

UNCIO- Working papers - Commissions & Technical Committees
- Commission II Committee II - Political & Security Functions

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RESTRICTED

Doc.
II/2

June 20, 1945

II/2

Committee 2

Political and Security Functions

REVISED TEXT OF PARAGRAPH 1, CHAPTER V, SECTION B, AS PROPOSED TO BE AMENDED BY DR. EVATT OF AUSTRALIA FOLLOWING UPON ACTION BY A SUBCOMMITTEE OF THE EXECUTIVE COMMITTEE COMPOSED OF MR. STETTINIUS, MR. GROMYKO, AND DR. EVATT

1. The General Assembly has the right to discuss any questions or any matters within the scope of the Charter or relating to the powers and functions of any organizations provided in the Charter, and, except as provided in paragraph 2(b) of this section, to make recommendations to the members of the United Nations or to the Security Council or both on any such questions or matters.

II/2. unattached

unrestricted

A paper to be mimeographed & circulated
in II/2, as its title, this form
Headings

Revised text of DI Ch V, § B
as proposed to be amended by
Dr Eratt of Australia following
upon action by a subcommittee of
the Executive Cde composed
of Mr Abel, Mr G & Dr E.

Text → "1. The GA has the right
to discuss any Qs on any
matters w/ the scope of
the Charter or relating to the
powers & functions of any
organs provided in the Charter,
and, except as provided in A2
(b) of this §, to make recommendations
to the members of the United
Nations or to the SC or both
on any such Qs or matters.

May 16, 1945

Mr. Staley:

The Executive Officer of the Executive and Steering Committees, Mr. Darlington, has advised me that the Chairman of the Executive Committee Mr. Edward R. Stettinius, has informed him that the Executive Committee has sustained the ruling made by the Chairman of your Committee as set forth in your letter of May 15, 1945 concerning the problem involving the interpretation of Section V (Voting) of the Rules of Procedure which arose during the meeting of Committee II/2 on May 15th.

This decision of the Executive Committee will be confirmed later in writing by the Chairman of the Executive Committee.

Huntington Gilchrist

✓ cc: Executive Secretary

May 16, 1945

Mr. Darlington:

I understand that in Committee II/2 informally tonight Mr. Evatt indicated that he, although a member of the Executive Committee, had not been consulted on the question of procedure as regards voting so that, of course, the Chairman of II/2 did not make any statement to the Committee on the basis of your oral communication to me. Doubtless, this position will be cleared up very shortly.

Huntington Gilchrist

cc: Executive Secretary ✓
Mr. Staley, II/2

Mr. Stettinius

*handled with
Darlington in yr*

May 15, 1945 absence

W

The Honorable
Edward R. Stettinius, Jr.,
President, Executive Committee,
United Nations Conference on
International Organization,
San Francisco, California.

My dear Mr. President:

I have the honor to inform you that a problem involving the interpretation of Section V (Voting) of the Rules of Procedure (Doc. 177, ST/5) arose during the seventh meeting of Committee II/2 on May 15, 1945.

The following question was submitted to the vote of the Committee:

"Should the General Assembly be enabled to make, on its own initiative, recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council?"

Sixteen votes were cast in favor of an affirmative answer to this question, and twenty-six votes in favor of a negative answer. It was thereupon suggested from the floor that the question had not been negatived because less than two-thirds of the votes had been cast in favor of a negative answer. The Chairman stated that, although a two-thirds majority was necessary in order to carry the affirmative of a question or motion, such a majority was not necessary in order to negative a question or motion. Accordingly, the Chairman ruled that the question had been negatived by the vote of the Committee.

This ruling was challenged by several delegations. I am, therefore, submitting the question which it raises to you, with a request for an interpretation of the relevant provisions of the Rules of Procedure.

Sincerely yours,

Victor Andrade

B.M.

Chairman, Committee II/2

Mr. Staley
RESTRICTED

Doc.

II/2/19 (1)

May 24, 1945

II/2

The following communication has been received by the Secretary of Committee II/2 from Mr. A. A. Roschin, (Rostchin ? Roshchin ?) member of the Committee representing the U. S. S. R. The reference is to the Summary Report of ninth meeting (Doc. 443, II/2/19, May 19, 1945), item 2, second paragraph, which begins "The general intention of the meeting was summed up as follows."

"Upon receiving the full text of the (etc.)"

Mr. Staley
II/2
May 24, 1945

MEMORANDUM

TO: The Secretary of Committee IV/2
FROM: The Secretary of Committee II/2
SUBJECT: Interpretation of the Charter

Committee II/2 at its eleventh meeting on May 23 had before it the following question of principle, which was based on a proposed amendment submitted by Belgium:

"Should the General Assembly have sovereign (exclusive) competence to interpret the provisions of the Charter?"

In the discussion the Belgium Delegate explained that the word "exclusive" did not accurately describe the intention of the amendment. The Assembly should have the original role in interpretation of the Charter, but it might, of course, consult the International Court. Several Delegates held that the Assembly and the Security Council should each interpret those parts of the Charter concerned with their respective activities, and that parts of the Charter affecting both organs would require some method of joint interpretation. It was pointed out that in some countries a parliamentary body is the final authority on constitutional questions, while in other countries, especially those with written constitutions, interpretation of the constitution is a judicial function.

The discussion having revealed that more was involved than the role of the Assembly in the process of interpreting the Charter, Committee II/2 decided to refer the whole topic to Committee IV/2 for consideration.

It was made plain that the question referred to Committee IV/2 was the whole issue of how and by

whom the Charter should be interpreted, and not merely the particular question quoted above which had opened the discussion.

Eugene Staley,
Secretary, Committee II/2

May 17, 1945

MEMORANDUM

TO: Members of Subcommittee A of Committee ~~II/2~~ II/2, as follows:

~~FROM: Eugene Staley, Secretary~~

~~Rapporteur~~

Representatives on the Committee of
Australia

Belgium

Mexico

United Kingdom

Union of Soviet Socialist Republics

The Chairman

The Rapporteur

FROM: Eugene Staley, Secretary

The Chairman has asked me to notify you that there will be a meeting of Subcommittee A of Committee II/2 at 4 p.m. today, May 17, in Room 311, Veterans Building. The purpose is to frame ~~questions of principle~~ ~~the various amendments which have been proposed to the other~~ questions of principle raised by the various amendments which have been proposed to the other paragraphs of the Dumbarton Oaks proposals falling within the terms of reference of the Committee, as was previously done for paragraph ~~xx~~ 1 of Chapter V, Section B.

Attached hereto ~~is~~ are the following documents which may facilitate the Subcommittee's work:

1. "Report by the Officers on Grouping of Suggested Modifications to Dumbarton Oaks Proposals," Doc. 171, II/2/7.

2. "Annex 2" to the foregoing report, Doc. 271, II/2/7 (2).

~~3. "Questions of Principle Involved in Proposed Amendments to Dumbarton Oaks." (This is submitted by the Secretariat solely as a working paper for the~~

3. "Questions of Principle Involved in Proposed Amendments to Ch. V, Sec. B, Para 3, of Dumbarton Oaks." (This is submitted by the Secretariat solely as a working paper ~~for the Subcommittee's use~~ which may be of assistance to the Subcommittee.) ~~It is not intended to be a formal presentation to the Subcommittee.~~

Feb 1565

17 mai, 1945

Mémoire ~~adressé~~

A MM. ~~les~~ Membres du Sous-Comité A du Comité II/2,
à savoir :

Les Représentants au Comité des pays suivants:

- Australie
- Belgique
- Mexique
- Royaume-Uni
- Union des Républiques Socialistes Soviétiques
- ← Le Président
- ← Le Rapporteur

PAR De la part de
Eugene Staley, Secrétaire.

Le Président me prie de vous prévenir qu'il y
aura une réunion du Sous-Comité A du Comité II/2
à 16 h. aujourd'hui, ~~le~~ 17 mai, dans la salle 311,
Veterans' Building. ~~Il s'agit de cette réunion et de~~
questions de principe soulevées par les di-
vers amendements qui ont été proposés aux
autres paragraphes des propositions de Dumbarton
Oaks, ~~du ressort du Comité, ce qui a été déjà~~
~~été fait pour le paragraphe 1 du Chapitre V,~~
Section B.

Ci-joints les documents suivants qui pour-
ront faciliter le travail du Sous-Comité:

1. Rapport du bureau chargé de grouper les
Projets d'Amendements aux Propositions de
Dumbarton Oaks, Doc. 171, II/2/7.
2. "Annexe 2" audit rapport, Doc. 271, II/2/7(2)
3. "Questions de principe ^{mises} en cause ^{par} dans les
Amendements proposés au Ch. V, Sec. B, Par. 3,
de Dumbarton Oaks." (Cette pièce est offerte
par le Secrétariat uniquement à titre d'aide
au travail du Sous-Comité).

(*Suggestions*)

(~~DRAFT~~) FOR RAPPOREUR'S REPORT)

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use as showing form*

(? Interim) Report of the Rapporteur on the Work of Committee II/2

1. Terms of Reference

The portions of the Dumbarton Oaks Proposals allocated to Committee II/2 for consideration under its terms of reference were: Chapter V, Section B, Paragraph 1, Paragraph 3, Paragraph 6 (insofar as it relates to political ^{and security} questions) and Paragraph 8.

Paragraph 2 of the Chinese Proposals (Doc.) approved by the other sponsoring Powers was also included in the Committee's ~~allocation~~ terms of reference. The texts are ^{attached} as follows:

(*Insert texts*)

The Committee (~~insert texts~~) subsequently agreed, in response to a suggestion made by the President of Commission I and transmitted

to the Committee by the President of Commission II, that questions, arising from the consideration of Paragraph 3, Section B, Chapter V, of the conditions under which a member of the Organization might

have its rights (a) suspended, or (b) restored, or (c) might be

expelled, ~~in accordance with the provisions of Paragraph 3, Sec-~~

~~tion B, Chapter V of the Dumbarton Oaks Proposals,~~ should be

Subcommittee to study the proposed amendments and to formulate
of principle
questions based upon them for ~~the~~ consideration by the Committee.

This Subcommittee, known as Subcommittee A, was duly ~~set up~~ ^{appointed} and
was composed ^{of} ~~in addition to~~ the Chairman and ^{The} Rapporteur, ^{and} ~~of~~ repre-
sentatives of Australia, Belgium, Mexico, the Union of Soviet
Socialist Republics, the United Kingdom, and the United States. ✓

Subcommittee A has submitted three reports to Committee II/2, con-
taining questions for discussion relating to Paragraph 1, Para-
graphs 3 and 6, and Paragraph 8, respectively. *It had before it, as*

an aid in its work, a Reports ^{and annexes} prepared by the officers of the Committee, in
~~were supplemented by annexes, in~~ which the relevant amendments

proposed by participating governments were quoted textually and
by subject matter (Docs. - - - - -)
grouped in accordance with ~~the order of the questions in the reports.~~

4. Discussions in the Committee

Committee II/2 has, up to the time of the preparation of
the present report, discussed the questions contained in the first
(Doc.) and second (Doc.) reports
of subcommittee A. In addition, the Committee ^{, at its Third meeting,} discussed the amend-
ments to Paragraph 6, Section B, Chapter V, proposed by the Four

transferred for consideration to Committee I/2. The terms of reference of Committee II/2 were therefore modified by this decision. Questions of procedure on these points (a), (b), and (c) remained within the jurisdiction of Committee II/2.

2. Meetings of the Committee

Committee II/2, under the Chairmanship of H.E. Victor Andrade (Bolivia), ^{with} ~~assisted by~~ H.E. Tulio Franco y Franco (Dominican Republic) as Rapporteur, began its ^{work} ~~discussion of the~~ ~~texts quoted above~~ on May 4, 1945, and has held X meetings up to the time of the preparation of the present report.

3. Plan of Work of the Committee

^{Most} ~~X~~ of the participating governments had submitted one or more amendments to the portions of the Dumbarton Oaks Proposals referred to Committee II/2. In order that this considerable volume of comment might be conveniently considered, the Committee at its Fourth Meeting (Doc.) on May 11, 1945, empowered the Chairman and the Rapporteur to nominate a

Sponsoring Powers; ~~at its Third Meeting (Doc. 203, II/2/8)~~ on May 9, 1945 and at its Seventh Meeting (Doc. 354, II/2/15) on May 16, the redraft of Paragraph 1, Section B, Chapter V, proposed by the Four Sponsoring Powers and France.

5. Amendments to the Dumbarton Oaks Proposals adopted by the Committee

Committee II/2, at its Third Meeting (Doc. 203, II/2/8) on May 9, 1945, adopted the amendments to Paragraph 6, Section B, Chapter V, proposed by the Four Sponsoring Powers. The texts are as follows:

Amended Paragraph 6:
(Insert text, giving reference
(Doc. 2, G/29) at end)

Additional paragraph to follow Paragraph 6:
(Insert text, giving reference
(Doc. 22, G/14 (v) at end)

6. Drafting of Texts for the Consideration of the Committee

Committee II/2, at its Ninth Meeting (Doc. 443, II/2/19) empowered the Chairman to nominate a drafting Subcommittee to prepare redrafts of the paragraphs of the Dumbarton Oaks Proposals within the jurisdiction of the Committee, and to submit such

redrafts to the Committee for action. It was laid down that the work of the Subcommittee should be based on:

(Copy a, b, c, from Doc. referred to above)

This Subcommittee; known as Subcommittee B, was duly *appointed* ~~set up, and was composed,~~ *consisted of* in addition to the Chairman and the Rapporteur, *and* ~~of~~ representatives of Australia, Belgium, Mexico, the Union of Soviet Socialist Republics, the United Kingdom, and the United States. Up to the time of the preparation of this report, Subcommittee B had met X times, and is engaged in preparing a redraft of Paragraph 1, Section B, Chapter V.

(Signed) Tulio Franco y Franco
Rapporteur

May 29, 1945

for the action of

Translation

MATTERS TO BE CONSIDERED BY SUBCOMMITTEE A OF COMMITTEE II/2

Paragraph 8

I. Requests for advisory opinions from the International Court of Justice

Committee II/2 discussed, but did not vote on,

(a) The question of whether a provision for reference by the Assembly of juridical matters to the International Court should be included in the Charter, ~~was discussed, but not voted on, by Committee II/2.~~ It was not clear from the discussion whether the Assembly should be authorized, or whether it should be required, to refer such questions to the International Court. At its fifth meeting, Subcommittee B decided that the ~~entire~~ question of referral by the Assembly of juridical questions to the Court, ~~should be submitted to Committee II/2.~~

Chairman should bring before Committee II/2 the

(b) The United Kingdom Delegation has suggested

(Doc. 595 II/I/29 at page 4):

*see p 39
Doc 633
allotted*

- (i) that specific provision be made in the Charter to empower the General Assembly and the Security Council to request advisory opinions from the Court;
- (ii) that suitable provision be made to enable such international agencies as the General Assembly may authorize for the purpose to request advisory opinions on questions of a constitutional or judicial character arising within the scope of their activities;

(c) The United Nations Committee of Jurists has stated that it did not feel able to adopt the suggestion that the right to request an advisory opinion should be accorded to international organizations, because that Committee regarded this as a matter of policy which raised other than purely

2601

SUMMARY OF RECOMMENDATIONS

Committee II/2 has given careful consideration, in the manner set forth above, to those portions of the Dumbarton Oaks Proposals within its terms of reference-- namely, Chapter V, Section B, paragraph 1, 3, 6 (in so far as it relates to political and security functions) and 8-- and the relevant amendments suggested by participating governments. Its deliberations have led to the following recommendations, which are summarized below in a manner to facilitate action by Commission II:

Recommendation 1. It is recommended that Chapter V, Section B, paragraph 1 of the Dumbarton Oaks Proposals be adopted by Commission II in the following amended form:

(Text to be inserted)

Recommendation 2. It is recommended that Chapter V, Section B, paragraph 3 of the Dumbarton Oaks Proposals be adopted by Commission II in the following amended form:

(Text to be inserted)

Recommendation 3. It is recommended that Chapter V, Section B, paragraph 6 of the Dumbarton Oaks Proposals be adopted by Commission II in the following amended form:

(Text to be inserted)

Recommendation 4. It is recommended that Chapter V, Section B, paragraph 8 of the Dumbarton Oaks Proposals be adopted by Commission II in the following amended form:

(Text to be inserted)

(6. the Secretariat)

judicial considerations, and was not, therefore, one to be determined by them. (See Doc. 595, II/1/29 at page 2)

It has been
(d) ~~The United Kingdom Delegation has also~~ suggested that ~~its~~ *the United Kingdom* proposal might be considered, in the first instance, by Committee III/2 insofar as concerns the Security Council, and by Committee II/2 insofar as concerns the General Assembly and other international agencies.

(e) This Subcommittee could bring the matters discussed above to the attention of Committee II/2 by submitting the following questions to it:

1. Should the Charter contain a specific provision empowering the General Assembly to request from the International Court advisory opinions (concerning juridical questions)?
2. Should the Charter contain a specific provision requiring the General Assembly to refer juridical questions to the International Court?
3. Should provision be made to enable such ~~(of the)~~ international agencies ~~(brought into relation with the United Nations Organization)~~ as the General Assembly may authorize for that purpose, to request advisory opinions on questions of a constitutional or judicial character arising within the scope of their activities?

II. Referral to Committee II/2 of the Ecuador Amendment Regarding a Statute Concerning Regional Commissions

(a) Committee III/2 at its meeting on May 16 had under consideration the following amendment proposed by Ecuador for insertion after Chapter VIII, Section A, Paragraph 3:

"The General Assembly shall approve by the affirmative vote of ~~a~~ two-thirds of its members a Statute providing for the establishment of continental or regional commissions charged with

See Doc 351 (24) attached

2601

promoting and obtaining through the procedure of conciliation, a settlement of the differences or controversies of a political nature which might arise between the States belonging to the respective continents or regions. The General Assembly shall coordinate, as well, the provisions of this Statute with those contained in the agreements or treaties of conciliation existing among the members of the General Organization. This Statute will have binding force as soon as it is ratified, according to their respective constitutional procedures, by two-thirds of the Members of the General Organization."

Committee III/2 decided to refer to Committee II/2 the proposals of Ecuador insofar as they relate to the powers of the Assembly, retaining for its own consideration the question of inserting in Section A suitable reference to the use of procedures for peaceful settlement of regional agreements.

- 22
- (b) It is suggested that this amendment not be broken down into questions, but that it be submitted in its present form for the consideration of Committee II/2.

(DRAFT FOR RAPPORTEUR'S REPORT)

(? Interim) Report of the Rapporteur on the Work of Committee II/2

1. Terms of Reference

The portions of the Dumbarton Oaks Proposals allocated to Committee II/2 for consideration under its terms of reference were: Chapter V, Section B, Paragraph 1, Paragraph 3, Paragraph 6 insofar as it relates to political questions, and Paragraph 8.

Paragraph 2 of the Chinese Proposals (Doc.)

approved by the other sponsoring Powers was also included in the Committee's {allocation
?} terms of reference. The texts are as follows:

The Committee (insert texts) subsequently agreed, in response to a suggestion made by the President of Commission I and transmitted to the Committee by the President of Commission II, that questions of the conditions under which a member of the Organization might have its rights (a) suspended, or (b) restored, or (c) might be expelled, in accordance with the provisions of Paragraph 3, Section B, Chapter V of the Dumbarton Oaks Proposals, should be

transferred for consideration to Committee I/2. The terms of reference of Committee II/2 were therefore modified by this decision. Questions of procedure on these points (a), (b), and (c) remained within the jurisdiction of Committee II/2.

2. Meetings of the Committee

Committee II/2, under the Chairmanship of H.E. Victor Andrade (Bolivia), assisted by H.E. Tulio Franco y Franco (Dominican Republic) as Rapporteur, began its discussion of the texts quoted above on May 4, 1945, and has held X meetings up to the time of the preparation of the present report.

3. Plan of Work of the Committee

X of the participating governments had submitted one or more amendments to the portions of the Dumbarton Oaks Proposals referred to Committee II/2. In order that this considerable volume of comment might be conveniently considered, the Committee at its Fourth Meeting (Doc.) on May 11, 1945, empowered the Chairman and the Rapporteur to nominate a

Subcommittee to study the proposed amendments and to formulate questions based upon them for the consideration by the Committee. This Subcommittee, known as Subcommittee A, was duly set up and was composed, in addition to the Chairman and Rapporteur, of representatives of Australia, Belgium, Mexico, the Union of Soviet Socialist Republics, the United Kingdom, and the United States. Subcommittee A has submitted three reports to Committee II/2, containing questions for discussion relating to Paragraph 1, Paragraphs 3 and 6, and Paragraph 8, respectively. These reports were supplemented by annexes in which the relevant amendments proposed by participating governments were quoted textually and grouped in accordance with the order of the questions in the reports.

4. Discussions in the Committee

Committee II/2 has, up to the time of the preparation of the present report, discussed the questions contained in the first (Doc.) and second (Doc.) reports of subcommittee A. In addition, the Committee discussed the amendments to Paragraph 6, Section B, Chapter V, proposed by the Four

Sponsoring Powers, at its Third Meeting (Doc. 203, II/2/8) on May 9, 1945; and at its Seventh Meeting (Doc. 354, II/2/15) on May 16, the redraft of Paragraph 1, Section B, Chapter V, proposed by the Four Sponsoring Powers and France.

5. Amendments to the Dumbarton Oaks Proposals adopted by the Committee

Committee II/2, at its Third Meeting (Doc. 203, II/2/8) on May 9, 1945, adopted the amendments to Paragraph 6, Section B, Chapter V, proposed by the Four Sponsoring Powers. The texts are as follows:

Amended Paragraph 6:
(Insert text, giving reference
(Doc. 2, G/29) at end)

Additional paragraph to follow Paragraph 6:
(Insert text, giving reference
(Doc. 22, G/14 (v) at end)

6. Drafting of Texts for the Consideration of the Committee

Committee II/2, at its Ninth Meeting (Doc. 443, II/2/19) empowered the Chairman to nominate a drafting Subcommittee to prepare redrafts of the paragraphs of the Dumbarton Oaks Proposals within the jurisdiction of the Committee, and to submit such

redrafts to the Committee for action. It was laid down that the work of the subcommittee should be based on:

(Copy a, b, c, from Doc. referred to above)

This Subcommittee; known as Subcommittee B, was duly set up, and was composed, in addition to the Chairman and the Rapporteur, of representatives of Australia, Belgium, Mexico, the Union of Soviet Socialist Republics, the United Kingdom, and the United States. Up to the time of the preparation of this report, Subcommittee B had met X times, and is engaged in preparing a redraft of Paragraph 1, Section B, Chapter V.

(Signed) Tulio Franco y Franco
Rapporteur

PROGRESS REPORT OF COMMITTEE II/2

1. Matters cleared by the Committee.

The Committee has adopted the amendments to paragraph 6, Section B, Chapter V, proposed by the four sponsoring powers. The texts are as follows:

Amended paragraph 6.

"The General Assembly should initiate studies and make recommendations for the purpose of promoting international cooperation in political, economic, and social and cultural fields to assist in the realization of human rights and basic freedoms for all, without distinction as to race, language, religion or sex and also for the encouragement of the development of international law and of adjusting situations likely to impair the general welfare.

(New paragraph to follow paragraph 6:)

"Subject to the provisions of paragraph 1 of this Section, the General Assembly should be empowered to recommend measures for the peaceful adjustment of any situations, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the Purposes and Principles set forth in this Charter.

2. Matters remaining to be cleared.

- (a) A revision of paragraph 1, Section B, Chapter V. (Questions of principle relating to this paragraph have been fully discussed and voted on by the Committee but disagreement concerning the proper interpretation and implementation of the Committee's decisions has arisen in the subcommittee.)
- (b) Paragraph 3, Section B, Chapter V (insofar as procedures for suspension, expulsion and restoration of rights are concerned): Action

on this paragraph has been deferred by Committee II/2 pending action on the conditions of suspension, expulsion and restoration by Committee I/2.

- (c) Paragraph 6, Section B, Chapter V. Revision of treaties remains to be discussed. Subsequently, a draft of paragraph 6, integrating the principles adopted by the Committee with amendments referred to under 1 above, will require the Committee's clearance.
- (d) Paragraph 8, Section B, Chapter V. Several questions (3, 4, and 5, Doc. 476, II/2/A/4) remain to be discussed. Subsequently, a draft of paragraph 8 will require the Committee's clearance.

3. Causes of Delay.

- (a) Delay has resulted from controversy concerning the proper relationship between the General Assembly and the Security Council and from the resultant debate. Delay in the future will result from the disagreement which has occurred in the drafting subcommittee concerning the proper interpretation of the decisions relating to paragraph 1, which the Committee has already made. Further clarification of these

decisions by the Committee will probably involve extended debate.

4. Number of Meetings required.

Six meetings will be required for discussion and voting and for approval of the work of the drafting committee to which the principles agreed on by the committee will be referred. Assuming that the regular schedule of meetings is followed, it appears that the Committee would complete its work by June 4.

PROGRESS REPORT - COMMITTEE II/2 - as of May 26, 19451. Matters cleared by the Committee.

The Committee has adopted the amendments to paragraph 6, Section B, Chapter V, proposed by the four sponsoring powers (see Doc. 288, G/38, p. 14 for text).

2. Matters remaining to be cleared.

(a) A revision of paragraph 1, Section B, Chapter V.

(Questions of principle relating to this paragraph have been fully discussed and voted on by the Committee but disagreement concerning the proper interpretation and implementation of the Committee's decisions has arisen in the drafting subcommittee.)

(b) Paragraph 3, Section B, Chapter V (insofar as procedures for suspension, expulsion and restoration of rights are concerned): Action on this paragraph has been deferred by Committee II/2 pending action on the conditions of suspension, expulsion and restoration by Committee I/2. The Committee will have to clear questions of principle raised by proposed amendments and, then, a text of this paragraph.

(c) Paragraph 6, Section B, Chapter V. Questions of principle relating to revision of treaties remain to be discussed. Subsequently, a draft of paragraph 6, integrating the principles adopted by the Committee with amendments referred to under 1 above, will require the

Committee's clearance.

- (d) Paragraph 8, Section B, Chapter V. Several questions (3, 4, and 5, Doc. 476, II/2/A/4) remain to be discussed. Subsequently, a draft of paragraph 8 will require the Committee's clearance.

3. Causes of Delay.

- (a) Delay has resulted from basic differences concerning the proper relationship between the General Assembly and the Security Council and from the resultant debate. Delay in the future will result from the disagreement which has occurred in the drafting subcommittee concerning the proper interpretation of the decisions relating to paragraph 1, which the Committee has already made. Further clarification of these decisions by the Committee will probably involve extended debate.

4. Number of Meetings required.

Approximately six meetings will be required for discussion and voting and for approval of the work of the drafting Committee to which the principles agreed on by the committee will be referred. Assuming that the regular schedule of meetings is followed, it appears that the Committee would complete its work by June 4.

Holden

PRECIS

OF SUMMARY REPORT OF EIGHTEENTH MEETING OF COMMITTEE II/2

The Committee continued its discussion of the principle of treaty revision in relation to the terms of Paragraph 6, Section B, Chapter V, of the Dumbarton Oaks Proposals, as amended by the proposal of the Four Sponsoring governments and adopted by the Committee at its Third Meeting. Discussion centered round the questions whether there should be, in the Charter, a specific provision regarding treaty revision; or whether, if there were not, the amended Paragraph 6 gave to the Assembly all the powers which it should have to take treaties into consideration when they contributed to creative situations deemed likely by the Assembly to impair the general welfare and friendly relations between nations. The discussion will be continued at the next meeting.

RESTRICTED
Doc.
WD
June 18, 1945

Committee II/2

NOTE BY SECRETARIAT ON PRESENT STATUS OF
PARAGRAPH 3, SECTION B, CHAPTER V

The original Dumbarton Oaks text of this paragraph reads as follows:

"3. The General Assembly should, upon recommendation of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council. The exercise of the rights and privileges thus suspended may be restored by decision of the Security Council. The General Assembly should be empowered, upon recommendation of the Security Council, to expel from the Organization any member of the Organization which persistently violates the principles contained in the Charter."

It was agreed that Committee II/2 would leave for the consideration of Committee I/2 the conditions of suspension, restoration, and expulsion, dealing itself only with the procedure for these actions (Doc. 229, II/2/11).

Committee II/2 at its meeting of May 30, 1945 (Doc. 707, II/2/36), considered a number of questions of principle regarding suspension and restoration of rights which had been put before it in the second report of Subcommittee A (Doc. 416, II/2/A/3). None of these questions was answered in the affirmative, thus indicating that the Committee did not favor the various amendments on which these questions of principle had been based. No action was taken on the problem of procedure for expulsion, pending final action by Committee I/2 on the conditions of expulsion.

Committee I/2 at its twenty-ninth meeting on June 17 adopted the following text on expulsion:

"3. The Organization may at any time suspend from the exercise of the rights or privileges of membership any member of the Organization against

which preventive or enforcement action shall have been taken by the Security Council. The exercise of these rights and privileges may be restored in accordance with the procedure laid down in Chapter ... para ...

"4. The Organization may expel from the Organization any member which persistently violates the principles contained in the Charter."

It would now be appropriate for Committee II/2 to consider the question of expulsion in the second report of Subcommittee A which remains unanswered, namely:

"Should the General Assembly be the body empowered to expel?"

After this question is answered, appropriate language to give effect to the decisions of Committee II/2 regarding procedures for suspension, restoration, and expulsion should be inserted in the text of paragraph 3 as adopted by Committee I/2.

The following text is presented in order to facilitate the work of the Committee. This text assumes that the Committee, by its negative votes in its sixteenth meeting, implied that it would wish to adopt the procedure for suspension and restoration laid down in the original Dumbarton Oaks text. If the Committee answers the question on expulsion quoted above in the affirmative, it would be appropriate to adopt the last sentence of the text below without the words in brackets. If the Committee answers the question in the negative, the words in brackets would be retained, as in the original Dumbarton Oaks text. The text below is the same as that adopted by Committee I/2, except for the changes indicated by striking out words which would be deleted and underlining words which would be added:

"3. The Organisation General Assembly, upon recommendation of the Security Council, may at any time suspend from the exercise of the rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council. The exercise of these rights and privileges may be restored in accordance with the procedure laid down in Chapter ... para ... by decision of the Security Council.

"4. The Organization General Assembly, upon recommendation of the Security Council, may expel from the Organization any member which persistently violates the principles contained in the Charter."

June 13, 1945

MEMORANDUM

II/2

FROM: Secretary, Committee II/2
TO: Secretary, Committee III/1
SUBJECT: Paragraph 8, Section B, Chapter V

At the meeting of Committee II/2 held at 10:30 a.m., June 13, the joint report of Subcommittee II/2/B and III/1/C was presented. Paragraph 8, Section B, Chapter V referred to therein was approved by Committee II/2 in the following amended form:

"8. The General Assembly should receive and consider annual and special reports from the Security Council; such reports should include an account of the measures which the Security Council has adopted or applied to maintain international peace and security.

"The General Assembly should receive and consider reports from the other bodies of the Organization."

An interpretation with respect to this paragraph was also accepted by the Committee, reading as follows:

"That paragraph 8 does not limit in any way the powers of the Assembly set forth in paragraphs 1 and 6, and when the General Assembly is considering reports from the Security Council it may exercise the power of discussion and recommendation stated in those paragraphs."

*Mr. Staley
Rm. 418*
May 29, 1945

MEMORANDUM

TO: Secretary of the Coordination Committee

FROM: Secretary, Committee II/2

We have just formally transmitted a memorandum entitled "Approval of paragraph 1, Section B, Chapter V, by Committee II/2".

The text thus transmitted is in the form adopted by the Committee. It is the result of several redraftings which were not subjected to a final careful rearrangement. We feel that there are certain improvements which might well be made by the Coordination Committee.

In particular:

1. Or both should be inserted in what is now sub-paragraph 2-b following the words "Security Council". These words were inserted at two other similar places in the text but through oversight were not inserted here in the text acted upon by the Committee.

2. It would obviously be desirable to divide the very lengthy sub-paragraph 2-b. This involves certain consequential amendments. A suggested text follows:

1. The General Assembly should have the right to discuss any matter within the sphere of international relations;

and, subject to the exception embodied in paragraph 3 of this section, to make recommendations to the members of the Organisation or to the Security Council or both on any such matters.

2. In particular, and without limiting the generality of the preceding paragraph, the General Assembly should have the right:

- (a) to consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulations of armaments, and to make recommendations to the governments or to the Security Council on such principles;
- (b) to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organisation or by the Security Council, and, subject to the exception embodied in paragraph 3 of this section, to make recommendations to the Governments or to the Security Council or to both with regard to any such questions. Any such questions on which action is necessary should be referred to the Security

Council by the General Assembly either before or after discussion; (c) to call the attention of the Security Council to situations which are likely to endanger international peace or security.

3. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it under this Charter, the General Assembly should not make any recommendation with regard to that dispute or situation unless the Security Council so requests. The Secretary General shall be required, with the consent of the Security Council, to notify the General Assembly at each session of any matters relative to the maintenance of international peace or security which are being dealt with by the Security Council and also to notify the General Assembly immediately the Security Council ceases to deal with such matters.

Meeting of Committee II/3, May 25, 1945

India - Sir A. Ramaswami Mudaliar, Chairman
Guatemala - Manuel Noriega Morales, Rapporteur
Australia - Roland Wilson
Belgium - R. Lebeau
Brazil - Bertha Lutz
Canada - L. Rasminsky
China - Hu Lin
Cuba - Francisco Aguirre
Czechoslovakia - Josef Hanc
France - Christian Valensi
Mexico - A. E. de los Monteros
Norway - Arne Ording
U.S.S.R. - A. Arutiunian
United Kingdom - J. M. Fleming
United States - L. D. Stinebower

*Mr. Staley
Rm 418*

June 7, 1945

MEMORANDUM

TO: Charles Darlington, Secretary of the Coordination
Committee

FROM: Eugene Staley, Secretary of Committee II/2

Attached you will find a copy of the amended text of Chapter V, Section B, paragraph 6, which we have just formally transmitted. The pencil marks on this copy indicate certain suggestions for revision which were made to me by the Canadian member of Committee II/2, Mr. Chipman. I promised to pass them along to you.

Mr. Stacey
Rm. 418

SUMMARY OF RECOMMENDATIONS

Committee II/2 has given careful consideration, in the manner set forth above, to those portions of the Dumbarton Oaks Proposals within its terms of reference--namely, Chapter V, Section B, paragraph 1, 3, 6 (in so far as it relates to political and security functions) and 8--and the relevant amendments suggested by participating governments. Its deliberations have led to the following recommendations, which are summarized below in a manner to facilitate action by Commission II:

Recommendation 1. It is recommended that Chapter V, Section B, paragraph 1 of the Dumbarton Oaks Proposals be adopted by Commission II in the following amended form:

(Text to be inserted)

Recommendation 2. It is recommended that Chapter V, Section B, paragraph 3 of the Dumbarton Oaks Proposals be adopted by Commission II in the following amended form:

(Text to be inserted)

Recommendation 3. It is recommended that Chapter V, Section B, paragraph 6 of the Dumbarton Oaks Proposals be adopted by Commission II in the following amended form:

(Text to be inserted)

Recommendation 4. It is recommended that Chapter V, Section B, paragraph 8 of the Dumbarton Oaks Proposals be adopted by Commission II in the following amended form:

(Text to be inserted)

SUMMARY OF THE REPORT OF THE RAPPORTEUR OF COMMITTEE II/2

Committee II/2 has considered the portions of the Dumbarton Oaks Proposals allocated under its terms of reference. These sections were Chapter V, Section B, paragraphs 1, 3 and 6, insofar as it related to political questions, and 8. The Committee recommends to the Commission II that the following texts, as amended by the Committee, be adopted:

Functions and Powers (Chapter V, Section B, paragraph 1 of the Dumbarton Oaks Proposals)

The General Assembly should have the right to discuss any matter within the sphere of international relations; and, subject to the exceptions embodied in paragraph below, to make recommendations to the members of the Organization or to the Security Council or both on any such matters.

In particular, and without limiting the generality of the preceding paragraph, the General Assembly should have the right to consider the general principles of cooperation in the maintenance of international peace and security, including the principles of governing its amendments and to make recommendations to the Governments or to the Security Council on such principles.

The General Assembly should have the right to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council, and to make recommendations to the Governments or to the Security Council or both with regard to any such questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion. The General Assembly should have the right to call the attention of the Security Council to situations which are likely to endanger international peace or security. While the Security Council is exercising in respect to any dispute or situation the functions assigned to it under this Charter, the General Assembly should not make any recommendations with regard to that dispute or situation unless the Security Council so requests. The Secretary General shall be required, with the consent of the Security Council, to notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council, and also to notify the General Assembly immediately the Security Council ceases to deal with such matters.

Initiation of Studies and Making Recommendations (Chapter V, Section B, paragraph 6)

6. The General Assembly should initiate studies and make recommendations for the purpose of promoting international cooperation in political, economic, social and cultural fields to assist in the realization of human rights and basic freedoms for all without distinction as to race, language, religion, or sex and also for the codification of international law, the encouragement of its development and the promotion of its revision.

Recommendations for Peaceful Adjustment (new paragraph to follow paragraph 6)

Subject to the provisions of paragraph 1 of this Section, the General Assembly should be empowered to recommend measures for the peaceful adjustment of any situations, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the Purposes and Principles set forth in this Charter.

Reception and Consideration of Reports of Security Council (Chapter V, Section B, paragraph 8)

8. The General Assembly should receive and consider annual and special reports from the Security Council; such reports should include an account of the measures which the Security Council has adopted or applied to maintain international peace and security.

Subject to the provisions of paragraph 1 of this Section, the General Assembly should be empowered:

a) to approve or disapprove in whole or in part any report from the Security Council and to make any recommendations or observations thereon;

b) to submit recommendations to the Security Council with a view to ensuring complete observance of the duties of the Security Council inherent in its responsibility to maintain international peace and security.

The General Assembly should receive and consider reports from the other bodies of the Organization and may make any recommendations or observations thereon.

June 12, 1945

MEMORANDUM

TO: Mr. Victor Andrade, Chairman, Committee II/2 /
FROM: Eugene Staley, Secretary, Committee II/2

On June 12 the Coordinating Committee referred back to Committee II/2 for clarification the third paragraph of Chapter V, Section B, paragraph 1, as approved by Committee II/2 on May 29th (Doc. 686 II/2/34 May 30, 1945) which has become Article 11 of the Charter. The last two sentences of the paragraph as redrafted by the Secretariat of the Coordination Committee are those in question. The third paragraph of the Article reads:

"3. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in this Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests. The Secretary General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace or security which are being dealt with by the Security Council. He shall also notify the General Assembly immediately the Security Council ceases to deal with such matters."

The text as passed by Committee II/2 read:

".... While the Security Council is exercising in respect of any dispute or situation the functions assigned to it under this Charter, the General Assembly should not make any recommendation with regard to that dispute or situation unless the Security Council so requires. The Secretary General should be required, with the consent of the Security Council, to notify the General Assembly at each session of any matters relative to the maintenance of international peace or security which are being dealt

with by the Security Council and also to notify the General Assembly immediately the Security Council ceases to deal with such matters."

The discussion in the Coordination Committee raised the question as to whether the Technical Committee intended that the last sentence should mean that the Secretary General should notify the General Assembly when it was in session or whether the sentence could mean that he should notify the members of the Assembly when the Assembly was not in session. That query raised the problem of the nature of the General Assembly. Is there a General Assembly in existence when the Assembly is not actually in session? Further question was raised as to the situation when the General Assembly is in recess or adjournment. In that case should the Secretary General undertake to notify the members of the Assembly.

Question was raised as to whether the words in line 7 of the Coordination Committee text "with the consent of the Security Council" were also intended to modify the third sentence of the Coordination Committee text. Similarly, the question was raised whether the words "at each session" in line 8 were also intended to apply to the third sentence. Some members of the Coordination Committee raised a question regarding the word "immediately" in the next to the last line to the paragraph suggesting that the words "as soon as" might better be used.

Committee II/2 was also asked to consider whether its decision was implicit in the text that it had passed or to be taken in the basis of subsequent discussion on the nature of the Assembly complex with the decision of Committee II/1 regarding Chapter V, Section B, paragraphs 1 and 2 (Articles 19 and 20 of the Charter).

Documentation

The text of the paragraph in question appears as a redraft submitted by the four Sponsoring Powers and France on May 15 (summary of seventh meeting Doc. 354 II/2/15 May 16, Pages 1 and 2). The question of principle involved was reported by Subcommittee A in Doc. 235, II/2/A/1, May 11. Question No. 2 - This question of principle was approved by 28 votes to 0 at the eighth meeting of Committee II/2 on May 16 (Doc. 392 II/2/17 May 18). Redrafted text was submitted by Subcommittee B in Doc. 601, II/2/B/4 May 26 and was approved by Committee II/2 at its 15th meeting on May 29 (Doc. 686 II/2/34 May 30).

COMITÉ 2

Fonctions Politiques et de Sécurité.

ORDRE DU JOUR DE LA PREMIÈRE RÉUNION

Présentation

DU COMITÉ II/2

Le 4 Mai, 1945, 10 h. 30.

- (1) Déclaration d'ouverture du Président du Comité 2
- (2) ~~Introduction~~ des fonctionnaires du Comité
- (3) Mandats du Comité 2
- (4) Règlement intérieur
- (5) Procédure proposée pour l'exécution ^{des travaux} ~~du mandat~~ du Comité
- (6) Discussion générale sur ~~le mandat~~ ^{les travaux} du Comité