification amendments proposed by the special conference were approved by the full Committee, they would favor broader terms than those the Committee had foreseen in its commentary on Chapter III concerning the conditions under which withdrawal would be admissible.

41. When the question of ratification was discussed in Committee I/2, the Delegate of Mexico, being assured that the United States Delegation still supported the Subcommittee declaration on withdrawal, withdrew the Mexican proposal that the Charter contain no provision for voting procedure at the special conference or for the method of ratification of amendments.

42. The Delegate of Belgium moved that the last sentence of paragraph 3 of the amendment of the sponsoring governments be modified to provide that amendments come into force when ratified by two-thirds of all members of the Organization, including all the permanent members of the Security Council. The Belgian Delegate made this motion for the same reasons which prompted him to propose a similar change in paragraph 3. The Delegates of the United States, the United Kingdom, and the Soviet Union indicated that they were prepared to support this motion.

43. Prior to the vote on the amendment of the sponsoring governments, as amended by the Belgian Delegate, thorough consideration was given by the Committee to the application of the requirement of unanimity of the permanent members of the Security Council to the amendment process.

44. The Committee adopted, by a vote of 29 in favor to 14 opposed, with 3 abstentions, the text of paragraph 3, as follows:

"Any alterations of the Charter recommended by a two-thirds vote of the Conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the members of the Organization, including all the permanent members of the Security Council."

It should be noted that the negative vote reflected both the

VII. Withdrawal From the Organization

45. In the course of reaching the conclusions indicated in the previous paragraph, the Subcommittee had also indicated the wish expressed by many delegates to provide for a wider admission of the faculty of withdrawal than those indicated in the draft report adopted by Committee I/2, and suggested to that end an amended text of the terms used on this subject in the draft report. The Committee proceeded to a consideration of the declaration on withdrawal which was recommended by the Subcommittee, in the event that the Committee should maintain, as a condition for the coming into force of amendments, the requirement of ratification by all of the permanent members of the Security Council.

The Delegate of Ecuador stated that in view of the decision, specific reference should be made in the Charter to the right of withdrawal under limited circumstances related to amendments. He moved, therefore, that the following paragraph be included in Chapter XI:

"Nothing in this Charter should preclude the right of a member to withdraw from the Organization if its rights and obligations as such were changed by Charter amendments in which it has not concurred and which it finds itself unable to accept, or if an amendment duly accepted by the necessary majority in the Assembly or in a general conference fails to secure the ratification necessary to bring such amendment into effect."

46. The Committee rejected by a vote of 19 in favor to 24 against, with 7 abstentions, the motion that provision be made in the Charter for withdrawal from the Organization.

47. The Committee then adopted by a vote of 38 in favor to 2 against, with 3 abstentions, the declaration on withdrawal recommended by the Subcommittee, with certain modifications suggested by the Delegate of Belgium.

48. The text of the declaration follows:

"DECLARATION ON WITHDRAWAL

"The Committee adopts the view that the Charter should not make express provision either to permit or

views of those who opposed the veto on amendments and of those who preferred making the amending process more difficult.

to prohibit withdrawal from the Organization. The Committee deems that the highest duty of the nations which will become Members is to continue their cooperation within the Organization for the preservation of international peace and security. If, however, a Member because of exceptional circumstances feels constrained to withdraw, and leave the burden of maintaining international peace and security on the other Members, it is not the purpose of the Organization to compel that Member to continue its cooperation in the Organization.

"It is obvious, however, that withdrawal or some other form of dissolution of the Organization would become inevitable if, deceiving the hopes of humanity, the Organization was revealed to be unable to maintain peace or could do so only at the expense of law and justice.

"Nor would it be the purpose of the Organization to compel a Member to remain in the Organization if its rights and obligations as such were changed by Charter amendment in which it has not concurred and which it finds itself unable to accept, or if an amendment duly accepted by the necessary majority in the Assembly or in a general conference fails to secure the ratification necessary to bring such amendment into effect.

"It is for these considerations that the Committee has decided to abstain from recommending insertion in the Charter of a formal clause specifically forbidding or permitting withdrawal."

VIII. Voting Procedure at the Special Conference

49. The Subcommittee had voted unanimously in favor of a motion by the Delegate of Brazil that the Charter provide that decisions of the special conference be taken by a two-thirds majority.

50. The Delegate of Australia explained that this decision had been taken after the Subcommittee had rejected the motion of the Mexican Delegate that no provision be made in the Charter for the voting procedure at the conference or for ratification of amendments proposed by the conference. He stated that it was his opinion, however, that the decision on the voting procedure at the special conference had been covered by the decision of the Committee on ratification.

The Committee agreed unanimously that its decision on ratification had included the method of voting at the special

conference and that it was the opinion of the Committee that decisions of the conference should be taken by a two-thirds vote.

ANNEX

AMENDMENTS TO CHAPTER XI

AMENDMENTS

2. Amendments should come into force for all members of the Organization, when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the members of the Organization including all of the permanent members of the Security Council.
3. A general conference of the members of the United Nations may be held at a date and place to be fixed by a two-thirds vote of the General Assembly with the concurrence of the Security Council voting in accordance with the provisions of Chapter VI, Section C, paragraph 2, for the purpose of reviewing the Charter. Each member shall have one vote in the conference. Any alterations of the Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the members of the Organization including all of the permanent members of the Security Council.
4. If such a general conference has not been held before the tenth annual meeting of the Assembly following the entry into force of the Charter, the proposal to call such a general conference shall be placed on the agenda of that meeting of the Assembly, and the conference shall be held if so decided by a simple majority of the Assembly and by any seven members of the Security Council.

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Chapter X

Paragraph 3 on page 2 might be slightly strengthened if the phrase "because of its central importance to the work of the entire Organization" was inserted after the word "agreed" in line 3. ✓

Chapter XI

1. Paragraph 30, page 6

The emphasis intended by the United States delegate in this paragraph would be more clearly conveyed if the following text were adopted for the first sentence: "At a later meeting the delegate of the United States amended his motion so as to give greater assurance to those who desired a special conference at the end of ten years". ✓

2. Paragraph 31, page 7

In the first sentence of this paragraph it is suggested that the word "when" be substituted for the words "in which" in line 2. It is also proposed that the second sentence read as follows: "However, the conference would not be required unless a majority of the governments considered it wise in the light of circumstances existing at the time." ✓

3. Paragraph 44, page 9

Some interpretation of the vote on the Belgian amendment would seem appropriate. The following sentence is suggested as a reasonable interpretation: "It should be noted that the negative vote reflected both the views of those who opposed the veto on amendments and of those who proposed making the amending procedure more difficult." ✓

would not be logical to limit the provisions proposed in paragraph 5 to the Secretariat alone.

33. A number of delegates agreed that the Charter should not contain excessive detail, but contended that the paragraph in question was concerned with matters of principle and not of detail; that in fact the paragraph contained no more than general principles to guide the General Assembly when it established detailed regulations governing the staff of the Secretariat. It was contended by several delegates that the provisions of paragraph 5 would apply to the staffs of the Security Council, the Economic and Social Council, and other organs since the Secretariat itself would serve all these organs. Attention was called to the fact that the unanimous recommendation of the Subcommittee arose from the fact that the language for this paragraph was based upon various international incidents establishing international organizations already accepted by many of the participants

in this Conference. Similar provisions appear in the constitutions of the Food and Agricultural Organization of the United Nations, the Bretton Woods documents and other international agreements.

34. The Committee unanimously agreed, upon the motion of the Delegate of Brazil, that positions in the Secretariat, as one of the principal organs of the Organization, would be open to men and women on an equal basis. It was emphasized that provision for such participation on an equal basis had been provided in paragraph 3, Chapter IV, adopted by this same Committee.

35. The Committee agreed that the question of the juridical status of members of the Secretariat should not be covered by a provision of Chapter X, since it was under consideration by Committee IV/2.

ANNEX

CHAPTER X. THE SECRETARIAT

1. There shall be a Secretariat comprising a Secretary-General and such staff as may be required. The Secretary-General shall be the chief administrative officer of the Organization. The Secretary-General shall be elected by the General Assembly, on recommendation of the Security Council.
2. The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council and of the Trusteeship Council, and shall perform such other functions as are or may be entrusted to him by the Organization. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.
3. The Secretary-General may bring to the attention of the Security Council any matter which in his opinion might threaten international peace and security.
4. In the performance of their duties the Secretary-General and the staff shall be responsible only to the Organization. They shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials. Each member undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.
5. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly. The paramount consideration in the employment of the staff and in the determination of conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting staff on as wide a geographical basis as possible.

COMMISSION I General Provisions

DRAFT REPORT OF RAPPORTEUR (GENERAL) OF COMMITTEE I/2

ON CHAPTER X (THE SECRETARIAT)

Introduction

1. Committee I/2 was charged with consideration of Chapter X of the Dumbarton Oaks Proposals, providing for the Secretariat of the Organization. In addition to the original three paragraphs of Chapter X, the Committee considered two amendments proposed by the sponsoring governments and other amendments proposed by Canada, Liberia, Mexico, New Zealand, Norway, Philippine Commonwealth, Uruguay, and Venezuela, and a joint amendment of Brazil, Dominican Republic and Mexico.

2. The Committee devoted seven sessions to consideration of Chapter X and its Subcommittee on this Chapter met three times. The Subcommittee was composed of the President of Commission I;

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the Chairman of Committee I/2; the Rapporteur (General) of Committee I/2, ex officio; and the Delegates of Canada, China, Greece, Mexico, New Zealand, Norway, United States, Uruguay, and Venezuela.

3. In their consideration of provisions for the Secretariat of the Organization, the members of Committee I/2 demonstrated unanimous agreement that the Secretariat should be of the highest quality and should be organized on a truly international basis. There was no dissension from these principles, and such disagreement as did appear during the discussions was limited to the question of the extent to which specific detailed provision should be made in the Charter for the Secretariat.

4. The Committee took up the various features relating to the Secretariat separately, following a general outline which is used in this report.

Paragraph 1, The Secretariat

a. General Provisions

5. The first sentence of paragraph 1, Chapter X, of the Dumbarton

Oaks Proposals provides that: "There shall be a Secretariat comprising a Secretary-General and such staff as may be required."

There was no discussion of this provision, and the sentence was adopted with only one contrary vote.

b. Secretary-General

6. The second sentence of this paragraph provides that: "The Secretary-General shall be the Chief Administrative Officer of the Organization." Likewise, there was no discussion of this provision, and the sentence was adopted with only one contrary vote.

c. Election and Term of Office of the Secretary-General

7. At the outset of its consideration of the Secretariat, the Committee was advised that Committee II/1 had voted that the Secretary-General should be elected by the General Assembly upon nomination by a majority of seven members of the Security Council. The Committee agreed that in view of this situation it did not, therefore, propose to enter into a further discussion of the matter. The approval of this resolution was understood as not constituting

approval of the substance of the decision of Committee II/1.

8. The Committee then proceeded to the question of the term of office and eligibility for re-election of the Secretary-General. The Dumbarton Oaks Proposals made no provisions for these questions, but an amendment of the sponsoring governments provided that the term of office of the Secretary-General should be three years and that he should be eligible for re-election. Several delegates opposed any reference in the Charter to the term of office. They argued that the Organization should not be bound in the Charter in this matter, but should be free to determine the length of office as conditions warranted.

9. Delegates answering these views held that the three year term associated with the eligibility of the incumbent Secretary-General for re-election provided an adequate method of attracting outstanding candidates for the position and at the same time protecting the Organization from the lengthy tenure of an unsuitable Secretary-General.

10. The Committee voted in favor of a provision for the eligibility of the Secretary-General for re-election and for a three year term of office.

11. Subsequent to these decisions, the Committee was advised that the vote of Committee II/1 on the election of the Secretary-General had been referred by the Steering Committee to Committee III/1, and that the latter Committee had reversed the decision of Committee II/1 and had accepted the original text of the Dumbarton Oaks Proposals, namely, that the Secretary-General should be elected by the General Assembly, on recommendation of the Security Council.

12. In view of this situation affecting the election of the Secretary-General, the Delegate of the Netherlands proposed that the earlier decisions of the Committee adopting a three year term of office be rescinded and that the Committee accept the original Dumbarton Oaks text, that is, the third sentence of paragraph 1, with the exception of the clause "for such term and under such

conditions as are specified in the Charter." He stated that the term of office would be a matter of agreement between the Security Council and the General Assembly. It was understood by the Committee that the unanimity of the permanent members would be required in the decision of the Security Council on this matter. The Committee adopted, with only one contrary vote, the Netherlands motion to accept the following text:

"The Secretary-General shall be ^{appointed} ~~elected~~ by the General Assembly, on recommendation of the Security Council."

d. Deputy Secretaries-General

13. The Dumbarton Oaks Proposals made no reference to deputy secretaries-general. The sponsoring governments, however, proposed an amendment to Chapter X providing that there should be four deputies to be elected by the General Assembly on recommendation of the Security Council for a period of three years.

The debate on this matter revolved about two questions:

First, whether provision should be made in the Charter for deputy secretaries-general; and

Second, if provision were made for deputy secretaries-general, whether the number of such officers should be specified in the Charter.

14. The delegates opposing specific reference to deputies stated that it was impossible at this time to foresee the needs of the Organization with regard to deputies. They explained that the Assembly would be in a better position to estimate these needs at subsequent times. They felt that the

number of deputies would depend upon the distribution of functions within the Secretariat.

15. The Delegate of the Soviet Union proposed that the amendment of the sponsoring governments should be revised to provide for five deputies instead of four. In arguing against the amendment of the sponsoring governments, numerous delegates contended that specification of the number and the mode of election of the deputies might jeopardize the international character of the Secretariat. Some delegates also indicated that they favored the appointment of the deputies by the Secretary-General instead of by election by the Assembly upon the nomination of the Security Council. They felt that the method proposed by the sponsoring governments might render difficult the proper relationship between the Secretary-General and the deputies and might not be conducive to the efficient functioning of the Secretariat.

16. Those who supported the amendment of the sponsoring governments argued that five deputies would be needed--one

to act as alternate to the Secretary-General and one to serve each of the four principal organs. They stated that the international character of the Secretariat would be protected by the method of election of the deputies, which would parallel the method of election of the Secretary-General. These delegates also explained that the method of election would give considerable prestige to the deputies.

17. The Committee voted 15 in favor to 13 opposed on the question of referring specifically in the Charter to deputy secretaries-general. The Chairman ruled that since provisions of the text of the Charter require a two-thirds majority to be adopted, this vote was not sufficient for adoption.

18. Following this vote the Steering Committee requested Committee I/2 to reconsider the matter of deputies, and to vote on specific proposals. The Committee then rejected by a vote of 20 in favor to 19 against the proposal of the Soviet Union to provide in the Charter for five deputies.

The Committee also rejected by a vote of 22 in favor to 18 against the amendment of the sponsoring governments to provide for four deputies. The Committee then adopted by a vote of 40 in favor to 1 against, the first two sentences of paragraph 1, Chapter X, of the Dumbarton Oaks Proposals, as noted above in this report.

19. The Delegate of the Soviet Union subsequently proposed that the first and third sentences of paragraph 1 be modified, so that the paragraph read as follows:

"There shall be a Secretariat comprising a Secretary-General, deputies and such staff as may be required. The Secretary-General shall be the chief administrative officer of the Organization. The Secretary-General and his deputies shall be elected by the General Assembly, on recommendation of the Security Council."

This motion of the Soviet Delegate was rejected by a vote of 24 opposed to 12 in favor.

Paragraph 2, Functions of the Secretary-General

20. Paragraph 2 was considered by the Subcommittee on the Secretariat. The Subcommittee considered a proposal made by the Delegate of Mexico that registration of treaties and other agreements made between members of the Organization should be included among the main functions of the Secretariat, and a similar amendment submitted by the Delegation of the Philippine Commonwealth. The recommendation of the Subcommittee that, since the Charter would provide elsewhere for the registration of treaties, it was unnecessary to include enumeration of this function in Chapter X, was agreed to by the full Committee. The Committee likewise accepted the Subcommittee's recommendation that the language of paragraph 2 should be kept sufficiently broad to cover all of the functions of the Secretariat, and that no attempt should be made to enumerate therein specific functions which are provided in other chapters of the Charter.

21. In view of the fact that Committee III/4 had provided for

a Trusteeship Council, Committee I/2 agreed to amend the original paragraph 2 by inserting reference to this Council in respect to the functions of the Secretary-General.

22. Committee I/2 unanimously accepted the following text of paragraph 2, Chapter X, recommended by its Subcommittee:

"The Secretary General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council and of the Trusteeship Council, and shall perform such other functions as are or may be entrusted to him by the Organization. The Secretary General shall make an annual report to the General Assembly on the work of the Organization."

Paragraph 3, Functions of the Secretary-General

23. The Subcommittee and the full Committee considered at length paragraph 3, providing that the Secretary-General should have the right to bring to the attention of the Security Council any matter which in his opinion may threaten international peace and security. The Subcommittee discussed a suggestion that the word right in the first line of paragraph 3 should be changed to duty. It was agreed that the authority to bring to the attention of the Security Council any matter which in his opinion

might threaten international peace and security should be exercised at the discretion of the Secretary-General and should not be imposed upon him as a duty. The Committee agreed to this recommendation.

24. The Subcommittee and the Committee considered an amendment to paragraph 3 proposed by Venezuela which would permit the Secretary-General to bring to the attention of the General Assembly, as well as to the Security Council, any matter which in his opinion might threaten international peace and security. The Venezuelan Delegate explained that his amendment was intended to give the Secretary-General discretionary power to bring certain matters to the attention of either the General Assembly or the Security Council. He contended that this function did not place too great a burden on the Secretary-General. Its advantage was to keep the General Assembly informed of certain situations which states themselves might not bring to the attention of the Assembly.

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25. Some delegates in opposing the Venezuelan amendment discussed the difficulty in which the Secretary-General might be

placed in having to decide between the General Assembly and the Security Council in presenting matters concerning peace and security. It was argued further that the Secretary-General would be exercising powers which are not even possessed by the member states. The Committee rejected the Venezuelan amendment by a vote of 18 to 11.

26. The Delegate of Uruguay proposed to amend paragraph 3 by providing that in addition to matters which in his opinion might threaten international peace and security, the Secretary-General could bring to the attention of the Security Council any matters which constitute an infringement or violation of the principles of the Charter. The Delegate of Uruguay contended that the Secretary-General should take into account matters which would not necessarily threaten international peace but which would constitute violations of the principles of the Charter. He suggested that there should be some provision by which infringements or violations of the principles of the Charter by the member within its own country should be brought to the attention of

the Organization. Delegates opposing this amendment argued that as in the case of the Venezuelan amendment, it would place a heavy burden upon the Secretary-General. This amendment was rejected by a vote of 16 to 13.

27. The Committee unanimously adopted the text of paragraph 3, Chapter X of the Dumbarton Oaks Proposals, as follows:

"The Secretary-General may bring to the attention of the Security Council any matter which in his opinion might threaten international peace and security."

Paragraph 4, Characteristics of the Secretariat

28. In considering provisions regulating the composition and character of the Secretariat the Subcommittee and Committee considered an amendment proposed by the Sponsoring Powers and similar amendments of Canada and New Zealand. Paragraphs 4 and 5 of the Canadian amendment were used as the basis of the discussion by the Subcommittee because it was felt that they were somewhat broader than the others. Members of the Subcommittee were of the opinion that although the matter might be covered in staff regulations, provision should be made in the Charter that the Secretariat should not seek or receive instructions from any government or from any other authority external to the Organization. Such a provision would be of assistance to the Secretariat and the General Assembly, and would strengthen the position of the Secretariat. The Subcommittee accordingly unanimously recommended the following text of paragraph 4, Chapter X:

"In the performance of their duties the Secretary-General and the staff shall be responsible only to the Organization. They shall not seek or receive instructions from any Government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials. Each member undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities."

29. The question was raised by a member of the Subcommittee whether paragraph 4 covered the risk which might be faced by a member of the Secretariat as the result of taking an oath of allegiance to the Organization. In answer to this question it was pointed out that the experience of the League of Nations demonstrated that there was no practical difficulty in this matter except in the case of the Fascist states. It was agreed by the Subcommittee, however, to refer this matter to Committee IV/2 for such action as it might deem necessary.

30. The question also was raised whether this paragraph covered the risk which might be faced by a member of the Secretariat who participated in the preparation of military plans for possible use against his own state. It was pointed out that if a member of the Secretariat were to become aware of such military plans, he might be liable to heavy penalty under the laws of his own state for failure to reveal them to his own government. Members of the Subcommittee agreed that this highly important matter could not properly be dealt with in Chapter X of the Charter, but that it likewise should be considered by Committee IV/2 for such action as it might deem necessary. It was felt by members of the Subcommittee that the question of the liability of members of the Secretariat for military service to their own states would be settled by administrative arrangements when the problem arose.

ANNEX

CHAPTER X. THE SECRETARIAT

1. There shall be a Secretariat comprising a Secretary-General and such staff as may be required. The Secretary-General shall be the chief administrative officer of the Organization. The Secretary-General shall be elected by the General Assembly, on recommendation of the Security Council.
2. The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council and of the Trusteeship Council, and shall perform such other functions as are or may be entrusted to him by the Organization. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.
3. The Secretary-General may bring to the attention of the Security Council any matter which in his opinion might threaten international peace and security.
4. In the performance of their duties the Secretary-General and the staff shall be responsible only to the Organization. They shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials. Each member undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.
5. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly. The paramount consideration in the employment of the staff and in the determination of conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting staff on as wide a geographical basis as possible.

would not be logical to limit the provisions proposed in paragraph 5 to the Secretariat alone.

33. A number of delegates agreed that the Charter should not contain excessive detail, but contended that the paragraph in question was concerned with matters of principle and not of detail; that in fact the paragraph contained no more than general principles to guide the General Assembly when it established detailed regulations governing the staff of the Secretariat. It was contended by several delegates that the provisions of paragraph 5 would apply to the staffs of the Security Council, the Economic and Social Council, and other organs since the Secretariat itself would serve all these organs. Attention was called to the fact that the unanimous recommendation of the Subcommittee arose from the fact that the language for this paragraph was based upon various international incidents establishing international organizations already accepted by many of the participants

The text of paragraph 4 recommended by the Subcommittee was adopted unanimously by Committee I/2.

Paragraph 5, Character of the Secretariat.

31. The Subcommittee recommended to the full Committee an additional paragraph of Chapter X which constituted a revision of the last paragraph of the Canadian amendment, as follows:

"The staff shall be appointed by the Secretary-General under regulations established by the General Assembly. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting staff on as wide a geographical basis as possible."

32. During the discussion of this recommendation by Committee I/2 several delegates expressed the opinion that this paragraph was concerned with minor technical details and should not accordingly appear in the Charter. It was also contended that in addition to the Secretariat, the other organs of the Organization would require staff, and that it

in this Conference. Similar provisions appear in the constitutions of the Food and Agricultural Organization of the United Nations, the Bretton Woods documents and other international agreements.

34. The Committee unanimously agreed, upon the motion of the Delegate of Brazil, that positions in the Secretariat, as one of the principal organs of the Organization, would be open to men and women on an equal basis. It was emphasized that provision for such participation on an equal basis had been provided in paragraph 3, Chapter IV, adopted by this same Committee.

35. The Committee agreed that the question of the juridical status of members of the Secretariat should not be covered by a provision of Chapter X, since it was under consideration by Committee IV/2.

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DRAFT REPORT OF RAPPOREUR (GENERAL) OF COMMITTEE I/2

ON CHAPTER X (THE SECRETARIAT)

Introduction

1. Committee I/2 was charged with consideration of Chapter X of the Dumbarton Oaks Proposals, providing for the Secretariat of the Organization. In addition to the original three paragraphs of Chapter X, the Committee considered two amendments proposed by the sponsoring governments and other amendments proposed by Canada, Liberia, Mexico, New Zealand, Norway, Philippine Commonwealth, Uruguay, and Venezuela, and a joint amendment of Brazil, Dominican Republic and Mexico.

2. The Committee devoted seven sessions to consideration of Chapter X and its Subcommittee on this Chapter met three times. The Subcommittee was composed of the President of Commission I;

the Chairman of Committee I/2; the Rapporteur (General) of Committee I/2, ex officio; and the Delegates of Canada, China, Greece, Mexico, New Zealand, Norway, United States, Uruguay, and Venezuela.

3. In their consideration of provisions for the Secretariat of the Organization, the members of Committee I/2 demonstrated unanimous agreement that the Secretariat should be of the highest quality and should be organized on a truly international basis. There was no dissension from these principles, and such disagreement as did appear during the discussions was limited to the question of the extent to which specific detailed provision should be made in the Charter for the Secretariat.

4. The Committee took up the various features relating to the Secretariat separately, following a general outline which is used in this report.

Paragraph 1. The Secretariat

a. General Provisions

5. The first sentence of paragraph 1, Chapter X, of the Dumbarton

Oaks Proposals provides that: "There shall be a Secretariat comprising a Secretary-General and such staff as may be required."

There was no discussion of this provision, and the sentence was adopted with only one contrary vote.

b. Secretary-General

6. The second sentence of this paragraph provides that: "The Secretary-General shall be the Chief Administrative Officer of the Organization." Likewise, there was no discussion of this provision, and the sentence was adopted with only one contrary vote.

c. Election and Term of Office of the Secretary-General

7. At the outset of its consideration of the Secretariat, the Committee was advised that Committee II/1 had voted that the Secretary-General should be elected by the General Assembly upon nomination by a majority of seven members of the Security Council. The Committee agreed that in view of this situation it did not, therefore, propose to enter into a further discussion of the matter. The approval of this resolution was understood as not constituting

approval of the substance of the decision of Committee II/1.

8. The Committee then proceeded to the question of the term of office and eligibility for re-election of the Secretary-General. The Dumbarton Oaks Proposals made no provisions for these questions, but an amendment of the sponsoring governments provided that the term of office of the Secretary-General should be three years and that he should be eligible for re-election. Several delegates opposed any reference in the Charter to the term of office. They argued that the Organization should not be bound in the Charter in this matter, but should be free to determine the length of office as conditions warranted.

9. Delegates answering these views held that the three year term associated with the eligibility of the incumbent Secretary-General for re-election provided an adequate method of attracting outstanding candidates for the position and at the same time protecting the Organization from the lengthy tenure of an unsuitable Secretary-General.

10. The Committee voted in favor of a provision for the eligibility of the Secretary-General for re-election and for a three year term of office.

11. Subsequent to these decisions, the Committee was advised that the vote of Committee II/1 on the election of the Secretary-General had been referred by the Steering Committee to Committee III/1, and that the latter Committee had reversed the decision of Committee II/1 and had accepted the original text of the Dumbarton Oaks Proposals, namely, that the Secretary-General should be elected by the General Assembly, on recommendation of the Security Council.

12. In view of this situation affecting the election of the Secretary-General, the Delegate of the Netherlands *Supported by those of New Zealand and Belgium* proposed that the earlier decisions of the Committee adopting a three year term of office be rescinded and that the Committee accept the original Dumbarton Oaks text, that is, the third sentence of paragraph 1, with the exception of the clause "for such term and under such