JOINT SUB-COMMITTEE OF COMMITTEES II AND VI

NOTES ON TWENTY-SEVENTH MEETING

Held at the Capitol, Havana, Cuba, 11 February 1948 at 3.00 p.m.

The Sub-Committee considered its revised draft report on Articles 9, 10 and 11 (E/CONF.2/C.2&6/A/N.22/Rev.l). It was agreed to delete paragraph 3 of Article 11 in Annex B of the draft report and paragraph 7 of the text of the report.

2. After discussion during which certain questions were raised by the representative of Belgium it was agreed that the following paragraph should be inserted in the report subject to the right of the Venezuelan Delegation to raise the matter again in Committee II, if the Venezuelan Government did not agree with this text:

The Constitutional provisions of certain Members were brought to the attention of the Sub-Committee. These provisions provide that all controversies which may arise out of contracts in which the State or one of its sub-divisions are parties are to be resolved by national tribunals. It was agreed that these constitutional requirements are not in conflict with any provisions of the articles with which the Sub-Committee was concerned and that the Organization would not in any manner have jurisdiction over facts resulting from such a situation nor over the decision of the National tribunals. The action which the Organization would be able to take in relation to such cases would be limited to a release or a diminution of the obligations assumed or concessions granted by the Member which asserts a nullification or impairment of a benefit under the Charter, if the Organization finds that the situation which has been created justifies such action.

3. It was agreed to include in these notes the explanation of the decision of the twenty-sixth meeting (E/CONF.2/C.2&6/A/N.32, paragraph 6) to delete the second sentence of paragraph 8 in the draft report (E/CONF.2/C.2&6/A/N.29) namely that the Sub-Committee considered that this sentence was unnecessary.

4. It was agreed to add after "Chapter IX" in paragraph 10 and in Annex E the words "as a new Article".