

UNCIO - Working Papers - Commissions & Technical Committees
- Commission II & Committee II - 20th meeting

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Commission II

Committee 2
Comité

20th Meeting

Attendance Record
Bulletin de Presence

10:30 A.m. R. 202

Date 6 June 1945

Country
Nation

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

Argentina

Roberto Staling

Australia

Johnstone

Belgium

Fernand DEHOUSSE

Bolivia

Alfredo

Brazil

C. Martins

Byelorussian S. S. R.

R. Kiselev

Canada

W. A. Chapin

Chile

Senator - José Maya

China

Carson Chang

Colombia

Alfonso

Costa Rica

Julio

Cuba

Czechoslovakia

Ernest Stucky

Denmark

Dominican Republic

Ecuador

Egypt

El Salvador

Ethiopia

France

Greece

Guatemala

Haiti

Honduras

India

Iran

Iraq

Lebanon

Liberia

Luxembourg

Mexico

Netherlands

Enriquez

Gonzalez Lezama

E. T. Modher

H. Braut

C. Diamantopoulos

A. H. H. H.

André Liavard

Julian R. Baceres

V. T. Krishnanachari

Dr. A. Ghasse

A. J. Chalabi

A. YAFI

G. L. L.

H. J. J.

E. STAR-BUSMANN

New Zealand

Adm Inish

Nicaragua

Alonso S. Perales

Norway

M. W. M. M. M.

Panama

Paraguay

M. P. M.

Peru

M. P. M.

Philippine Commonwealth

José F. Imperial

Saudi Arabia

M. P. M.

Syria

M. P. M.

Turkey

M. P. M.

Ukrainian S. S. R.

M. P. M.

Union of South Africa

J. R. M.

Union of Soviet Socialist Republics

M. P. M.

United Kingdom

M. P. M.

United States of America

M. P. M.

Uruguay

M. P. M.

Venezuela

M. P. M.

Yugoslavia

M. P. M.

SUMMARY REPORT OF TWENTIETH MEETING OF COMMITTEE II/2

Veterans Building, Room 202, June 6, 1945, 10:39 a.m.

The Chairman opened the meeting at 10:39 a.m.

1. Consideration of the Fourth Report of Subcommittee A

may h
The Chairman, in putting Item I of the Fourth Report of Subcommittee A (Doc. 729, II/2/A/5) in discussion, pointed out that Committee IV/1 at its meeting on May 31 had recommended: firstly, that the General Assembly and the Security Council request the International Court of Justice to give an advisory opinion on any legal question; and secondly, that the court may give an advisory opinion on any legal question at the request of whoever may be authorized by the Charter to make such a request. ~~There was no disagreement from these recommendations in so far as they concerned the powers of the Assembly.~~

Decision: Committee II/2 concurred in the recommendations of Committee IV/1 as reported, in so far as they concern the powers of the Assembly.

Item II The Committee discussed the question posed in Item II of the Subcommittee's report, as follows:

« Should provision be made to enable such international agencies 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? »

It was suggested that the sense of the question should be extended to cover intergovernmental agencies which might be brought into relation with the new Organization; and to this it was objected that states not members of the Organization might be members of such agencies. In support of the question as formulated by the Subcommittee, it was emphasized that an affirmative answer would not give such agencies any power to go directly to the International Court. Application to the Court had to be made through the medium of the Assembly, which could consider each case on its merits and lay down the necessary procedures and conditions; thus the Assembly would be the controlling organ.

The Chairman put the question to the vote.

Decision: There were 27 affirmative votes and 6 negative votes, question affirmed.

Item II The Chairman invited the Delegate of Ecuador to explain to the Committee his country's amendment quoted in Item III of Subcommittee A's Fourth Report.

a) The Delegate of Ecuador, affirming the imperative need to preserve international security by means of the peaceful solutions of controversies, pointed out that in Paragraph 3, Section A, Chapter VIII methods of solution were named. The Delegation of Ecuador hoped that the use of these methods could be universalized by obligating the Assembly to approve the statute providing for the establishment of continental or regional commissions of conciliation, to promote the settlement of differences of a political character which might arise among states within the respective continents or regions. The Ecuadoran proposal would also cover cooperation between the world and regional systems, in that the Assembly would establish the regional commissions under the statute proposed. The formulation of the statute would require careful study in order to coordinate it with existing instruments of conciliation. ~~The Delegate of Ecuador pointed out that Committee III/2 had referred his country's proposal to a Subcommittee charged with considering it in relation to Paragraph 3, Section A, Chapter VIII and he felt that if the power of the Assembly in this matter were overlooked, it would be a serious omission.~~

The Delegate of the United States expressed sympathy with the objective of the Ecuadoran proposal, but pointed out that Paragraph 3, Section A, Chapter VIII clearly gives to the Security Council powers over conciliation while Paragraph 1, Section C of the same Chapter gives to the Security Council the task of encouraging the settlement of local disputes through regional arrangements or agencies. To give the Assembly powers in this matter would constitute an invasion of the field of the Security Council.

The Delegate of Ecuador withdrew with regret his country's proposal, in view of the brief time available to the Committee to discuss it, and of the considerable study which the complicated requirements of the proposed statute of regional conciliation would require. He expressed the hope that his country's objective might eventually be realized. *the*

of the proposal

Item IV.

The Chairman then put in discussion Item IV of the Fourth Report of Subcommittee A, which concerned the extension of the right of the Secretary General to bring certain matters to the attention of the Security Council so as to include also the General Assembly.

The Chairman explained that a subcommittee of Committee I/2 had first referred the amendment to Committee II/2 because it concerned the powers of the Assembly, but Committee I/2 had subsequently decided to consider the proposal and had voted to reject it. The Delegate of Venezuela said that, while he was willing to sustain the amendment before Committee II/2, he felt that this Committee should say whether, in the view of the decision of Committee I/2, it wished to proceed with the discussion. The Chairman proposed that Committee II/2 should not discuss the matter unless it received a new invitation to do so.

Decision: The Chairman's proposal was accepted.

The meeting adjourned at 12:35 p.m.

26th 202 10.39 June 6 4/2 (1)

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Ch 4th of A I,

Canada It's poss that IV/1 is going to improve
its lang on A(II). Better wait

Ch This gn is put bef us by another Cttee.
It was ref to us for opinion. Of this (IV/1)
Cttee has still to deal w.

Neth IV/1 has also adopted Art conf power
to ask advice of Court

Ch That is our AI (reads). As this ref to
a power of lrs, so A enfs we agree —
so as to be in line IV/1

W.K. I am inf that until II/2 deals w AI
and II, other Cttee can't go on
w. its wk

France I think we have only to vote on prin,
not on text — that G.A. has power
to ask adv's opin

S. Africa Now we discuss AI, return to AII.

Canada I was ref to (2). That is narrower than
A II. Don't want to be bound in this
respect by sub changes made by
other Cttee.

Ch All we are asked to con cur in
powers gva to DSS (last line 4th A

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Neta Then I understand Art 65 of Statute outside our juris - but IV/1, has done w. it, & suddenly it now goes to co-ord? not back to IV/1.

Ch Is there any disagreement w. p.1. of A.

None

Then we go to AII on second p.

Wk. Mydel takes pt in 2, being resp. f. putting it bef. Conf. Purp is to facil wk of agencies alt to be set up. All agree spec agencies can't go to Court when they like. On the other hand pt advance in their being able to go to Ct f. advice opin, w/out waiting 10-11 months. We are prop, not that power to do what like be given to s.ag., but to as, as major org, right to author the agency to go to Court. Sugg it is exactly sort of power as shd have, & we shd author the prin (exact wds can be left to jurists' cttee). As can regul procedure & condns in all cases, ensuring careful use of this power, & I very much hope it will be agreed by the 2.

Belg Agree entirely with Wk. We are on sound ground here, & hope "yes". Prac pow for giving agencies a decern faculty, w. ensuring brake on it, regula of it, by as. This interven' & means of control

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by Ars is wholly appropriate - as not to be
just a ~~letter~~ ^{letter} ~~pillar~~ box.

Ch 2 for. Are there any against?

Canada I am in favor of it as it stands, but
wd even wish to enlarge it (see Doc)

U.S.S.R. I wd pref these agencies ^{we have given them} ~~we have~~ ^{right back open, but} ~~have~~ ^{refused them, right of}
appeal to member States, so why give it to
agencies not even part of org. States not members
of Org may be members of such agencies,
& if agencies can go to Court, v. confused
situa. If they can go directly, it is out
of line, overwhelms Court, divert it
to secondary discussion, etc. The only
reasonable thing

W.K. Reply to Canada. Reluctant to
amend this diff. I wd want time to
consider. Isn't he only asking that spec
organ & shd have ~~power~~ ^{faculty} conferred on
them in instrument of relationships.
This is a sort of blanket auth to spec.
wd v. much rather keep it as it is,
& definitely rest Ars w. control of
cases - give desirable flexibility to
deal w. cases on merits.

Wd like to reply U.S.S.R. later -
have full answer.

(4)

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Egypt Not taking a definite position, just putting questions. When discussion but let things go on branch & here, it was made clear Court should only have jurisdiction re states. Props re agencies & individuals were refused access, inasmuch as Court is a judicial agency. Now it is suggested applic. by sp. a's to Court in accessory capacity, as ~~advisory~~ ^{consultative} body. I feel this access to it may reduce ^{the} ~~the~~ standing of Ars. Can we ask U.K. for more concrete interpretation of this suggestion, which seems rather vague — give us some idea of mechanism.

U.K. Don't find objections formidable. Arguments ^{numerous} GHSR — outside States — ~~not~~ ^{important} — Ars is control anyway, & it = all Org members. Then not correct to call, e.g. Econ Soc Council a "secondary" agency — not "secondary" question. In reply to Egypt, can't believe this will reduce Ars status & status, i.e. not props Ars should be just a post office, but a control.

Vote Ayes 27 Noes 6 Question affirmed.

A. III Ch explains why amendment brought to II/2.
Ecuador (Text).

(S.)

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WSP I agree w Ecuador's objective, & Roze that in course of evolution we can come near to achieving the proceed he advocates. But at present it seems to me clearer that to agree to his suggestion would be either an invasion of the field of the S.C., or at least a source of grave confusion.

VIII, A, B, clearly gives S.C. powers over conc.
& VIII, C, 1, (reads) gives S.C. exclusive charge

of wking to precise objective advoc by Ecuador.
We can't estab a special statute now, or give an exco powers.
We must rely here on auth expressly given to S.C. in Ch, & on its development, & say "no" to this amend.

Ecuador Brief reply. Ends by withdrawing his proposal with regret in view of brief time avail to Ctruf, & the complicated ramifications of the amend & the considerable study it wd require.

Ch Amend formally withdrawn, no more discuss.
NOW IV

Venez Same prop. I/2, & rejected. We will sustain our amend if II/2 willing to consid our amend in view of decision of Other Ctruf.

Ch Yes, first of all I/2 sent it to us as power of Dec, then changed its mind, & thrown it out. Supp we drop it.
Vote Ayes

RR. 2

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II of its Subcommittee's Report, the implications, for the
assembly, of (2) above.

2.