SECOND COMMITTEE: ECONOMIC DEVELOPMENT

SUMMARY RECORD OF THE TWENTY-FIRST MEETING

Held at the Capitol, Havana, Cuba, 20 February 1948, at 6.30 p.m.

Chairman: Mr. R. BETETA (Mexico)

ELECTION OF VICE-CHAIRMAN

On the suggestion of the representative of Mexico, Mr. TORRES (Brazil) was chosen unanimously to fill the post of Vice-Chairman, left vacant by the departure of Mr. Abello (Philippines).

VIEW OF THE COMMITTEE CONCERNING THE DELETION OF PARAGRAPH 4 OF ARTICLE 11 OF THE GENEVA DRAFT CHAPTER

The Committee had before it the text as set out subsequently in paragraph 2 of E/CONF.2/C.2/39 and E/CONF.2/C.2/39/Corr.1. Mr. HOLMES (United Kingdom) proposed the changes also set out subsequently in the aforementioned document.

The Committee agreed to postpone consideration of the changes until a written text had been circulated.


Mr. CHARLONE (Uruguay) did not consider that paragraph 6 of the Report was wide enough in its scope to cover the case of judgments by national tribunals in relation to legal situations arising under Article 11 (1) (b). He suggested, therefore, the deletion of the words "out of contracts in which the State or one of its sub-divisions are parties" in the second sentence.

Mr. ROSS (United States) felt that there could be certain types of controversies which could not be judged by national tribunals and in this connection drew attention to Article 36 of the Statutes of the International Court of Justice.

To meet the views of the Uruguayan representative, Mr. COOMBS (Australia) suggested changes set out subsequently in paragraph 1 of E/CONF.2/C.2/39.

Mr. CHARLONE (Uruguay) said that there would be no difficulty if Article 11 (1) (b) was concerned with bilateral agreements, but as the paragraph was now worded, it could be interpreted to imply that its provisions would have a retroactive effect on past foreign investments, that is,
that is, that foreigners would be in a privileged position by having recourse to ITTO as well as to the national tribunals. He could accept the Australian proposal.

Mr. de GAILLIFER (Belgium), supported by Mr. SPEKKENBRINK (Netherlands), suggested that paragraph 6, as amended by the Australian representative, be endorsed provisionally, pending its consideration by Sub-Committee G of Committee VI on Chapter VIII.

Mr. BEST (United Kingdom) felt that the Australian proposal was slightly ambiguous and proposed an amendment to it as set out in paragraph 1 of E/CONF.2/C.2/39.

Mr. GUTIERREZ (Cuba) felt that it was essential to include a reference to Article 11 (1) (b) so that paragraph 6 would contain no implication that foreigners would be in a position of privilege with respect to national tribunals. He supported the text proposed by the representative of Australia.

Mr. GARCIA OLIVARE (Chile) was unable to accept the suggestion that the matter should be referred to Sub-Committee G on Chapter VIII. The point to be made clear was that foreigners were not to receive preferential treatment and that could be solved by the addition of a form of words along the lines suggested by the Australian representative. He was not sure that the United Kingdom proposal referred to the same question as that brought up by the Uruguayan representative.

Mr. LECUYER (France), supported by Mr. BENNA (Czechoslovakia) reserved his position on paragraph 6 until he could see a written text of the suggested changes.

The Committee agreed to postpone a decision on the question until the amendments to paragraph 6 had been circulated in writing.

The Committee also agreed to have circulated the proposal of the representative of Australia with regard to the Report of Sub-Committee D on the footnote to Chapter III on "Reconstruction" set out in paragraph 3 of E/CONF.2/C.2/39.

The meeting rose at 8.00 p.m.