

UNCIO - Working Papers - Commissions & technical committees
- Commission II Committee II - 17th meeting

01 June 1945
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(PA65/2.2.3)

SUMMARY REPORT OF SEVENTEENTH MEETING OF COMMITTEE II/2

Veterans Building, Room 202, June 1, 1945, 10:40 a.m.

The Chairman opened the meeting at 10:40 a.m.

1. Further consideration of Paragraph 6, Section B,
Chapter V, Dumbarton Oaks Proposals.

The Chairman stated that ~~in part~~ the three questions under B, "Revision of Treaties", ^{the Second Report of Subcommittee A} in (Doc. 416, II/2/A/3) ~~were on the Agenda.~~ He explained that, when these questions had come up at a previous meeting, ^{but} their consideration had been deferred under the mistaken impression that other Committees had asked the Steering Committee for a ruling as to which Committee should properly deal with them. Committee II/2 had voted to refer this question of jurisdiction to the Steering Committee, ~~and~~ ^{now} He regretted ^{to} have ~~now~~ to ask the Committee for a reversal of this ^{action.}

~~was~~ In accordance with the procedure laid down by the Steering Committee in Doc. 468, ST/19, the Chairman had consulted the Presidents and Chairmen of the other Commissions and Committees involved in this question. The replies of the Presidents of Commissions I and IV (which were read aloud by the Secretary) stated that Committee II/2 would be fully justified in proceeding to consider the question of ^{the reconsideration or} ~~treaty~~ revision and reconsideration ^{of treaties.}

The Delegate of Chile stated that the Committee's previous information had been incomplete, but not erroneous.

He moved that the Committee's previous vote be ~~sustained~~ ^{maintained and} ~~that the Committee wait for and await a decision by the steering~~ ^{and was} seconded by the Delegates of Colombia and the Dominican Republic.

The Chairman put this question to a vote.

Decision: There were 9 affirmative votes and 23 negative
votes; motion lost, under the 2/3 rule

The Delegate of Brazil stated that among the amendments relating to the revision of treaties was a Brazilian ~~amendment~~ ~~suggestion~~ suggestion, which was in fact only an extract from a body of observations made by the Government of Brazil to the Government of the United States, on the Dumbarton Oaks plan. ~~plan~~. The Delegation of Brazil wished to make it clear that their Government, far from desiring to present a concrete proposal, had merely suggested inserting a paragraph on treaty revision in order to anticipate the possibility that unduly radical proposals might be presented at the Conference. The Brazilian formula was a cautious one, which might offer a basis of agreement.

The Brazilian suggestion safeguarded the rights of parties ^{endeavored} and ~~to~~ ^{in certain contingencies} to reconcile the ~~eventual~~ need for treaty revision with the principle of respect for obligations freely entered into. It ^{deals} ~~treats~~ only ^{with} the revision of executory treaties, and limits the ~~danger~~ ^{risks} of revision by ^{means of} suggesting a procedure

Committee on the question of jurisdiction. The motion was

involving the intervention of the Assembly and, if necessary, of the International Court of Justice.

Government
The Delegation of Brazil wishes to state that its ~~hope~~ ^{hope} was only ~~to~~ put forward a suggestion in the hope that it might be useful should the matter come to discussion in the Conference. ~~the~~ ^{if it were felt that the} Brazilian suggestion might create embarrassment, ~~he was at liberty to regard it~~ ^{it could be regarded} as not having been put forward.

The Delegate of the United States explained that, although he had originally contemplated a specific allusion in the Charter to the question of revision of treaties, he had foregone this in favor of the broad version of Paragraph 6 of Section B, Chapter V put forward by the Four Sponsoring Powers. ^{It was inconsistent to launch an international organization} He recognized the objections to identifying treaties as such with this paragraph and held that the concern of the Assembly was not with treaties per se, but with adjusting conditions which might impair peace and good relations between nations. He ^(sub) admitted that it was wiser not to connect the broad version of Paragraph 6 with any specific definition regarding treaty revision. The phrase "the peaceful adjustment of any situations, regardless of origin", in his view, should not be interpreted to mean that the subject of treaty revision ^{was foreclosed} ~~foregoes~~ to the Assembly. If treaties ^a ~~give~~ ^{rise} ~~rights~~ to situations which the Assembly deems ^{ed} likely to impair the ~~general~~ ^{could} welfare or friendly relations among nations, it ~~can~~ make recommendations in respect of these situations.

Based on international integrity and of respect for the instruments through which international functions, namely, treaties, are carried out.

Considerations of the general welfare may call for a recommendation that a treaty be respected rather than revised.

The Delegate of Belgium declared on behalf of his Delegation, that, in this important debate, ~~the~~^{was} voice of his country ~~is~~^{to} wholly disinterested. Belgium was not seeking alterations ~~in~~^{to} any of its treaty relationships and its attitude was wholly objective and conciliatory. He explained his unqualified support for the principle of respect for treaty obligations, with the corollary that treaties must never be revised by force. But this principle did not imply ~~that~~^{the} immutability of treaties. All forms of legal enactment fall out of date with the passage of time and with changing circumstances, and this applies to treaties as much as to municipal law. The problem of compatibility between treaty revision and respect for treaties might lead to a discussion in a vicious circle. The *clue*, in his view, was the strength and solid~~ity~~^{ity} of the international Organization. While hoping in the course of time for an Organization strong enough to impose necessary revision, he recognized that the new Organization was not within measurable distance of such a situation; but held^s that it should be able to advise and to suggestions make ~~suggestions~~ and recommendations. He foresaw danger in leaving treaty revision to any organ other than the Assembly, and, while he ~~perhaps~~ would have liked that treaties should be specifically mentioned, he expressed his support of ~~Senator Vandenberg's~~^{the} interpretation of Paragraph 6, and asked that it should go on record both in the report of the present meeting and in the Rapporteur's report.

Given by the Delegate of the United States

The Delegate of Egypt asked to go on record as stating that, although the Egyptian Government has submitted a precise amendment regarding treaty revision, they are not aiming at any specific object or treaty. In support of this statement he wished ^{as an instance of their methods,} to remind Delegates of how the Egyptian Government had obtained revision of the Capitulations by means of a Conference of fourteen nations held at Montreux in 1937, ^{while others had suppressed the Capitulations as an Assembly example of their} ~~as an Assembly example of their~~ ^{require unilateral} methods. Moreover, his country's relations with Great Britain are extremely friendly and the ^{of Alliance} treaty of 1936 with that country ^{admits the principle of revision} ~~provides specifically for revision at~~ ~~certain times and in certain circumstances.~~ He reminded Delegates that Article 19 of the Covenant of the League had ^{covered the matter now before this Committee.} ~~covered the matter now before this Committee,~~ and ^{his Delegation} had been astonished that the substance of this Article had not been reproduced in the Dumbarton Oaks plan, and would like to know whether that meant that the principle involved was stricken out. However, in the light of ^{the statement made by the Delegate of the United States} ~~the statement made by the Delegate of the United States~~ Senator Vandenberg's remarks, he gathered that the words ^{"adjustment of situations"} ~~"adjustment of situations"~~ ^{also} ~~regardless of origin~~ ^{also} ~~cover~~ situations arising from treaties, ^{He} and supported the view expressed by the Delegate of Belgium in respect of the wording of Paragraph 6, on ^{the} condition that ~~Senator Vandenberg's~~ statement should go on record, ^{and be considered it the right interpretation of} ~~as requested, as the~~ ^{that sentence.} ~~There were three~~ ^{sorts} ~~forms of~~ ^{considerations in the minds of those who objected} ~~major objections to treaty~~ ^{to the} ~~revision.~~ First, some people held, under the influence of ^{of treaties.}

~~Some side writing,~~

Roman law, that treaties are sacred and immutable. He, ^{concurring} ~~on~~ ^{that treaties were sacred} ~~the contrary~~, held that they must be revised in the light of changing circumstances, ^{could} and in this connection ^{he} wished to recall that the changing conditions of a changing world ⁱⁿ had been put forward by the Delegate of the United Kingdom as an objection to the codification of international law during ^a previous discussion. ^{while} The codification of international law ^{is} usually in terms of general principles, ^{but the} treaties generally go into considerable detail in their provisions, which strengthens the case for providing for their revision.

→ Second, ^{some} Delegates might have it in mind that ^{they} ~~we~~ might, at no distant period, have to make treaties with the Axis Powers. ^{These Powers may well ask for the revision of such} ~~These Powers may well ask for the revision of such~~ ^{but take advantage of a specific provision} ~~treaties~~ To this he would reply that the Axis Powers were not members of the Organization and cannot ask for an application of its procedures in their favor; and that the situation can be dealt ^{with} ~~by including in these treaties a specific~~ ^{by specifying} ~~provision that they~~ should not be revised until a suitable period of time shall have elapsed. ^{or some other condition fulfilled.}

Third, some Delegates ^{the revision principle might affect} ~~probably considered that boundary treaties can never be~~ ^{and cause general} ~~finally settled and that they~~ ^{there will unrest as to the boundaries} ~~always have to be~~ ^{of their respective States.} ~~rectifications.~~ His answer was that boundary treaties are

those least liable to ^{rectification} ~~revision~~, because geography ~~changes~~ ^{changes} less than most things in a changing world. ^{Moreover, it was} ~~The necessary~~ ^{condition of boundary revision is that the changing circum-} ~~stances should arise from conditions~~ ^{independent of the will} ~~of the signatories,~~ ^{and not provoked by} ~~those who demand revision.~~ ^{the latter.}

It was self-evident that the Assembly ^{would have} ~~has~~ no power ^{directly} to proceed ^{to do} to the revision of treaties, and all he asked ^{for} was that it should have power to make recommendations on this matter. Although the ^{demand} ~~desire~~ of the Egyptian Delegation is for the inclusion in the Charter of a specific article on treaty revision, he felt he ^{might} ~~would not be exceeding his~~ instructions by ^{support} ~~supporting~~ the course proposed by the Delegate of Belgium. Finally he moved that the three questions formulated for discussion by the Committee should be withdrawn because ^{they were amply covered by the} ~~if they were answered in the negative,~~ ^{the} ~~it would affect Senator Vandenberg's~~ interpretation of ^{Paragraph C} ~~Article 6~~ ^{given by the Delegate of the United States.}

The Delegate of Mexico was also prepared to withdraw ^{his government's} ~~its~~ specific amendment regarding treaty revision because he felt that, as a corollary of the Assembly's power to make recommendations on any ^{situation} ~~matter~~ which it deems likely to impair good relations between nations, the Assembly has the power to make recommendations on the revision of treaties. He therefore seconded the motion of the Delegate of Egypt, on the understood condition that ~~Senator Vandenberg's~~ ^{the} ~~remarks~~ ^{of the Delegate of the United States} should go on record as requested.

The meeting adjourned at 12:35 p.m.

II/2 17th 202 June 1. 10.40. Both Pres of (1)

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II + I say
that II/2 is fully
justified in proc. to
consider this matter

Ch Doc. 416/II/2/A/3, espec. revision at previous,
it was said revis. due to Steering. This was,
I am sorry to say, erroneous information. In
fact II/2 and I had deferred due pending
II/2 discussion. But a vote ref to Steering was
taken in II/2 prev. time, & I must ask for
reversal. Steering hasn't met, its Ch out
of town. Don't want to leave it to Steering, or it
will be left to end of Conf w/out solution.
So I ask vote of this Cttee to permit us to
deal w. (III?) B. Sec will read letters from
Comm. IV & I. (Reads)* Sec will read
§ in Steering Chapt. 3, "Sugg. meas. f. expediting wks
of Conf" (Doc. 468, ST/9).

Chile It seems you now think Cttee is auth. to
take up revis. w/out waiting f. Steering, after
consult w. Other Comm. Our inform. on prev.
occas. was incomplete, not erroneous - I
repeat; I was one who gave it, on basis
of fact that Cttee II/2 had postponed consid.
of this Cttee were dealing w. it (Verbatim)
In conclusion, I prop. we abide by former vote.

Ch This is a vote affecting the Chair. I am sorry Chile
wants to disappoint our full house. The thing is
simple: after our vote, ST/9 ruled that doubts
re juris. shd be settled betw. Ch's of Cttees &
Pres. of Comm. This is exactly what I have
done. Is there a 2nd to Chile motion? I, for
my part, think we shd go on to discussion of
this matter, but I am human, & I may be
wrong, though I believe I am right.

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Chile I want to avoid misunderstanding. I rec'd Mr. [unclear] has acted in good faith. He has consulted as he said, & been told the can take up matter. But I judge this incorrect. It wd be correct if matter was one in orig. D.O., or spec entrusted to a Cttee by Steering. But revs of treaties not in D.O., & no ST. ruling. That being so, I maintain

Colombia Seconds Chile

Egypt It has been said revision not in D.O., — 1 pt out a) D.O. doesn't contain actual wds, but contain many things implying it, & the opposite. b) Egypt has put out a specific amend. c) AdRK said m. of I. p. & S. Charter has — so we must deal w. revision. d) Gloss Vand §6a "rep of origin". e) The su of revision, not only of treaties, but of Ch. is being dealt w. in another Cttee. f) Old treaties — espec arbit — ref to old Court & Covenant, & must be revised. g) There is, in another Cttee, a 7th amend "w. due resp. to existing treaties". Basdevant in — I think — III/2 explained that this did not preclude ~~the~~ ~~mean~~ revision.

U.S.A. Situ simple. If we postpone this morning, we shall only have to discuss it in abt a week's time, ∴ Steering will certainly send it

Rapp I speak as Del — I suppo Chile

Vote Ayes 9 Noes 23 motion lost

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Uruguay I think we are wrong in proceed. We voted
to ref to ST, so we have to reverse.
We haven't a $\frac{2}{3}$ way.

Ch 23 - 9 is $\frac{2}{3}$.

Brazil Among amend is a Braz. This was not a ~~formal~~ ^{concrete}
~~proposal~~, in view of my deleg., but a suggestion to
lead up to a discussion extracted from a no
of comments sent to his Govt. It was put
forward in hope of avoiding a too-radical
discussion, & being cautious, might, we
hope, be ~~profitably~~ ^{profitably} ~~discussive~~. It contem-
plates intervent of Ass & Court. If it is felt
our comment will cause embar, consid it as not
having been made.

USA

I feel resp'y. introd 4-P. prev. § 6. I
read it again. it is key to present debate
(Reads) When I wrote its 1st dft, I had
put in ref to revision. In S.F., we cd get
supp to this broad version, I was happy
to forego my wording. The argum't against
identifying treaties as such is. This §
= This Org is to be founded on resp. &
law. But this does not mean that if
(had) conds exist under treaties, that
subj of revis is foreclosed to Ass. Gen
well. might call f. rec of. " that
to be respected, not revised. Ass is
not int in treaty per se, but in
int in conds wh may impair peace
& harmony betw nations. I submit
"peaceful adj any situ reg'd of origin" is
better w. out any specific " wh might
define & limit it. There are 000's of treaties - might

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confront Ann w. imposs task, involving small local consid. We are better not to attempt defin of the broad lay of § 6.

Belg Declare: In this import debate, the voice of my country is a wholly disinterested voice. We have no treaty relations, east, ~~west~~, South or north. We want altered. We are wholly objective & conciliatory.

1. We are entirely in fav of prin of respect for treaties — so treaties must never be revised by force.

2. But this not imply untouchability, the immutability, of treaties. All forms of legal enact^{ts} fall out of date & have to be revised by consent. ^{This applies to treaties} If we don't have a "peaceful change", but a "warful change".

just as much
as to
munic
law

3. The problem of compat betw revision & respect leads to discuss in vic circle. It all dep on strength of Int Org. Our Org is not w. in lengths of imposing revision, but it is necess that it shd be able to support, advise, recommend.

Strength
needed to

Here I agree Vand. I wd have perhaps liked "treaties" actually mentioned, but ^{wd} accept the Vand interpret, wh I wd like to go in P.V. & in Rappo Rep. I am wholly in fav "peaceful change", wholly against appeasement. My motto is "No more Munichs". I fear any other body than Ann interfering in revision. I rely on deftly
Office

I do not
wish on
Ch. in § 6 to
long as the
implicaⁿ is
clear.

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Montreux
1937

Egypt
insist to
revision of
T.S. But
as an
example
of new methods

One or 2 pts remain to be covered

1) Altho Egypt Govt has precise amend on record, we are not aiming at any specific object or treaty. In support I wd remind you how we obtained revision of Capitulations by means of a conf. of 14 nations. Our relats w G.B. are extremely friendly, & our 1936 T provides for revis at cert times.

2) Remind you Cove Art 19 The Arts may fr time to time advise the reconsider by members of the L. of treaties have become inapplicable & of ^{can consider} ~~crises~~ ^{conts} ~~might endanger peace of the world~~. We are aston that this art has not been repred in D.O., & we wd like to know if that means prin struck out.

3) In light Vand, I gather chief of origin covas sitas arising fr. treaties, & I agree Belg, given, again, that we include in rep

3 prims way or objects to revis

1) Under infl Rom. law, some del hold treaties sacred & immutable. On contrary, I hold must be revised in light of changing circs. I wd refer to Wk. remarks re Codⁿ, in this connection even tho' but law is usually

in few prims & treaties prims detail which is a change of f. revision.

2) At some period, we shall have to make treaties w Axis, who may ask f. revis

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I can't ask for
applic of its purposed

I make 2 ans (1) Axis not members Org

(2) ~~Revision~~ It can be specific as mentioned
T. not to be revised before a suitable
period of yrs

(3) Boundary T's will never be settled,
& there will always have to be rect'n.
But boundaries are least liable to
revis, if geog. changes or rather not

things in a changing world. The end
of Boundary revis is that author of change necessit
revis shd not also be author of revision.

I add that all we ask is Ass have power
to rec. Self-evid that we have it &
to proceed to revis. Finally I repeat
that the Egypt del prin demand is f.
specific act on revision, but shan't
be going beyond my instructions that in
accepting the Belg. prop f. express
mention of Vand interp. in p.r. & Rapp
rep. I add that I wd like 3 gus on a pende
w. drawn, as, if ans "no", it
will affect the Vand interpret'n

The ch.
civic
and to
our
p. civic
outside
control
of those
demand
ch.

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Uex I want to make one more pt. I was
going to ask f. w. draw of 3 qrs. —
but has been made by Belg & Egypt,
w. whom I am in full acc. I am
also in acc Vand. Uex has an amend
on rec, but can withdraw, ∴ feel Ars
may rec revis of T's as corollary of
Ars power to rec on any matter impairing
good in internat relats. I will accept
includ of V. in record. ∴ I. I. Dnd Egypt
on cond that Vand, etc, put on
record as asked by Belg & Egypt

Ch Many speakers still — adjourn
12.35.

Commission II

Committee 2
Comité

Attendance Record
Bulletin de Presence

17th Meeting
10:30 Am. R. 202
1 June 1945

Date

Country
Nation

Name of Representative Present
Nom du Représentant Présent
(Please Print)
(en Majuscules S.V.P.)

Argentina

Wolfgang Scilingo

Australia

W. W. W. W.

Belgium

Fernand DEHOUSSE

Bolivia

J. Andrad

Brazil

C. Martins

Byelorussian S.S.R.

K. K. K. K.

Canada

W. W. W. W.

Chile

Senador - José Maza

China

C. C. C. C.

Colombia

M. M. M. M.

Costa Rica

Luis Anderson

Cuba

W. W. W. W.

Czechoslovakia

J. J. J. J.

Dominican Republic

[Signature]

Ecuador

Carlos Tobon Zaldumbide

Egypt

Abd. M. Andross

El Salvador

C. Riva

Ethiopia

P. H. Lemmings

France

M. Brault Brault

Greece

Guatemala

Haiti

André Liautaud

Honduras

Julian Baceres

India

V. T. Krishnama Chari

Iran

ENTEZAM

Iraq

A. J. Chalabi

Lebanon

Liberia

[Signature]

Luxembourg

Mexico

[Signature]

Netherlands

[Signature]

New Zealand

ADWinski

Nicaragua

Alonso S. Perales

Norway

Jacobs. Wam-Mull

Panama

Paraguay

Peru

P. Blaunde
Jose F. Imperio

Philippine Commonwealth

Saudi Arabia

Assol

Syria

H. Autaki

Turkey

A. E. Esmir

Ukrainian S.S.R.

M. Petrovsky

Union of South Africa

Henry W. Cooper

Union of Soviet Socialist
Republics

A. P.

United Kingdom

Charles W. Lutz

United States of America

Andrew

Uruguay

Francisco

Venezuela

Romero Lopez

Yugoslavia

T. V. Guranin