

UNCLO - Working Papers - Commissions + Technical Committees - Commission 2/Committee 4 -
Ninth Meeting

23 May 1945

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II/4/9 May 23

SUMMARY REPORT OF NINTH MEETING OF COMMITTEE II/4
Veterans Building, Room 223, May 23, 1945

The Chairman called the meeting to order at 3:35 p.m.

1. Procedure

The Committee accepted the Chairman's suggestion that the drafting subcommittee, the appointment of which had been approved at the eighth meeting, should consist of the delegates of Australia, Belgium, China, Egypt, France, Greece, the Netherlands, the Soviet Union, the United Kingdom, and the United States, together with the Chairman, the Rapporteur, and the Secretary of the Committee.

The Chairman informed the Committee that it was his hope that Delegations would sign the documents drawn up at the Conference without reservations. He suggested that Delegates who wished to record the position of their respective governments on a question before the Committee might send in a short statement which would appear in the Summary Record of the Committee's meetings. He added that after a question had been voted upon in the Committee, a Delegation would be at liberty to have an expression of its dissent from the Committee's action recorded in the minutes.

2. Discussion of Working Paper

Discussion of Paragraph B.3 of the working paper (Doc. 323, II/4/12) was continued. The Argentine Delegate requested that the following statement of its position be made a matter

of record:

"The Argentine Delegation formulates the reservation that the Argentine Republic, in no case, accepts that the present system of trusteeships may be applied to or over territories belonging to Argentina whether they be the subject of claim or controversy or are in possession of other states."

Discussion of the Guatemalan amendment was resumed.

The delegate for Guatemala said that under paragraph B 3 (c) there was no provision concerning possible claims to a territory on the part of a country other than the country administering or possessing the territory. Paragraphs 4 and 5 also did not cover the point raised in the Guatemalan reservation, for no indication was there given of the procedure for determining what states were concerned in a particular territory. The principle which Guatemala was now maintaining had been accepted by the second meeting of the foreign ministers of the American republics at Havana in 1940.

Decision: The amendment proposed by the Guatemalan Delegation was rejected by a vote of 13 in favor and 18 against.

The Delegate for Guatemala said that his Delegation would make a statement in due course for the record.

Decision: The Committee then adopted Paragraph B.3 by a vote of 26 in favor and 2 against.

The Committee took up Paragraph 4.

The Delegate of the United States moved that Paragraph 4 be amended by inserting after the word "concerned" in line 3, the phrase ", including the mandatory power in the case of territories held under mandate by one of the United Nations." The Paragraph would then read: "The trusteeship arrangement for each territory to be placed under trusteeship should be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by one of the United Nations and should be approved as provided for in Paragraphs 8 and 10 below."

Decisions: The amendment to Paragraph 4 was adopted unanimously.

The Committee then adopted unanimously Paragraph 4 as amended.

The Delegate for the United States moved as an amendment to Paragraph 5 to add after the word "arrangements" in line 2, the words "made under Paragraphs 4 and 6"; at the end of the Paragraph to strike out the period, add a comma, and the words: "or the terms of any mandate". The Paragraph as amended would then read "Except as may be agreed upon in individual trusteeship arrangements made under Paragraphs 4 and 6 placing each territory under the trusteeship system, nothing in the chapter should be construed in and of itself to alter in any manner the rights of any state or any peoples in any territory, or the terms of any mandate".

Decision: This amendment to Paragraph 5 was adopted unanimously.

The Delegate for Egypt moved that Paragraph 5 be amended by the deletion of the following words: "Except as may be agreed upon in individual trusteeship arrangements made under Paragraphs 4 and 6 placing each territory under the trusteeship system", and the substitution of the words "the people of" for the words "of any state or any peoples" in the fourth and fifth lines of the paragraph. As thus amended Paragraph 5 would read as follows: "Nothing in this chapter

should be construed in and of itself to alter in any manner the rights of the people of any territory or the terms of any mandate". In support of this amendment it was argued by various Delegates that the presence in the draft of a statement protecting the rights of mandatory powers was a deviation from the purpose of the trusteeship system which is the welfare of the dependent peoples; mandatory powers have duties not rights. The language of Paragraph 5 did not clearly indicate the people whose rights it was intended to protect. It should be made certain that only the rights of the inhabitants of the territory were protected.

On the other hand it was stated that the amendment proposed by the Delegate for Egypt would do the opposite of what he intended, that it would freeze existing situations and make it impossible to enlarge the rights of the people in mandated territories. Certain Delegates stated that they could not accept the position taken by the Delegate for Egypt that mandatory powers had no rights under the mandates.

Upon suggestion of the Delegate for Iraq and the express wish of the Delegate for Egypt action on Paragraph 5 was postponed in order to give the Delegate for Egypt and the Delegate for the United States an opportunity to harmonize their points of view.

The Committee decided to postpone discussion on paragraph 6 and took up consideration of paragraph 7. The delegate from the United States moved as an amendment to paragraph 7 to strike out the period at the end of the paragraph, add a comma, and the words, "without prejudice to any special agreements made under Chapter VIII, Section B, paragraph 5." Paragraph 7 would then read: "In addition, there may also be designated, in the trusteeship arrangement a strategic area or areas which may include part or all of the territory to which the arrangement applies, without prejudice to any special ^{agreements} ~~arrangements~~ made under Chapter VIII, Section B, paragraph 5."

Decision: This amendment to paragraph 7 was unanimously adopted.

Decision: The Committee then unanimously adopted paragraph 7 as amended.

The Committee took up paragraph 8.

The delegate for Egypt moved that the word "may" at the end of the sixth line of paragraph 8 should be changed to "should". On behalf of this proposal, it was argued that though in any strategic area functions relating to strategy would evidently be exercised by the Security Council humanitarian functions went beyond the competence of that Council and should be exercised by the Trusteeship Council mentioned in paragraph 11. The Trusteeship Council, he assumed, would receive reports from the administering authorities with regard to territories entrusted to them.

It should, therefore, be a matter of necessity, not choice, that the Security Council should avail itself of the help of the Trusteeship Council in matters relating to the welfare of the people.

Against this proposal, it was pointed out that it would not always be possible to separate "political, ^{and} economic, and ~~social~~ matters from security matters and that it was essential to avoid laying a basis for future jurisdictional conflicts between the Security and Trusteeship Councils. ^{The United States Delegate} He suggested that the words "shall, when appropriate" might meet the objection raised by the Egyptian delegate. The Egyptian delegate, however, indicated that he was unable to accept the suggestion.

During the discussion the opinion was expressed that the powers of the Trusteeship Council concerning strategic areas were not clearly indicated in the working paper.

In view of the lateness of the hour discussion of paragraph 8 was broken off until the next meeting.

The Committee adjourned at 6:40 p.m.

and it was pointed out this left the matter to the sole discretion of the Security Council.

PROGRESS REPORT

Committee II/4 at its ninth meeting proceeded with its discussion of paragraph B 3 of the working paper. The Argentine delegation asked that a statement be included in the summary record that the Argentine Republic would in no case agree to the application of the trusteeship system to territories belonging to Argentina "whether they be the subject of claim or controversy or in possession of other states". Consideration was then resumed of the Guatemalan amendment which had been taken up at the previous meeting and which likewise related to the application of the trusteeship system to territories in dispute. In the course of explaining the amendment the delegate for Guatemala made certain references -- assertedly in reply to remarks made by the United Kingdom delegate at the previous meeting -- concerning the British attitude with regard to Guatemalan claims to Belize (British Honduras). The Chairman ruled that the remarks should be stricken from the record as being inappropriate. He also said that if the words were allowed to stand, the United Kingdom delegate would wish to reply and the Committee's time would be absorbed with the discussion of territorial disputes. He again stated that the Committee could not consider particular territories.

The Guatemalan amendment was rejected 18 to 13, a number of South American states voting with Guatemala.

The Committee then adopted paragraph B-4 (with an amendment suggested by the United States) and an amendment proposed by the United States to paragraph 5. The delegate for Egypt, supported by the delegate from Syria, then proposed an amendment to paragraph 5 which the delegate for the United States was unable to accept. After some discussion the delegate from Iran said that there was a fundamental misunderstanding on the part of the delegates of Egypt and the United States of each others positions. He added that a similar misunderstanding had existed between the two delegations with regard to the amendment of the Egyptian delegation which had been defeated at the previous meeting. He suggested that vote on paragraph 5 be postponed so that the two delegates in question could get together and reach an understanding.

The delegate from the United States, while expressing the willingness to discuss the matter with the Egyptian delegate, mentioned the fact that they had already had two conferences and that in addition, Mr. Gerig had also conferred with the Egyptian delegate. He gave assurances that if a vote were taken at this time and further conferences between himself and the Egyptian delegate revealed a misunderstanding, he, Mr. Stassen, would bring the question again before the Conference. After further discussion, however, he expressed his willingness to postpone the vote on the question until further consultation with the Egyptian delegate could be held.

At the suggestion of the United States delegate, the

Committee postponed discussion of paragraph 6. The Committee then approved paragraph 7 (with an amendment moved by the United States).

In connection with paragraph 8 the delegate for Egypt moved an amendment upon which discussion was adjourned until the next meeting.

COMMUNIQUE

Committee II/4 held its ninth meeting on May 23, 1945 at 3:30 p.m.

The Delegate for Guatemala spoke for the amendment he had presented at the previous meeting, to exclude from trusteeship any territory which was subject to dispute or litigation between members of the United Nations. The amendment was rejected by the Committee, which then adopted paragraph B, 3 as it stood.

Paragraph B, 4 was adopted with the inclusion of the following words, after "states directly concerned" in line 3: "including the mandatory power in the case of territories held under mandate by one of the United Nations."

Two amendments to paragraph B, 5 were then adopted:

(1) To insert after "arrangements" in line 2 the words "made under paragraphs 4 and 6";

(2) To substitute a comma for the final period of the paragraph, and end with the words "all the terms of any mandate". The adoption of these changes was without prejudice to a motion by the delegate for Egypt, who wished to delete the first part of the paragraph down to the word "system" in line 3 and to amend the remainder of the paragraph to read as follows: "Nothing in this Chapter should be construed, in and of itself, to alter in any manner the rights of people in any territory, or the terms of any mandate".

After some discussion, the Committee decided to postpone a vote upon this proposal until informal discussions had taken

place between the delegations primarily interested. It was also decided to postpone for the time being discussion of paragraph B, 6.

Paragraph B, 7 was approved with the addition of the following words at the end: "without prejudice to any special agreements made under Chapter A VIII, Section B, paragraph 5".

The Committee then considered a proposal to substitute the paragraph B, H and the word "should" for "may" at the end of line 6. This amendment also was moved by the Delegate for Egypt, and was also referred to informal consultation, a vote being postponed meanwhile.

The Committee ~~proposed~~ appointed a Drafting Subcommittee, consisting of 12 members and the Secretary, to which the amended text would be referred, subject to the Committee's right to a final vote on the text presented by the Subcommittee.

PRECIS

Committee II/4 at its ninth meeting continued discussion of the working paper relating to international trusteeship (Doc. 323 II/4/12. The Committee approved paragraphs 3, 4, and 7^{as amended}, and postponed action on paragraphs 5 and 6. Discussion of paragraph 8 was commenced.

THE UNITED NATIONS CONFERENCE
ON INTERNATIONAL ORGANIZATION

Argentine Delegation.

« La Delegación Argentina entiende que las disposiciones del proyecto de sistema de mandato territorial que se discute [cláusula c], se refieren exclusivamente a los territorios susceptibles de ser comprendidos en esa condición en virtud de situaciones emergentes de la guerra 1914-1918 y de la liquidación de la guerra actual.

De lo contrario, hago presente que la Delegación Argentina se reserva en el caso de formular oportunamente sus reservas sobre el particular. »

Oscar Ibarra-García
Delegado.

9.30 Friday

THE UNITED NATIONS CONFERENCE
ON INTERNATIONAL ORGANIZATION

Australia.

Belgium.

China.

Egypt.

France.

Greece.

Netherlands

United Kingdom.

United States.

U.S.S.R.

Yugoslavia

Secretary

THE UNITED NATIONS CONFERENCE
ON INTERNATIONAL ORGANIZATION

DELEGACIÓN ARGENTINA

LA DELEGACION ARGENTINA FORMULA LA RESERVA DE QUE LA REPUBLICA ARGENTINA EN NINGUN CASO ACEPTARA QUE PUEDA APLICARSE EL PRESENTE SISTEMA DE MANDATOS (TRUSTEESHIPS) SOBRE TERRITORIOS QUE LE PERTENECEN, AUN CUANDO ESTOS SEAN MATERIA DE RECLAMACION O CONTROVER-
SIA, O SE ENCUENTREN EN PODER DE OTROS ESTADOS.

TRADUCCION INGLESA

THE ARGENTINE DELEGATION FORMULATES THE RESERVATION THAT IN NO CASE ACCEPTS THAT THE PRESENT SYSTEM OF TRUSTEESHIPS MAY BE APPLIED TO OR OVER TERRITORIES BELONGING TO ARGENTINA, WHETHER THEY BE THE SUBJECT OF CLAIM OR CONTROVERSY OR ARE IN POSSESSION OF OTHER STATES.

Argentine Delegation,
COMMISSION II, COMITE 4
May 23 th, 1945.

Stinson;

AMENDMENT TO PARAGRAH ^P4 IN SECTION B OF THE
WORKING PAPER ₁

Add new language after the word - "concerned":

"including the mandatory power in the case of territories
held under mandate by one of the United Nations,"

THE UNITED NATIONS CONFERENCE
ON INTERNATIONAL ORGANIZATION

Amendment to Art 5. of Chapter B.
of the Trusteeship Proposals.

Article 5. should be amended
to read as follows:

5. Nothing in this chapter
should be construed, in and
of itself, to alter in any
manner the rights of the
people of any territory,
or the terms of any mandate."

proposed by the Egyptian Delegation
The Chairman

Stassen

THE UNITED NATIONS CONFERENCE
ON INTERNATIONAL ORGANIZATION

AMENDMENT TO PARAGRAPH 4 IN SECTION B OF THE WORKING PAPER

Add new language after the word - "concerned":

"including the mandatory power in the case of territories
held under mandate by one of the United Nations,"

AMENDMENT TO PARAGRAPH 5

Add after the word "arrangements":

"made under paragraph 4 and 6";

strike out the word below , and at the end of the
paragraph strike out the period, add a comma, and the words:
"or the terms of any mandate."

AMENDMENT TO PARAGRAPH 4 IN SECTION B OF THE WORKING PAPER

Add new language after the word - "concerned":

"including the mandatory power in the case of territories held under mandate by one of the United Nations."

AMENDMENT TO PARAGRAPH 5

Add after the word "arrangements":

"made under paragraphs 4 and 6";

strike out the word [below], and at the end of the

paragraph strike out the period, add a comma, and the words:

"or the terms of any mandate."

AMENDMENT TO PARAGRAPH 4 IN SECTION B OF THE WORKING PAPER

Add new language after the word - "concerned":

"including the mandatory power in the case of territories held under mandate by one of the United Nations."

AMENDMENT TO PARAGRAPH 5

Add after the word "arrangements":

"made under paragraph 4 and 6";

strike out the word [below] , and at the end of the

paragraph strike out the period, add a comma, and the words:

"or the terms of any mandate."

AMENDMENT TO PARAGRAPH 7

At end of paragraph strike out period, add a comma and the words "without prejudice to any special agreements made under Chapter VIII , Section B, Paragraph 5."

AMENDMENT TO PARAGRAPH 7

At end of paragraph strike out period, add a comma and the words "without prejudice to any special agreements made under Chapter VIII , Section B, Paragraph 5."

AMENDMENT TO PARAGRAPH 7

At end of paragraph strike out period, add a comma and the words "without prejudice to any special agreements made under Chapter VIII , Section B, Paragraph 5."