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INFORMAL MEETING ON THE

Anderson

Sub. No. III/3 TEST OF CHAPTER VIII, Section B, as Running  
referred back by Coordination Committee Number 1

June 14, 1945, Room 316 at 10:30 a.m.

CHAIRMAN: Gentlemen, this group has been called for the purpose of advising the Secretary of the Technical Committee, so that he can give the proper testimony, when called upon to do so by the Coordination Committee, with respect to certain points which were left open in the discussions of that Committee regarding the provisions of Chapter VIII-B.

The first four points on this agenda <sup>represent</sup> ~~refer to~~ matters which were formally referred back to the Committee for advise and consideration. The fifth represents points which were not formally referred back, but which were still under consideration by the Coordination Committee, and which may conceivably arise again, and on which, if there is time, I should be very glad to have your advise.

Now, with respect to the first point, the use of the words "measures" and "action" throughout Chapter VIII-B in the text as adopted by the Technical Committee, the word "measures" is used in paragraph 1 to refer to both the measures in paragraph 3 and the action in paragraph 4.

In some of the later Articles, however, of this Chapter, the word "action" is used to refer to both measures and action in three and four, and in a still later Article of



this Section the word "measures" is used - excuse me, in paragraph 7 the word "action" is used to refer to both measures and action, and the word "measures" is used to refer to both measures and action in the final paragraphs of the Section.

So the question then arises as to whether the Committee has achieved the proper choice of words, whether it is desirable in the first paragraph to say "measures or action taken in accordance with paragraphs 3 and 4" or simply "measures".

I should point out that I have consulted the treaty advisors of the international secretariat, who report that if at any point you use the phrase "measures or action", then any subsequent use of one of the two terms would seem to imply that the other one had <sup>been</sup> purposely omitted, and that therefore it might be as well simply to use the word "measures" in paragraph 1.

Now, for the purpose of consistent terminology, it is possible that in paragraph 7 which begins "The action required to" it would be better to say "The measures required to" because that ~~it~~ is the only instance in which the word "action" is used to refer to both measures and action.

DELEGATE OF THE UNITED STATES: It is "mesures" in French too.

CHAIRMAN: And it happens to be "des mesures" in French

too. It seems to me that would clear up the difficulty.

DELEGATE OF THE UNITED STATES: Isn't it correct to say that in the very first paragraph "measures" is used to include "action"?

CHAIRMAN: Yes, but in the technical committee's text they put in the words "measures or action".

DELEGATE OF CANADA: "Measures or action".

CHAIRMAN: In the Coordination Committee's text.

DELEGATE OF THE UNITED STATES: In the Coordination Committee's text.

CHAIRMAN: If you take that out, then your problem largely disappears, and if you substitute the word "measures" for the word "action" in paragraph 7, I think the problem completely disappears.

DELEGATE OF THE UNITED STATES: Especially as in paragraph 1 it speaks of the "measures set forth in paragraphs 3 and 4" and that can only mean action under paragraph 4.

CHAIRMAN: Yes, sure.

DELEGATE OF THE UNITED STATES: Because the word isn't used there.

DELEGATE OF CANADA: It seems to me that there isn't any very logical distinction between "measures" and "action" in this connection. I mean it would involve trying to distinguish between let us say a complete severance of trade



or relations, under economic sanctions with another country, which is a measure.

CHAIRMAN: Yes.

DELEGATE OF CANADA: Whereas a naval blockade is an action, and that might be judicially complementary. I would be inclined, as far as possible, to use the word "measures" as being a broader term, as referring to the whole matter.

CHAIRMAN: Yes. Now, that raises the question whether in paragraph 4, where the word "action" is used, it does *not represent the measures under paragraph 6, referred to in paragraph 1,* not represent ~~public officials~~, "Should the Security Council consider such measures to be inadequate, it should be empowered to take such action by air, naval or land forces as may be necessary." Now, the action there obviously is the military measures, which is *rendered in* ~~simply a~~ *of such by the word "* ~~matter of mutual cooperation~~ *"*.

DELEGATE OF CHINA: Using the word "such" then we could define "action" as "further measures".

CHAIRMAN: Yes, surely. Then I don't believe we need to discuss that particular point any further.

DELEGATE OF THE UNITED STATES: The recommendation, *is that* presumably, of this group ~~4~~ this does not seem to be a matter of substance. Our recommendation to the Coordination Committee would be that the sense of the Committee is probably that the words "or action" should not be included in paragraph 1. Would that be alright?

CHAIRMAN: Yes, and that the word "measures" should be substituted in paragraph 7.

DELEGATE OF THE UNITED STATES: Yes. And that the word "measures" should be substituted in paragraph 7.

CHAIRMAN: Very good.

DELEGATE OF THE UNITED STATES: Do we have to go <sup>to</sup> with the Committee with this? I suppose we do, in view of the Coordination Committee's -

CHAIRMAN: Well, I think we might discuss ~~it~~. After we have finished these points we might discuss whether there is anything left which justifies advising the full committee.

DELEGATE OF CHINA: (Dr. Koo) Paragraph 4 has also "measures and action" and I think the last paragraph - I am just wondering whether "such action" should not be "such measures" again. You see, it says "such action as it may be empowered -"

DELEGATE OF THE UNITED STATES: "To take such action" as Mr. Wrong just stated. The word "action" here would seem to imply that there is another section of measures.

DELEGATE OF CHINA: That is the same section as you have.

DELEGATE OF THE UNITED STATES: No. These two sections have got to be the same.



DELEGATE OF CHINA: Oh, "action". There is a difference between "action" and "measures".

DELEGATE OF THE UNITED STATES: Well, "measures" is all-inclusive, and I would say that in the context of this document -

DELEGATE OF CHINA: It is something different.

DELEGATE OF THE UNITED STATES: - "measures" includes "action".

CHAIRMAN: Now, in the French text "measures" is used for both "action and measures", except in Article 44, where it reads "operation".

DELEGATE OF THE UNITED STATES: Yes.

DELEGATE OF CHINA: Use "operation" instead of "action".

CHAIRMAN: Yes.

DELEGATE OF CHINA: So that in paragraph 4, after the first section add "such further measures".

CHAIRMAN: Yes.

DELEGATE OF THE UNITED STATES: I think it had better be left the way it is, with the word "action", and if we left paragraph 1 with the word "measures" and then specifically refer to 3 and 4. You see, that means that this action must be included among "measures".

DELEGATE OF CHINA: Yes.

DELEGATE OF THE UNITED STATES: Then if we change the

word "action" in paragraph 7 to "measures", as the Secretary suggests, I think that covers the difficulty.

DELEGATE OF CANADA: I have noticed that that represents the sense of the Committee's meaning, and I think that that is quite satisfactory.

SECRETARY: Well, the second point of the agenda deals with the position of the phrase "to maintain or restore peace and security" in the first article. Here in the Coordination Committee's redraft they move forward the phrase "to maintain or restore peace and security" so that the sentence would read as follows "when the Security Council determines that a threat to the peace, breach of the peace, or act of aggression exists, it shall, in order to maintain or restore peace and security, make recommendations or decide upon the measures or action to be taken". Well, we struck out the "action" -

DELEGATE OF THE UNITED STATES: Yes.

SECRETARY: "-decide upon the measures to be taken in accordance with the provisions of paragraphs 3 and 4." Now, the question which we need advice upon is this, whether the shift in this last clause constitutes any change in meaning.

DELEGATE OF THE UNITED STATES: It would be better to leave it, as the Committee has passed it.



DELEGATE OF FRANCE: Yes.

DELEGATE OF CANADA: I don't think it improves the meaning of the paragraph by leaving out the phrase.

DELEGATE OF FRANCE: No, I don't think it does.

DELEGATE OF CANADA: I might say, if I am in order on the subject, that the members of the Coordination Committee felt that way.

CHAIRMAN: Then I take it that it is the sense of this whole group that the original phraseology is to be preferred.

DELEGATE OF ~~THE NETHERLANDS~~ <sup>Murray</sup>: Gentlemen, I notice when you read it, that it still reads "should determine the existence of any threat of the peace, breach of the peace, or acts of aggression". Our representative pointed to an inconsistency in the terminology in that in Chapter I it says "acts of aggression or other breach of the peace."

CHAIRMAN: Yes.

DELEGATE OF THE NETHERLANDS: And I was wondering if you could call the attention of the Coordination Committee to that.

DELEGATE OF THE UNITED STATES: That has been raised already.

DELEGATE OF CANADA: Yes, that point has been raised in the Coordination Committee already and I think they were waiting until they had the revised text of the first Chapter

before rectifying it. But I think this is a good one, particularly, and that they should pay attention to it.

DELEGATE OF THE NETHERLANDS: I think definitely the terminology should be changed.

CHAIRMAN: Chapter I.

DELEGATE OF THE NETHERLANDS: Chapter I, just the one.

DELEGATE OF THE UNITED STATES: And it certainly wouldn't be a change in substance to make that change in the Coordination Committee.

DELEGATE OF THE NETHERLANDS: No.

DELEGATE OF THE UNITED STATES: That is not a matter that we have to take up.

DELEGATE OF THE NETHERLANDS: That is a mere matter of drafting.

CHAIRMAN: Now, point number three does involve, to a slightly greater extent, a point of substance. As the Article adopted by the Technical committee reads "before making the recommendations or deciding upon the measures for the maintenance and restoration of peace and security in accordance with the provisions of paragraph" - that should read "1", by the way, - there is a change that wasn't made in the text, "The Security Council may call upon the parties concerned to comply with such provisional measures as it may deem necessary". Now, the question was raised in the



Coordination Committee as to whether this wording denies to the Security Council the power to take provisional measures after, with respect to any particular dispute, it has made recommendation or decided upon measures. In other words, whether the grant of power before constitutes a denial of the power after.

DELEGATE OF CHINA: This was originally a Chinese proposal, and I might say that in our minds we did not attach very great importance to those matters. It was always taken for granted -

CHAIRMAN: Yes.

DELEGATE OF CHINA: It was simply to provide for the possibility of taking these interim measures, so that in the normal course they would have to be taken, of course, to remedy a situation in which the Security Council would find it advisable to take either one or the other of the measures, with the final recommendations, or even afterwards.

CHAIRMAN: Yes, because if there was some aggravation of the situation -

DELEGATE OF CHINA: Yes. Finally, the suggestion from the Coordination Committee seems to us to be better and clearer, and probably it is a desirable revision, without really substantially changing the purport of the original amendment.

CHAIRMAN: Well now, specifically what verbal change

do you have in mind?

DELEGATE OF CHINA: I have had a suggestion brought to me here "in order to prevent - " I suppose that should be "in order to prevent an aggravation of the situation, the Security Council will call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable" and then it goes on "such provisional measures, <sup>should be</sup> without prejudice to the rights, claims or position" etc. - simply to alter the first part of the wording of the original paragraph.

DELEGATE OF CANADA: Making it begin with the words - or eliminate "of the situation".

DELEGATE OF THE NETHERLANDS: May I call your attention to this situation, that you are using that in quite a technical sense, and it might not be a good idea to use a word which may restrict the sense of the paragraph.

DELEGATE OF CHINA: The original one.

DELEGATE OF THE NETHERLANDS: The word "measures" has been used in a technical sense, in contradistinction to "action". I think it would be better to find a word that would fit both.

DELEGATE OF THE UNITED STATES: In that connection, it seems to me if you put in this language - I like very much that which Dr. Koo has just urged - if you put this language in the same article with the preceeding one, then



it specifically means that you are dealing with a situation where the Security Council has determined a threat to the peace, an act of aggression, or a breach of the peace.

You see what I mean. In the final charter, instead of having these separate articles, have one article with perhaps two paragraphs.

CHAIRMAN: Yes. For present purposes we will say two sub-paragraphs.

DELEGATE OF THE UNITED STATES: Two sub-paragraphs of one article. Then it would clearly mean that the situation is one which is referred to in the previous article.

DELEGATE OF THE NETHERLANDS: Yes. I think it would be impressionable to use the word "situation".

DELEGATE OF CHINA: I have a thought of a tentative draft text, just to meet the point that is under discussion now, of splitting these two paragraphs into three paragraphs, and I would like to read them slowly.

In the first place, you see, paragraph two is to be broken up into two parts:

"1. The Security Council shall determine the existence of any threat to the peace, or of any act of aggression, or other breach of the peace".

That is to be one paragraph, so that leaves the determination as a specific task without involving other

things, you see, which will be decided.

DELEGATE OF THE UNITED STATES: Yes.

DELEGATE OF CHINA: Now, paragraph two would be a separate paragraph. The second part of the original paragraph:

"2. If the Security Council makes such determination it shall make recommendations in order to decide what measures shall be taken in accordance with the provisions of paragraphs 3 and 4 in order to maintain or restore international peace and security."

You see, that is the step following the first one, following the act of determination.

Then it could be followed by the original 2, which would be 3 in this case.

"In order to prevent an aggravation of the situation, the Security Council may call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable." Then it goes on "such provisional measures should be without prejudice" etc.

CHAIRMAN: Wouldn't it be more suitable if we said "in order to prevent an aggravation of the situation or dispute"?

DELEGATE OF CHINA: No. I think here is a situation which may arise by itself or may arise out of a dispute.



Where will you state the dispute, if the dispute itself has developed into a situation which threatens the peace or results in a breach of the peace, or a situation without any dispute taking place beforehand arises? It covers both, so that I think the phrase should cover it.

DELEGATE OF THE UNITED STATES: If you put the three together in one article.

DELEGATE OF THE NETHERLANDS: I think you are right.

DELEGATE OF CANADA: Yes, you are right.

DELEGATE OF CHINA: I believe if that arrangement were adopted there would be no ambiguity about the word "situation".

DELEGATE OF MEXICO: I think if you do that it would cover it.

CHAIRMAN: Well, if there is no objection then, I think we might move on to the next point on the agenda which is really not a point of substance, but a question of the proper rendition into French and English of an idea which is not exactly rendered by the present French text, which speaks in paragraph 2 of "mesures provisoires". Now, it is my understanding, and I should like to be corrected if I am wrong, that the debate in the Committee was based on the phrase "mesures conservatoires".

DELEGATE OF BELGIUM: Yes. I made a remark about it, and it was agreed that in the French text the term used

should be "mesures conserv<sup>9</sup>itoires" .

CHAIRMAN: Now, is there also agreement that the phrase "provisional measures" is the most faithful rendition into English of the French phrase "mesures conserv<sup>9</sup>itoires"?

DELEGATE OF THE UNITED STATES: Not having participated in any of the work of the League, I can't speak with authority. There are some gentlemen here who can. I believe they had some difficulty in the League, did they not, between the words "mesures conservitoires" and "provisional measures", and the words "mesures provisoires" which were used in French. Isn't that correct? I appeal to you gentlemen who were in Geneva.

DELEGATE OF CANADA: The words "mesures conservitoires" are more nearly correct than "mesures provisoires".

DELEGATE OF FRANCE: Yes, "mesures conservitoires" rather than "mesures provisoires".

CHAIRMAN: It would be equivalent to "provisional measures".

DELEGATE OF CANADA: "Mesures conservitoires" rather than "mesures provisoires" in this case.

CHAIRMAN: I looked into the dictionary for the various definitions of the word "provisional", and the legal definition is as follows: "Designating certain special or



extraordinary acts or proceedings allowed before final judgment, to protect the interests of one or more parties to an action or proceeding."

DELEGATE OF THE UNITED STATES: Well, that is very close to the French meaning, "conservatoires", as was explained by Mr. Chaumont in the Coordination Committee the other day, I believe.

DELEGATE OF CANADA: Of course, the words are clarified by the phrase "in order to prevent an aggravation of the situation" which is a gloss on the "conservatoires" or "provisional".

DELEGATE OF CHINA: The Chinese amendment originally used the term "interim or provisional measures," and then the French delegate said it was difficult to translate both words into French properly.

DELEGATE OF FRANCE: I prefer to leave it in.

CHAIRMAN: You prefer to leave it in?

DELEGATE OF FRANCE: Because there is <sup>no</sup> ~~a~~ doubt about those measures, if we say "in order to prevent an aggravation". But you have stated the conservative character of those measures, and after that their provisional character, and it is quite <sup>if</sup> ~~it~~ alright.

CHAIRMAN: Was that "provisoire"?

DELEGATE OF FRANCE: I would suggest that it be left

there.

DELEGATE OF FRANCE: (Speaking in French, English version as delivered by interpreter follows): It has been noted in the Committee that the word "provisional" would not cover, for instance, the case of a decision to demobilize an army, which is a final decision and cannot be considered as a provisional measure, but as a "conservatoire" measure.

DELEGATE OF FRANCE: If I am right, I believe the measures which are considered in this paragraph are not provisional measures. You take certain measures which you have to take in order to prevent any aggravation of a situation, something of an essentially conservative nature, even you have to confirm it afterwards. You see, that is why it seems to me very important that it should include provisional measures, even if you have to confirm them afterwards, because it gives a definiteness to the action of the Committee.

DELEGATE OF CHINA: Why don't you use the word in French "provisoire"?

DELEGATE OF THE UNITED STATES: It is in the French.

CHAIRMAN: That is the present French text.

DELEGATE OF CHINA: Why not use that?

DELEGATE OF THE UNITED STATES: Mr. Secretary, I wonder if we could have read the section of the rapporteur's



report which at least we have. I think the Delegate of Belgium is correct, that the rapporteur's report does refer to the fact that the committee decided that these should be conservatory measures, and I think we want to be very clear on that, because then it becomes a matter of substance, and we have to go back to the Committee.

CHAIRMAN: Well, I take it that Mr. Wrong's point was as to the clause "in order to prevent an aggravation of the situation". Then "provisional measures" become "conservatory measures".

DELEGATE OF THE UNITED STATES: I agree with that.

CHAIRMAN: Then the point of substance disappears.

DELEGATE OF THE UNITED STATES: I am not sure that the point of substance disappears. I want to hear the rapporteur's report first, because it might become a point of substance after we read the rapporteur's report.

DELEGATE OF THE NETHERLANDS: I think demobilization might be included in "provisional measures", because I believe it does imply them.

DELEGATE OF THE UNITED STATES: That is right.

DELEGATE OF CANADA: I wonder if this might not be the solution, to leave the word "provisional" where it first appears in the text, so that it would read "in order to prevent an aggravation of the situation, the Security

Council may call upon the parties concerned to comply with such measures as may be necessary or desirable" with the word "provisional" before the word "measures" in the next two sentences.

DELEGATE OF MEXICO: Yes. Put in "such provisional measures as it may deem necessary". I think now "provisional" is better, because it is qualified "as may be necessary or desirable". It is necessary that they put "provisional" in there in the next one, and that "provisional" qualifies the measures that have been necessary.

DELEGATE OF CANADA: But that does not solve the problem of translating it into the French "provisoire". It does not solve the difficulty.

DELEGATE OF THE UNITED STATES: Well, I don't think it would solve the difficulty, the word "provisoire".

DELEGATE OF CHINA: I think we had better use the French word "provisoire".

DELEGATE OF THE UNITED STATES: Oh, yes.

DELEGATE OF CHINA: Because I remember in that Committee meeting, when they decided to use the word <sup>no</sup> "conservatoire" there was ~~some~~ discussion. Mr. Kamincker said it was "provisoire" and nobody objected. They did not discuss the subject, so we recommended the use of the word "provisoire".



DELEGATE OF CANADA: Which have continued in the translation now before it was changed to "conservatoire".

DELEGATE OF CHINA: Sometimes it was "provisoire" and sometimes it was "conservatoire".

DELEGATE OF MEXICO: It was always put "provisoire".

DELEGATE OF CANADA: Actually in the translation into French.

SECRETARY: Then is it the sense of the Committee <sup>mesures</sup> that the French words "provisoire" should be stricken out the first time that those words appear?

DELEGATE OF THE UNITED STATES: No. I <sup>don't</sup> think it is necessary. I think they should stay all the way through.

DELEGATE OF CHINA: Yes, they had better stay all the way through.

CHAIRMAN: Yes.

DELEGATE OF CHINA: Because if you emphasize their "provisional measures" then it is up to the two parties to accept them.

DELEGATE OF THE UNITED STATES: Yes. Furthermore, if you strike it out then the sentence doesn't have much meaning, because the measures for the maintenance and the restoration of peace and security - certainly the measures to be taken under 3 and 4, or under 3 at least, might be measure desirable to prevent an aggravation of the situation.

I think it is better to leave it "provisional" and "provisoire".

CHAIRMAN: I would like to ask the Belgium Delegate if he believes it is a matter of substance.

DELEGATE OF BELGIUM: No, I don't. I believe it is only a matter of form. I wouldn't object to using the word "provisoire".

CHAIRMAN: Alright. Now, there are a number of other questions which were not formally referred back to the Committee, but on which the Coordination Committee's discussion raised questions of substance, about which I should very much like to have advice when the Coordination Committee finally considers the text. The first relates to the fifth paragraph, in which the contents of special agreements is defined in the second sentence "such agreement or agreements shall govern the number and types" - I perhaps had better read the technical committee's text.

DELEGATE OF CHINA: Chapter VIII, Section B.

CHAIRMAN: Chapter VIII, Section B, paragraph 5.

DELEGATE OF THE UNITED STATES: It should be VIII, yes.

CHAIRMAN: Yes, VIII B 5. "Such agreement or agreements should govern the number and types of forces, their degree of readiness and general location of the facilities and assistance to be provided." The question of substance is



this: Is this list, by specifying certain things restricted?

DELEGATE OF THE NETHERLANDS: It is not intended to be.

CHAIRMAN: It is not intended to be. Would it be clearer to say that "such agreement or agreements should govern, among other things - "

DELEGATE OF THE NETHERLANDS: You might say "especially".

DELEGATE OF THE UNITED STATES: Well, I am not a military man, so I hesitate to speak. But I wonder whether this list doesn't cover just about everything that is necessary.

DELEGATE OF CANADA: It has some very big words in it which I agree were additions made at the instance of the French Delegation; the degree of readiness and general location. <sup>Thus</sup> the number and types and the nature of the facilities and assistance seems to me to take in practically every conceivable obligation.

DELEGATE OF THE UNITED STATES: Even down to spare nuts and bolts for an airplane engine.

DELEGATE OF CANADA: Yes.

CHAIRMAN: Well, since this text is the result of the French suggestions, I should like to ask Mr. <sup>Dejean</sup> ~~Dijon~~ about it.

DELEGATE OF FRANCE: It is certainly not our intention that it should be restricted<sup>we</sup>.

DELEGATE OF CANADA: I don't think any valid objection could be taken on the ground that this has been restricted<sup>we</sup>, anything that is at all likely to be thought -

DELEGATE OF THE UNITED STATES: Mr. Chairman, maybe you are going on to this thing - I see you have nothing else under VIII-B 5.

CHAIRMAN: Yes, I do have one.

DELEGATE OF THE UNITED STATES: Yes, you have one, but it is not what I am going to raise. There were two other questions raised in the Coordination Committee if I may say so. One of them has to do with the introductory clause which reads "in order that all members of the Organization should contribute". You may recall that the Committee itself had a discussion on that in connection with an Australian amendment which had "may contribute" and I have been giving a little consideration to this, and I wondered if the Coordination Committee - if this group would agree that it was the sense of the Committee that this first thing might read as follows:

"All members of the Organization, in order to contribute to the maintenance of international peace and security, undertake to make available" and that gets away from this



difficult question of whether it should be "may" or "shall".

DELEGATE OF CHINA: Yes.

CHAIRMAN: And the other difficult question as to whether this was the single purpose of the agreement, just to guarantee that all nations should contribute.

DELEGATE OF THE UNITED STATES: I think if we leave it in the present construction in English, we are always going to have difficulty as to whether it should be "may" or "shall", whereas if you change this construction and say "in order to contribute " -

DELEGATE OF CANADA: It is made rather plain in Section VII, where it says, calling attention to <sup>in co -</sup> ~~the~~ <sup>the</sup> operation ~~to~~ "the action required to carry out/decisions of the Security Council, measures should be taken by all the members of the Organization, or by some of them, as the Security Council may determine." So I think that would preclude any misunderstanding here -

DELEGATE OF THE UNITED STATES: That is not a matter of substance, but I thought one of our purposes was to help you help the Coordination Committee.

CHAIRMAN: Then I take it that it is the sense of the Committee that your rephrasing it incidentally brings it closer to the French text.

DELEGATE OF CHINA: Read it.

DELEGATE OF THE UNITED STATES: "All members of the Organization, in order to contribute to the maintenance of international peace and security, undertake to make available". That is not a change of substance, I think. Do you agree with me, Mr. Wrong, that that is correct?

DELEGATE OF CANADA: I think that is alright, yes.

DELEGATE OF THE UNITED STATES: As a matter of fact, purely as a personal observation, I see no reason why this particular clause should be in, but that is not for me to say.

DELEGATE OF CANADA: "All members of the Organization".

DELEGATE OF NETHERLANDS: "Shall undertake".

DELEGATE OF UNITED STATES: No, I think it should be just "undertake".

CHAIRMAN: Yes, undertake, as from the present moment on.

DELEGATE OF THE UNITED STATES: "All members of the Organization, in order to contribute to the maintenance of international peace and security undertake to make available - "

DELEGATE OF NETHERLANDS: Yes.

DELEGATE OF UNITED STATES: Because the undertaking is done here in the Charter. The other question that I had -



CHAIRMAN: Mr. Wrong, are we clear about this that they "undertake". We omit the words "shall" or "should".

DELEGATE OF CANADA: I think it is alright.

DELEGATE OF FRANCE: It seems to me that is alright.

DELEGATE OF CANADA: The members of the Coordination Committee decided that we must use uniform language, and wherever there is an undertaking they put it in the present tense. I think that simplifies this paragraph.

DELEGATE OF UNITED STATES: It is the sense of our Committee only that the undertaking is made in the Charter. In fact, that would have to be entered into by a separate instrument.

The other point I had, Mr. Chairman, was the use of the word "govern", which was used in the original text "such agreement or agreements shall govern the number and types of forces". The French word, I believe, "regle", is it not?

DELEGATE OF FRANCE: "Déterminé"

CHAIRMAN: "Fixeron"?

DELEGATE OF THE UNITED STATES: "Fixeron", I think, perhaps is the word, or "prescribe" might do it. "Shall prescribe the numbers."

DELEGATE OF CANADA: This is the word "govern".

DELEGATE OF UNITED STATES: This is the word "govern",

yes. You know there was some discussion in the Coordination Committee on that. If you make it specific then it becomes too definite, and it would mean that we would all have to furnish so many of a particular kind of bomber, and we would have to change the agreement.

CHAIRMAN: "Shall regulate the number"

DELEGATE OF CANADA: "include"

CHAIRMAN: No, because you don't include the forces; you include provisions regarding.

DELEGATE OF CANADA: Yes, including provisions regarding.

DELEGATE OF FRANCE: Well, you could use the word "decide" instead of "govern". If you govern you don't need to fix.

CHAIRMAN: Now, are these too specific in French?

DELEGATE OF UNITED STATES: No. I should say "fixé" or "determiné", one of those.

DELEGATE OF CANADA: "Determiné"

DELEGATE OF NETHERLANDS: Could it be "determiné", - "determine" in English?

DELEGATE OF FRANCE: What do you say for "determine", what do you say in English?

DELEGATE OF THE UNITED STATES: "Determine the number and types of forces." I think that might be alright.

DELEGATE OF CANADA: The Chairman, probably is right.



If you use the word "determine" in English, you had better use "déterminer" in French.

DELEGATE OF FRANCE: Yes, I think we could use "déterminer" in French, and "determine" in English.

DELEGATE OF UNITED STATES: Yes, I think "determine" would be alright.

CHAIRMAN: Now, there is one other small point in the last sentence of paragraph 5 "All such agreements shall be subject to ratification by the signatory states, in accordance with their constitutional processes."

In the Coordination Committee the question was referred to the Jurists as to whether "approval" might not be better than "ratification". I should like to point out, before we discuss it, that it has some significance for the United States, because only international agreements of the most formal character, that is treaties, are ratified.

DELEGATE OF CANADA: Yes.

CHAIRMAN: Whereas, as to other types of agreements, in the process of ratification you use some other word.

DELEGATE OF UNITED STATES: Mr. Chairman, might I say you referred to the United States. I think that a change of this kind would be an important change of substance as far as the United States is concerned, because of that very fact, that ratification has a specific meaning in

the United States, I believe.

CHAIRMAN: Well, may I therefore notify the Coordination Committee that we would regard any change in the word from "ratification" to "approval" as a change of substance - I mean as raising a matter of substance.

DELEGATE OF UNITED STATES: Personally, I haven't discussed it with my delegation, but I think that that should be the case.

DELEGATE OF NETHERLANDS: As far as my country is concerned, it is completely indifferent to us. We don't have the same trouble as you do in the difference between ratification and approval of agreements.

DELEGATE OF UNITED STATES: Yes.

DELEGATE OF CHINA: If you have the words "agreements in accordance with the constitutional processes", doesn't that cover your point, because your constitutional process requires ratification?

CHAIRMAN: For treaties, but not for executive agreements.

DELEGATE OF CANADA: If the original Dumbarton Oaks text had their approval, I don't think it would give rise to any change now. But the change now from ratification to approval might lead to some criticism in certain countries.



DELEGATE OF UNITED STATES: I can show you some speeches appearing in the Congressional Record.

DELEGATE OF CANADA: They would get all around, or part of them, to another country. Therefore, I am inclined to think that unless the Committee of Jurists find very strong objection to using the word "ratification" that we had better stick to the original.

CHAIRMAN: Yes, I think so.

DELEGATE OF UNITED STATES: I would like to add to that Mr. Chairman, that the Committee of Jurists has decided if that the word "ratification" should not be used, then it becomes a matter of substance, I believe.

SECRETARY: On which I should testify that it would be better to go back to the Committee.

DELEGATE OF UNITED STATES: Go back to the Committee.

DELEGATE OF CANADA: There is still an unsettled question. The Jurists Council has had, in fact, the legal steps necessary for the conclusion of agreements of this type, which will be binding on international obligations. That is still under consideration, isn't it Mr. Chairman?

CHAIRMAN: Yes.

DELEGATE OF CANADA: The answer to this may be taken from the answer to the other question.

DELEGATE OF FRANCE: I would like to ask a question.

Is it to determine, when you say the agreement is subject to ratification by the signatory states, - would it be proper to say "in accordance with their constitutional processes. If the Constitution of the state in question does not require ratification for such an agreement. Is it your meaning that it does not need -

CHAIRMAN: Subject to such ratification as may be required by.

DELEGATE OF UNITED STATES: That is right.

DELEGATE OF FRANCE: As may be required.

DELEGATE OF CHINA: By putting in "ratification" here you are not saying that it does need ratification?

DELEGATE OF THE UNITED STATES: Well, as I say, when you say "according to the constitutional processes," it seems to me that it has exactly the same meaning. The Constitutional processes does not require ratification.

DELEGATE OF FRANCE: If this is the meaning of the text, I don't see any objection to it.

DELEGATE OF NETHERLANDS: I think some wording could be found which would cover the agreements completely, in accordance with the American theory, whether the particular agreement was a treaty or an executive agreement.



DELEGATE OF UNITED STATES: I think that was what was precisely intended by this language.

DELEGATE OF NETHERLANDS: We could debate these suggestions made by the Delegate of China.

DELEGATE OF CHINA: If ~~we~~ required, for constitutional purposes,

DELEGATE OF FRANCE: If required for constitutional purposes.

DELEGATE OF CANADA: I would stick to the original language if we possibly can.

DELEGATE OF UNITED STATES: I did not participate in the Dumbarton Oaks, but I suspect this language was drafted with that particular conflict in mind.

CHAIRMAN: Then I would suggest that we move on. I think I know what testimony to give. There is a very small point in paragraph 6. The present text seems to require that all members of the Organization must hold immediately available national air force contingents - they shall be immediately available by the members. Now if we strike out the "the" and simply say "all members of the international organization", that is a construction which permits the possibility that a very tiny country might not, at every moment, be expected to hold immediately available a national air force contingent, my understanding

of the intent of the Committee is that that word should be stricken out.

DELEGATE OF FRANCE: Yes.

DELEGATE OF UNITED STATES: Yes, I would agree.



CHAIRMAN: Now paragraph 7. The first sentence speaks of the "measures shall be taken by all the members of the Organization in cooperation", or by some of them. Is the Security Council - as the Security Council may determine. Now the question on which I need advice is whether "some" is properly interpreted to include as few as one.

DELEGATE OF UNITED STATES: I would say probably it would not, Mr. Chairman. I don't know....

DELEGATE OF CANADA: I think the French text would imply that at least two members had to take action, because it is certains and certains is in the plural. That would mean two at least.

DELEGATE OF FRANCE: Yes, there is no doubt in the French text. It must be at least two.

CHAIRMAN: I take it then that we may regard the present wording as expressing the intent of the Committee.

DELEGATE OF UNITED STATES: Mr. Chairman, in that same connection with paragraph 6, I don't - paragraph 7, I wonder if the words "in cooperation" are properly placed. That question was also raised in the Coordination Committee.

CHAIRMAN: Whether they added to or subtracted anything from the text.

DELEGATE OF UNITED STATES: It looks as if all the members will have to cooperate. If some of them don't....

DELEGATE OF MEXICO: As the Security Council may determine.

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DELEGATE OF CHINA: The French text is clear, but the French text in fact is a translation from the English. So we must first be clear about what we wanted to say in English. We cannotl.....

DELEGATE OF FRANCE: Yes, yes, that is right.

CHAIRMAN: Well, then, you think the French text....

DELEGATE OF CHINA: We can take it according to the French text, because in the French text, it says what is the meaning of the Committee.

DELEGATE OF UNITED STATES: I think the French text is better. "Some" can scarcely be one, can it?

DELEGATE OF FRANCE: We have the possibility of the Council saying that possibly only one state will act. I don't believe it is our intention.

CHAIRMAN: That is the question of substance.

DELEGATE OF UNITED STATES: What is that?

CHAIRMAN: As to whether it was the intention never to permit the Council to entrust the enforcement only to a single state.

DELEGATE OF FRANCE: It is not our intention, I might say, because you might have a case where it is enough....

DELEGATE OF CANADA: But a question of occupying with a neutral force. It might well be that a single state only would have to act under paragraph 4 here.

DELEGATE OF UNITED STATES: But wouldn't the others, in



any case, at least have to cooperate, perhaps not by using forces, but in some other way?

DELEGATE OF CANADA: I had an idea our original language was certainly intended to leave the Security Council complete flexibility in reaching a decision as to whether member or members should be responsible.

DELEGATE OF FRANCE: Could you put "any" instead of "some"?

CHAIRMAN: Or, "such of them"?

DELEGATE OF FRANCE: "Any of them"?

CHAIRMAN: "Such" is better.

DELEGATE OF CANADA: "Or by such members as the Security Council".....

DELEGATE OF NORWAY: The French would be "les membres!" I think there is a question of substance anyhow, and I think the question was never raised in the Committee, and a case may be made for expressly provided that there must be at least two. That would underline the fact that this is an action by the Organization, and that no single power would be able to act on its own, because I think before making any change which makes it possible that one power is assigned the duty in this particular case, it should be brought into the Committee, and I think that particular aspect of it should be pointed out.

CHAIRMAN: Is it the sense of this Committee that it

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should, in any case, be referred back to the full Committee, or only if the Coordination Committee undertakes to make a change?

DELEGATE OF NORWAY: I think that as I just said, this particular point was never debated in the Committee, and it should be referred back in any case.

CHAIRMAN: In any case? Very good.

DELEGATE OF UNITED STATES: The location of the words "in cooperation" make a difference. If you say by all of them in cooperation, or by some of them, that may be one thing, taken in cooperation by all of them or by some of them. That means still another thing.

CHAIRMAN: Yes, a single state couldn't cooperate.

DELEGATE OF UNITED STATES: Yes.

CHAIRMAN: Well, now, does the Committee desire to express an opinion as to whether this phrase "in cooperation" has a function to perform?

DELEGATE OF CHINA: It depends on the other decision. If we decide one member can carry on, we must drop it.

DELEGATE OF NORWAY: I think the word "cooperation" makes it still more plain what was in the mind of the Committee, or the drafters of the Dumbarton Oaks Proposals, which was there should be at least two.

DELEGATE OF UNITED STATES: It would make it plain if we put "in cooperation" up there at the beginning. I don't



think it is - where it is, the words "in cooperation" modify only the "or" as I see/ it.

DELEGATE OF NORWAY: No, I agree. I think that particular phrase as it is - I don't think "cooperation" performs any function at all.

DELEGATE OF UNITED STATES: But, "should be taken in cooperation by all the members" if the decision is more than two, then they should go up.

DELEGATE OF NORWAY: To come after "some".

DELEGATE OF UNITED STATES: Now, I think after "taken", "should be taken in cooperation by all the members of the organization, or by some of them". But the other question is a prior question.

CHAIRMAN: In other words, move or delete /according to the decision.

DELEGATE OF UNITED STATES: That should go back to the Technical Committee then?

CHAIRMAN: This must go back to the Technical Committee in any case. The second sentence of the same paragraph refers to the "undertaking should be carried out by the members of the Organization by their own action and through action of the appropriate specialized organizations and agencies of which they are members." Now the question is whether the present phraseology doesn't imply that a state undertakes to make an organization act, and whether the

following rephrasing wouldn't more accurately express the intention of the signatories. "This undertaking should be carried out by the members of the Organization by their own action and through their action as members of the appropriate specialized organizations and agencies of which they are members" It is a little difficult to envision a state undertaking to make something other than itself act.

DELEGATE OF CANADA: We might get a situation, and quite a grave one, in which the Civil Aviation Organization, if it comes into existence, was required to take some steps through its own organization, and in connection with severance of communications with a country against which sanctions were being implied. Now, the membership of the new general organization, and the membership of the Civil Aviation Organization will certainly not be identical, and we cannot undertake that the Civil Aviation Organization, in the Charter, will do things. Therefore, I am inclined to think that this amendment is a real improvement, but we want to obligate members to do - what we want them to do, is to promise that they will use their influence in the specialized organizations to see that they take action to carry out the decisions of the Security Council. That is, it is an individual undertaking on the part of the members to take action in the specialized organizations to which they belong which is consistent with the provisions of the Security Council.



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DELEGATE OF UNITED STATES: I heartily agree. Furthermore, I don't think this would be a matter of substance. It was not discussed in the Committee....

DELEGATE OF CANADA: Oh, no, I think it is a pure drafting matter.

DELEGATE OF NORWAY: Would you be kind enough to read that once more, your redraft? /

CHAIRMAN: "This undertaking shall be carried out by the members of the Organization by their own action, and through their action as members of the appropriate specialized organizations and agencies of which they are members."

DELEGATE OF NORWAY: Thank you very much.

DELEGATE OF CHINA: What is the "action as members"?

DELEGATE OF CANADA: That is, - I am hesitating over the phrase. I think it should and must be made, but I hesitate over the language.

DELEGATE OF CHINA: It means they undertake to obtain from the Organization such action....

DELEGATE OF CANADA: Undertake to do their best to obtain.

DELEGATE OF UNITED STATES: Mr. Chairman, may I suggest this might be changed by a change of two letters, by changing "of" to "in" - "through action in the appropriate specialized organizations and agencies". "In" the appropriate or specialized organizations or agencies in which they are

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members.

CHAIRMAN: That is good.

DELEGATE OF FRANCE: I believe it is a pretty important question, because the Security Council has to deal either with member states, or groups of member states, and I believe some words refer to member states considered in their individuality, and the other words refer to the groups of member states; and I should prefer to maintain the text as it is.

CHAIRMAN: Except - excuse me. As I understand, the difficulty with the present text is that it seems to obligate the organizations to take action which may have members who are not members of the Organization of the United Nations.

DELEGATE OF FRANCE: Don't you believe we have in view the groups of member states which shall have concluded special agreements with the Security Council?

DELEGATE OF UNITED STATES: No, Sir. No, Sir, I don't think so. I think Mr. Wrong's example was precise. For instance, supposing the Bank is set up. The Security Council might decide there shall be economic sanctions against a state. Then the other states in accordance to carry out that decision, may have to do so through the Bank, may have to use the Bank, may have to put through measures in the Bank which would enforce those economic sanctions. If the



Bank did not carry out the action of the Security Council, the Bank would be breaking down the effort of the Security Council.

DELEGATE OF NORWAY: May I raise one point? It seems to me that what we are discussing here has some bearing on paragraph 3, because this would be one more peaceful sanction which - one more measure which could be asked by the members and it is not included in paragraph 3, and it might be necessary, if a member state could be asked to called upon to use its vote ~~inside~~ inside an organization which is exterior to the United Nations Organization, then that should be specified in paragraph 3.

DELEGATE OF UNITED STATES: I wonder if that isn't covered. "The Security Council shall be empowered to determine the diplomatic, economic or ~~other~~ measures" - now to carry on the example of the Bank, it might be termed that the Bank should withdraw credits from the Country.....

DELEGATE OF NORWAY: But that would be a measure by the Bank.

DELEGATE OF UNITED STATES: Then, to go on....

DELEGATE OF FRANCE: That is not the meaning we attach to the paragraph. We have really in mind states or groups of states dealing with the Security <sup>Council,</sup> and having concluded with the Security Council those special agreements which are provided for in Article 5.

DELEGATE OF CANADA: I think we have got to cover both types of cases, the case where you have a group of agreements with the Security Council, let us say, and the Inter-American agreements, covering perhaps regional arrangements, or any threat to peace in the Americas. And that one type of case is there. Then you have the other type of case, in which you may need to complete, to round out the powers which the Organization can take of its own notion, complementary action by perhaps a whole group of other agencies, particularly in the field of application of economic sanctions. I cited the Civil Aviation Organization; Mr. Johnson cited the case of the Bank. We may even find that there are further organizations coming into existence which....

DELEGATE OF MEXICO: Civil Aviation is important.

DELEGATE OF CANADA: Civil Aviation is perhaps the most important which would have to be taken in, and under their constitution possibly they would be able to cooperate with the Security Council in these measures, and I wouldn't like to see language adopted here so restrictive that it could only apply to regional peace enforcement agencies.

DELEGATE OF THE UNITED STATES: May I make one more statement in that connection?

I think as the words "specialized organizations and agencies" are used throughout the Charter, particularly in Chapter IX, it is meant to mean just such agencies, rather



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than groups, like the Pan-American system, or any other regional groups that may make an agreement with the Security Council. I think the word "specialized" has a specific connotation in other parts of the Charter. I am sure of that.

CHAIRMAN: I should like to say the discussions I have heard earlier suggested both types of organizations were envisioned, regional and specified.

DELEGATE OF UNITED STATES: Might be regional-economic organizations, if there were one, or regional-telecommunications organizations, which we have in this hemisphere. It might be that, but I think it is a "specialized" in the sense not of a security organization, but a special agency.

DELEGATE OF FRANCE: I believe Chapter VIII deals with matters relating directly to the maintenance of peace, and not at all to other matters.

DELEGATE OF UNITED STATES: I agree with you thoroughly on that, but as I say, the word "specialized organizations and agencies" were meant to apply to various international bodies. It might include such groups as you mention, it might include a number of things, a number of bodies for a specific purpose...

DELEGATE OF FRANCE: But I believe it should not apply to international bodies of a private character.

DELEGATE OF UNITED STATES: Not of a private

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character, but inter-governmental bodies.

DELEGATE OF MEXICO: I think the French translation is much better than the English text. It says, "Pour l'application de ces mesures, les membres de l'Organisation agiraient.." It is avoided to repeat twice "action" and "action". The "Pour l'application de ces mesures, les membres de l'Organisation agiraient de leur propre chef et par l'intermédiaire des organismes spécialisés et offices appropriés don ils sont membres." You see, it says "propre chef", instead of "action". The specialized organization and the "offices appropriés". If it would be possible to translate from French to the English, it would be better.

DELEGATE OF BELGIUM: I am not sure that the words "de leur propre chef" are very good.

DELEGATE OF MEXICO: Then we have the "agiraient" to represent in English twice, "action" and "action". You have in English "action by the members of the organization" and "by action" - "through action by the appropriate organization". And then, in the English "the appropriate specialized organization" applies to organizations and agencies at the same time in the French, "et offices appropriés". It is "specialized agencies" and it is applied to the organismes and to the offices.

DELEGATE OF UNITED STATES: That raises a question of substance because I don't know if "appropriate" modifies



organismes and offices, or not.

DELEGATE OF MEXICO: There is a difference between the two texts, but I think with this "agiraient" in French, it avoids "action" and "action". Now, it is the question to decide if "appropriate and specialized" apply to organizations and agencies, because in French, it is separated for the "organismes spécialisés" and for offices, it is "offices appropriés".

DELEGATE OF CHINA: Appropriate applies to both.

DELEGATE OF MEXICO: In English, yes, but not in French. But then the organismes in French;.....

DELEGATE OF CHINA: "Organismes spécialisés et appropriés"....

DELEGATE OF UNITED STATES: I think it should be "organismes spécialisés et appropriés".

CHAIRMAN: I have asked the Executive Officer of the Committee if he would say a word about this phrase, because he was part of the Secretariat at the time Dumbarton Oaks was negotiated. It might help us to clarify the intent.

EXECUTIVE OFFICER: I don't think the decision - I don't think I can give any final answer to this at all. It was my impression that the intention was that this should refer more to regional agencies than to anything else, because the term "organizations and agencies" was one that is reproduced quite a lot in the Dumbarton Oaks draft, in Section C. That is the impression I have.

DELEGATE OF UNITED STATES: I had a contrary impression, because the word "specialized" refers to others. Have you a copy of the Charter - of the text of Dumbarton Oaks proposals? You have here in paragraph 2, Chapter IX, Section A, "The various specialized social and other organizations and agencies"- again, you have the same word "organizations and agencies", and the same difference in translation, incidentally, the difference "organismes et les offices spécialisés".

DELEGATE OF CANADA: We finally approved these in such a gallop in the Committee that we never had an opportunity to consider some questions which perhaps we should have discussed.

CHAIRMAN: Does this raise a question of substance which must be clarified in the Committee?

DELEGATE OF FRANCE: I believe it is a very important question.

DELEGATE OF NORWAY: I stick to my point. I think it does raise a point of substance, whether or not the Security Council can use - can ask a member to use a vote which is outside to this organization, in order to have action by that outside organization. I think if that is the case, I think some change should be made in 3, and as 3 now reads, it doesn't seem to me that it envisages such a possibility. It is one thing to ask a member to take a measure of a



certain kind, another thing to command a member to use its vote in an organization which has nothing to do with the United Nations Organization, to secur action by that outside organization.

DelegatE OF CHINA: I think that is logical. It is not said plainly, but I think it should be, so a member cannot take an action outside the conformity with the decision of the Council, and take another action which would be against it.

DELEGATE OF BELGIUM: And the International organizations, like the Bank or Civil Aviation, would have agreements with our organization. Here they are not outside of the organization.

DELEGATE OF UNITED STATES: But there may be some which would be....

DELEGATE OF NORWAY: I think rewording might be indicated in paragraph 3.

CHAIRMAN: I take it, then, this is as far as we can go at the moment with this.

DELEGATE OF FRANCE: With regard to the French text, I must say it is a very bad translation, and the Belgian Delegate will agree, when we say "de leur propre chef", it means of their own initiative, but we mean the initiative of the Security Council, not of the members, and this cannot be kept.

DELEGATE OF CHINA: I think the French is better.

DELEGATE OF MEXICO: Article 7 in French covers everything. In the first part, "des décisions du Conseil de Sécurité en vue de maintenir la paix et la sécurité internationales devrait être prises par tous les membres de l'Organisation agissant de concert ou par certains d'entre eux, selon l'appréciation du Conseil de Sécurité." That covers a single state, a single state and a general unilateral agreement, and the second, it is necessary to clarify if the "organismes" must be specialized, and the agencies "appropriés" or both, but in the French text, I think it is absolutely clear.

DELEGATE OF UNITED STATES: That first sentence I think is. The second sentence has got to be changed, not only "propre chef", but also "spécialisés" and "appropriés". That modifies both.

DELEGATE OF MEXICO: That is the main thing to be clarified.

DELEGATE OF UNITED STATES: I wonder if the English couldn't be covered by use of the word "certain"? In English, "certain" rather than "some".

DELEGATE OF MEXICO: Then you must change in the English "all" nations. You change "chef" in English, and you change "organization" in English.

DELEGATE OF FRANCE: I believe if we are discussing the



text, we must first of all agree on the substance or meaning, and we understand that means the states or groups of states having concluded special agreements as contemplated in Article 5. That is our meaning, and what we would like as a text which would cover that, and I believe it is the first question to be settled - what do we mean exactly. When we are in agreement on the meaning, we will find the text.

DELEGATE OF CANADA: We might have to extend the language to bring in your point, and also the other technical organizations too.

DELEGATE OF FRANCE: It is a very important matter, and I believe it has to be referred to the Committee.

DELEGATE OF CHINA: I think in English "agency" has a wider meaning than "offices" in French;

CHAIRMAN: I think this is perhaps as far as we can go at the moment. We will have this put on the agenda of the next meeting of the full Committee.

DELEGATE OF MEXICO: You take out "offices" and use "organismes" because it applies to everything.

DELEGATE OF CANADA: I understand that the phraseology, both in English and French, has been considered by the Coordination Committee, and in many other connections because these words "organizations and agencies" come up in Article after Article all through the Charter. I don't know that

they have reached a final conclusion on the best form of expression yet. It is a very difficult problem, and it gets still more difficult when you consider the translations into the other three official languages of the Conference.

CHAIRMAN: I may say this first reading in the Coordination Committee was not primarily with respect to style. That still remains. Now, the next question which was left unsettled in the Coordination Committee related to the position of the sentence in paragraph 9 dealing with questions of command - "questions of command shall be worked out subsequently". The Secretariat of the Coordination Committee proposed that this sentence be moved forward so that it came immediately after the sentence relating to strategic direction of armed forces. The argument was made in the Coordination Committee on the other hand, that questions of command would normally be worked out subsequently to determining what members of the Organization should be associated with the Military Staff Committee with respect to any particular enforcement action, and therefore, it involved a slight change of substance to move the sentence at all. I should like to have any advice on that matter.

DELEGATE OF UNITED STATES: Mr. Chairman, may I say first of all that the change which has been made appeals



to the United States delegation very much, and secondly that ~~it~~ is a change which was worked out by Mr. Robertson, and not by the Secretariat of the Coordination Committee.

It seems to me that if you put together the sentences "the Committee shall be responsible for the strategic direction of any armed forces", and the sentence relating to the command of such forces, you clearly distinguish what is meant to be distinguished, that there shall be strategic direction by the Security Council, but the actual problem may have to be worked out on an ad hoc basis. It may be worked out through the agreement or in a number of ways, and presumably in any case, it would be worked out, it would still be tied in with the sentence about inviting other members of the Organization to come ~~it~~ in.

CHAIRMAN: I may say in the final stage of the Coordination Committee's discussion, the proposal was to move forward the sentence, the two sentences, dealing with associating on an ad hoc basis new members of the Military Staff Committee so it preceded the sentence about strategic direction, so your text would then read, "Article 5, 1." Then four sub-paragraphs. "(1) There shall be established a military staff committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of

international peace and security, to the employment and command of forces placed at its disposal, to the regulations of armament and to possible disarmament". Then, (2) the Military Staff Committee shall be composed of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any members of the Organization not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibility requires that such a member participate in its work. (3) The Committee shall be responsible, under the Security Council, for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be settled subsequently," or as they suggested, "shall be dealt with as the occasion requires". "(4) The Military Staff Committee with the authorization of the Security Council, after consultation with regional agencies, may establish regional sub-Committees of the ~~regional~~ Military Staff Committee." Thus you would have the sentences relating to the enlargement of the Military Staff Committee precede the sentence relating to strategic direction, and the sentence relating to subsequent working out of questions of command.

DELEGATE OF BRAZIL: We understand the question of command, meaning the choice of the Chief who is going to



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command, not the question of the general staff, which is a completely different question.

DELEGATE OF UNIT D STATES: Well, it might be a little bit broader than that. I believe, for instance, there might be under one of these agreements which was concluded by a group of states with the Security Council, the agreement that such and such an area there should be the forces of the following states, and the states might themselves agree that the nationality of one of the states would be the one in command. That might be in the agreement. And then there would be the specific question, as you say, as the choice of the Commander, of the individual commander. You are quite right, the Military Staff, the Staff work, would not be covered by this question, as I understand it.

EXECUTIVE OFFICER: No, no it wouldn't.

CHAIRMAN: Well, now, in terms of specific advice then to the Coordination Committee, is it the sense of this Committee that the statement in the general order that I have just indicated serves the intent of the Committee?

DELEGATE OF UNITED STATES: Before you get off that, there is one very important question of substance involved in the actual draft of the Coordination Committee: "There shall be established a Military Staff Committee".

I think "established" should be eliminated. "There shall be a Military Staff Committee". "Shall be established"

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means sometime in the future. It will be set up sometime later.

DELEGATE OF MEXICO: It was all right in the draft, but now it is a Charter it should be "shall be".

DELEGATE OF UNITED STATES: That's right.

DELEGATE OF FRANCE: Would it not be better if "questions of command of forces shall be worked out subsequently" at the end of the paragraph?

DELEGATE OF CANADA: In the Committee, as I recall, there was some discussion of the words "strategic direction" in relation to the problem of command, and some anxiety was expressed by the members of the Committee as to how comprehensive the phrase "strategic direction" was. And it does seem there is quite a lot in view of that discussion, for putting these two sentences, one after the other. First, it equalizes or implements, however, "strategic direction" goes, and of course it was never anybody's intention if enforcement action was being taken by one member only, there should be imposed by the Military Staff Committee a commander of a different nationality, or by the Security Council. It is a quite necessary reservation that it will be settled when one knows what is to be done and who is to do it, but I do like having the two sentences following each other, because they are related.

DELEGATE OF FRANCE: We have no objection to that.



Sub. No. B-23

Running  
Number 56

CHAIRMAN: A final, and I think, very minor point, relates to paragraph 11 in Chapter VIII, Section B. The Secretariat of the Coordination Committee proposed to strike out the words "should have the right to", and substitute "may". Now, does this involve a slight change in emphasis which is desired or not desired by the Committee? "Any state, whether a member of the Organization or not, which finds itself confronted with the special economic problems arising from the carrying out of measures which have been decided upon by the Security Council shall have the right to consult the Security Council in regard to a solution of those problems," or "may consult the Security Council in regard to..."

DELEGATE OF UNITED STATES: It doesn't change anything, but I think it is good to leave in the idea of right. It is a right of the state.

DELEGATE OF CANADA: Again, it is a point raised before. If the original Dumbarton Oaks had read "may" - but to make a change may create some suspicion as to why the change has been made, and I am inclined therefore to suggest it is not a point of any substance at all, and that we recommend to the Coordination Committee to leave the original language.

DELEGATE OF UNITED STATES: Mr. Chairman, before we adjourn, I have one other question that I would like to

bring up in this group. As I have been studying this text, I wondered two things. First of all, it isn't a matter of the order of the paragraphs as a whole - I wonder if the amendment which is now the Canadian amendmet as modified shouldn't follow paragraphs 5 and 6, rather than be inserted between. I think it is the general feeling of the Committee that 6 is a spelling out of onepart of 5. Does that involve a change of substance? Isn't it logically a better order tp put it after paragraph 6?

DELEGATE OF CANADA: I don't think it matters at all. In the final Charter, of course, the words in this amendment as now numbered 5-A in the fourth line under the preceding paragraph will read "under Article so and so", and therefore, I don't think the way in which the paragraphs are arranged is of any importance.

DELEGATE OF UNITED STATES: The other one I have is a question about the arrangements of paragraphs later on. It seems to me that paragraphs 7, 10 and 11 belong together in a group, and I should think they belonged at the end, and that paragraph 7 should therefore follow paragraph 9, rather than precede paragraph 8, that is.....

DELEGATE OF CANADA: Put the Military Staff Committee...

DELEGATE OF UNITED STATES: Put that after, immediately after, paragraph 6.

DELEGATE OF CANADA: I should have thought it might be



desirable to make one Article out of 8 and 9, and have it two numbered sub-paragraphs, - put all the Military Staff Committee powers and duties in one Article.

DELEGATE OF UNITED STATES: Don't you think they ought to follow directly on paragraph 6, which has to do with the use of armed forces? 10 and 11 with 7, belong together.

DELEGATE OF CANADA: I think so.

DELEGATE OF FRANCE: We would prefer to leave 7 where it is now.

DELEGATE OF UNITED STATES: You would?

DELEGATE OF FRANCE: Yes.

DELEGATE OF CANADA: Would you object to putting 8 and 9 after 7?

DELEGATE OF FRANCE: We would prefer.....

DELEGATE OF CANADA: 10 and 11 - I beg your pardon - up after 7.

DELEGATE OF FRANCE: 10 and 11 after 7?

DELEGATE OF CANADA: And then put the Military Staff Committee as a separate Article, either 10 and 11, or one Article 10, divided into two paragraphs.

DELEGATE OF CHINA: That also mentions the Military Staff Committee, so you cut them into two parts.

DELEGATE OF FRANCE: We agree with that, yes.

DELEGATE OF CHINA: I think it is better.

DELEGATE OF UNITED STATES: I think it would be better

to put Article 7 after Article 9.

DELEGATE OF MEXICO: All relating to the Military Staff Committee to go following each other?

CHAIRMAN: That then is the sense of the Committee - that 10 and 11 are to be moved forward to be associated with 7?

DELEGATE OF UNITED STATES: I would prefer to have 7 moved back, but M. Dijon seems to feel.....

DELEGATE OF FRANCE: I much prefer to leave 7 where it is.

CHAIRMAN: If 7 is to remain where it is, is it the sense of the Committee that 10 and 11 should be moved forward?

DELEGATE OF CANADA: I would be inclined to agree with that. It is easier to group the Articles. I am thinking of the task of the school children of the next generation in having to learn what is in the Charter.

DELEGATE OF FRANCE: That would be better, yes.

DELEGATE OF NORWAY: That definitely should be at the end. It is a completely new thought, and I think it should be the last one.

DELEGATE OF UNITED STATES: I like very much the idea of having 7, 10 and 11 together at the end.

DELEGATE OF CANADA: I don't care particularly where they come, but I think they should go together.



Sub. No. B-27Running  
Number 60

CHAIRMAN: Is it the sense of the Committee that 8 and 9 might as well be combined in a single article?

DELEGATE OF UNITED STATES: I wonder about that, Mr. Chairman. 8 is an obligation of the Security Council, "The Security Council shall make plans for the application of armed force with the assistance of the Military Staff Committee"; whereas 9 deals with the functions of the Military Staff Committee, as I read those now.

DELEGATE OF CANADA: Yes, that is true. That is why I suggested putting in two numbered sub-paragraphs, not running them into one paragraph in an Article, but I don't attach any particular importance - but I have observed in the Coordination Committee a desire for simplicity and objections to very short Articles and also objections to very long Articles.

CHAIRMAN: I think that disposes of all the items on the agenda, unless anybody has some further business to bring forward.

DELEGATE OF CANADA: Is there any word, Mr. Secretary, as to when the problem of the ~~transition~~ transitional arrangements is likely to be taken up again? Time is running on.

DELEGATE OF FRANCE: Yes it is.

CHAIRMAN: I don't believe there is anything I can say at the moment.

(Meeting adjourned at 12:04 p.m.)