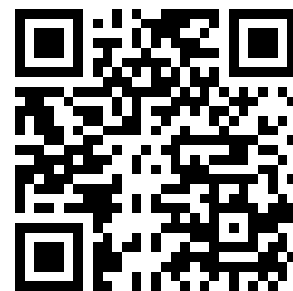


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By Henry Reiff



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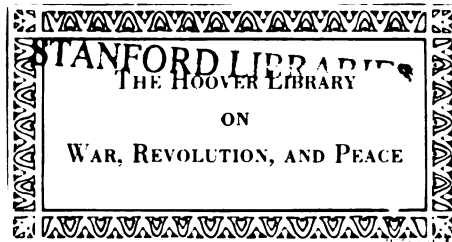
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# Transition From League of Nations to United Nations

By HENRY REIFF<sup>1</sup>

## PART I

LONG BEFORE the United Nations Conference on International Organization met at San Francisco in the spring of 1945 it was evident that establishment of a new general organization would necessitate the termination of the League of Nations. Aside from obvious political considerations, the presence among the 51 United Nations of 32 League members suggested the desirability of a speedy elimination of dual burdens and of possible conflicting obligations. In the generation since World War I the functions, activities, powers, and duties of the League had proliferated amazingly both under the Covenant<sup>2</sup> and in pursuance of several hundred separate treaties entrusting matters to the League.<sup>3</sup> During World War II the League had ceased to perform most of its political functions, but it still carried on humanitarian and economic work of universal importance at Geneva, London, Washington, and Princeton.<sup>4</sup> The Permanent Court of International Justice, with its seat at The Hague, and the International Labor Organization, functioning at Geneva and Montreal, both dependent upon the League in various ways, were still in being. It was generally felt that on dissolution of the League there should be as little interruption as possible in the performance of the non-political and technical work. Termination of the League also would require severance of the interests of the International Labor Organization, whatever the ultimate disposition of that organization might be. Establishment of the seat of the new International Court of Justice at The Hague<sup>5</sup> indicated the desirability of using the premises occupied by the old Court. This procedure would involve also some negotiation with the League. To these several ends, therefore, the conference at San Francisco in the Interim Arrangements adopted June 26, 1945<sup>6</sup> directed the Preparatory Commission, among its other tasks,

to "formulate recommendations", for presentation to the first General Assembly of the United Nations, "concerning the possible transfer of certain functions, activities, and assets of the League of Nations which it may be considered desirable for the new Organization to take over on terms to be arranged".

### The United Nations Committees

In pursuance of this mandate, and in further execution of the purposes involved, a series of five committees of the United Nations have dealt successively with the problem of transfer, each carrying the process of solution a few steps further:

1. Committee 9 of the Executive Committee, 14 members, whose report was adopted by the Executive Committee October 12, 1945.<sup>7</sup>

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<sup>2</sup>*Essential Facts about the League of Nations* (Information Section, Geneva, 1939, 10th ed., revised); D. P. Myers, *Handbook of the League of Nations* (Boston, 1935).

<sup>3</sup>*Powers and Duties Attributed to the League of Nations by International Treaties* (League of Nations, C.3.M.3. 1944.V, Geneva, July 1944); *List of Conventions with Indication of the Relevant Articles Conferring Powers on the Organs of the League of Nations* (League of Nations, C.100.M.100.1945V, Geneva, Sept. 1945).

<sup>4</sup>*Report on the Work of the League During the War*, submitted to the Assembly by the Acting Secretary-General (Geneva, Oct. 1945, A.6.1946).

<sup>5</sup>Statute of the International Court of Justice, art. 22.

<sup>6</sup>Par. 4 (c).

<sup>7</sup>PC/EX/96, Oct. 13, 1945; *Report by the Executive Committee to the Preparatory Commission of the United Nations*, Nov. 12, 1945, part II, sec. IX, and part III, ch. IX. The Executive Committee sat in London, Aug. 16 to Nov. 24, 1945.



2. Committee 7 of the Preparatory Commission, 51 members, whose report was adopted by the Preparatory Commission December 18, 1945.<sup>8</sup>

3. A small special (interim) committee of eight members, appointed at the conclusion of the labors of the Preparatory Commission to enter on its behalf into discussion with the League of Nations Supervisory Commission for the purpose of establishing a common plan for the transfer of the assets of the League.<sup>9</sup> This committee operated in the interval between the meetings of the Preparatory Commission and the first part of the first General Assembly and also during that first part. It reported on February 1, 1946 to the *ad hoc* Committee on the League of Nations established by the General Assembly.<sup>10</sup>

4. An *ad hoc* Committee on the League of Nations, established by the first part of the first General Assembly,<sup>11</sup> 51 members, whose report, including the Common Plan, was adopted by the General Assembly, February 12, 1946.<sup>12</sup>

5. A small negotiating committee of eight members set up by the General Assembly in pursuance of the report of the *ad hoc* Committee for the purpose of conferring with the League authorities, the Swiss and Netherlands authorities, and the Carnegie Foundation of the Netherlands on matters arising out of the transfer of the properties located at Geneva and The Hague, as envisaged in the Common Plan adopted.<sup>13</sup>

In consequence of the efforts of these several bodies, certain of the non-political and technical

functions of the League are already in process of provisional assumption and continuance by the United Nations;<sup>14</sup> others it is expected will be assumed in the months to come; and the legal transfer of the material assets, it is also expected, will be consummated on or about August 1, 1946.<sup>15</sup>

The United States, as an important member of the United Nations, as a party to numerous separate treaties referring to the League or entrusting to it various non-political and technical functions, particularly those dealing with the control of narcotics,<sup>16</sup> and as having displayed as a non-member of the League considerable interest in its humanitarian and economic work, particularly in the fields of health and women and children,<sup>17</sup> was represented on each of these United Nations committees.<sup>18</sup>

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In all cases where a committee or subcommittee contained fewer than the total of 51 members of the United Nations, care was exercised to produce a composition for the body in proper proportion to the interests of states members of the United Nations which were still members of the League, states like the U.S.S.R., which were formerly members, and states like the United States, which never had been members. Throughout the discussions, however, there was remarkable unity of appreciation of the task to be performed. All the committees felt the need for a clear-cut, speedy solution of the problem of transition.

Various governments still members of the League offered at different stages working pa-

<sup>8</sup> PC/11, Dec. 17, 1945, and PC/12, Dec. 15, 1945; *Journal* no. 22, pp. 107-110; *Report of the Preparatory Commission of the United Nations*, Dec. 23, 1945, ch. XI. The Preparatory Commission sat in London, Nov. 24 to Dec. 24, 1945.

<sup>9</sup> *Report of the Preparatory Commission*, ch. XI, sec. 3. The delegations of the following members were represented: Chile, China, France, Poland, South Africa, the Soviet Union, the United Kingdom, and the United States.

<sup>10</sup> A/18, A/18/Add. 1, and A/18/Add. 2, Jan. 28, 1946; *Journal* no. 22: Supp. no. 7-A/LN/2, p. 3.

<sup>11</sup> *Journal* no. 16, Jan. 28, 1946, p. 316.

<sup>12</sup> A/28, Feb. 4, 1946; *Journal* no. 30.

<sup>13</sup> The delegations represented on this committee were the same as those on the other small committee, footnote 9 above.

<sup>14</sup> Resolution implementing A/28 above adopted as E/19, Feb. 15, 1946, by the Economic and Social Council on Feb. 16, 1946 (*Journal of the Economic and Social Council*, no. 11, p. 110).

<sup>15</sup> The date agreed on in the Common Plan.

<sup>16</sup> See P. M. Burnett, "International Bodies for Narcotics

Control", *Department of State Bulletin* of Oct. 14, 1945, p. 570; also statement of United States Delegate in UNCIO, Committee II/3, Doc. 780, II/3/53, June 4, 1945 and the Report of the Rapporteur of Committee II/3, Doc. 861, II/3/55 (1), June 8, 1945.

<sup>17</sup> See annual survey, "The United States and World Organization during 1939", in *International Conciliation*, no. 361 (June 1940), and for previous years, see the same series.

<sup>18</sup> (1) Executive Committee, Committee 9, Henry Reiff; (2) Preparatory Commission, Committee 7, Dr. Reiff and John W. Halderman, Acting Assistant Chief, Division of International Organization Affairs, Department of State; (3) Committee on Transfer of League Assets, Benjamin Gerig, Chief, Division of Dependent Area Affairs, and Associate Chief, Division of International Organization Affairs, Department of State, A. H. Feller, Department of State, and Dr. Reiff; (4) *Ad hoc* Committee on League of Nations, Frank Walker, Alternate Delegate to General Assembly, Dr. Gerig, Dr. Reiff, and William F. Cronin, Assistant to Mr. Walker; (5) Negotiating Committee, Dr. Gerig.

pers<sup>19</sup> as bases for discussion, and the secretariats of the Preparatory Commission, the United Nations, and the League of Nations supplied voluminous data essential to the work of the committees. The presence in the United Nations of 32 of the states which are still members of the League enabled the committees at all times to proceed with ample knowledge of what the League planned to do with respect to its own liquidation. This knowledge operated to permit both the United Nations and the League of Nations, within the spheres of their respective competences, to act with a considerable degree of timely concurrence.

### Development of Solution

These United Nations committees were confronted with the complex problem of devising a means to effect a transition of limited scope between a general international organization about to be liquidated and a general international organization in process of being constituted. No precise precedent existed for solving that problem. The several committees charged with responsibility in the premises felt their way along toward a solution, step by step. These steps can now be set forth seriatim.

### The Executive Committee of the Preparatory Commission and Its Committee 9

1. At the beginning of the discussion in Committee 9 of the Executive Committee it was agreed that under the terms of reference of the Interim Arrangements the United Nations could not concern itself with the devising of legal and practical modes of dissolving the League of Nations. That was a task outside its competence and devolved squarely upon the League itself.

2. But it was also agreed that, wherever possible, the United Nations should within its competence facilitate a dignified and speedy dissolution of the League. A result so achieved would be of mutual interest.

3. Furthermore, complete agreement existed at the outset that only non-political and technical functions and activities and the assets of the League should be considered for transfer.<sup>20</sup> Hence such political functions as the League might still possess under the Covenant or in pursuance of separate treaties would presumably cease upon dissolution of the League or be disposed of other-

wise by the interested parties.<sup>21</sup> In this connection, three troublesome items may be mentioned:

(a) No recommendation relating to mandates was made by Committee 9 or any of its successors. If any feature of the mandates system survives the termination of the League, it presumably will appear within the scope of the new trusteeship system.

(b) Committee 9 made no recommendation to transfer the activities concerning refugees,<sup>22</sup> nor did the Preparatory Commission. The first part of the first General Assembly dealt afresh with the subject of refugees.<sup>23</sup>

(c) Although Committee 9 recommended transfer of League functions relating to League-supervised loans (of post - World War I significance),<sup>24</sup> Committee 7 of the Preparatory Commission made no recommendation, believing that the subject could "be brought by any interested government before the Economic and Social Council".<sup>25</sup>

4. It was clear also at the beginning of the discussions in Committee 9 that transfer of functions entrusted to the League under separate treaties involved enormously complex problems of a juridical and practical nature. Hence that committee drew up a separate resolution,<sup>26</sup> readopted with

<sup>19</sup> For example, in Committee 9 of the Executive Committee: PC/EX/LN/3, Sept. 6, 1945, Memorandum by the Chinese Delegation on the future of the League of Nations; PC/EX/LN/8, Sept. 13, 1945, Memorandum by the French Delegation on procedure for transferring functions arising out of international agreements from the League of Nations to the United Nations Organization; PC/EX/LN/10, Sept. 18, 1945, Proposal by the United Kingdom Delegation for a report on the transfer to the United Nations of the functions of the League of Nations under various treaties and international instruments; and several other working papers resulting from comprehensive study by United Kingdom experts.

<sup>20</sup> The future of the League of Nations Intellectual Cooperation Organization was left to be disposed of when the contemplated United Nations Educational and Cultural Organization had been set up.

<sup>21</sup> e.g. those related to minorities, and numerous other political matters accumulated since the peace settlements of 1919.

<sup>22</sup> *Report of the Executive Committee*, p. 108 n.

<sup>23</sup> See discussion on *Report of the Third Committee on Refugees*, A/45, Feb. 11, 1946, in General Assembly, Feb. 12 (*Journal* no. 30, p. 535, and *ibid.*, no. 31, p. 544).

<sup>24</sup> *Report of the Executive Committee*, ch. IX, sec. 3, par. 9.

<sup>25</sup> *Report of the Preparatory Commission*, ch. XI, sec. 2.

<sup>26</sup> *Report of the Executive Committee*, ch. IX, sec. 2.

only stylistic changes by both the Preparatory Commission<sup>27</sup> and the first part of the first General Assembly,<sup>28</sup> providing (a) for the performance by the United Nations of secretarial functions required under the treaties and (b) for the continued exercise, provisionally, of such technical and non-political functions as the United Nations might wish to select. It is expected that in due course the parties to these two sets of treaties will wish to make the changes, where necessary, in their terms and in some cases, perhaps, to revise them altogether. (c) In the case, however, of treaties entrusting *political* functions to the League, provision was made in the resolution for examination by the United Nations of any request by the parties to such treaties that the United Nations assume the exercise of any of those functions.

### The En Bloc and Selective Formulas

5. Early in the deliberations of Committee 9 it also became apparent that transfer of functions, activities, and assets of the League stemming from the Covenant could be achieved feasibly under one or the other of two principal and relatively simple formulas. After excising certain matters<sup>29</sup> from consideration under either formula, it would be possible either (a) to transfer *en bloc* (or *in toto*) all the remaining League functions, activities, and assets (together with certain of their attached liabilities), placing the burden on the United Nations to discontinue any function or activity transferred and to liquidate any of the assets and liabilities transferred; or (b) to authorize the appropriate organs of the United Nations to make a *selection* of functions, activities, and assets to be assumed, leaving to the League the task of liquidating such matters as had not been embraced in this scheme of transfer.

Either formula was felt by most members of Committee 9 to be justifiable under the provisions of the Interim Arrangements. Each also had its advantages and disadvantages. In brief, the *en bloc* formula was thought to facilitate speedy termination of the League. Under it, dates for the consummation of various stages in the process of transition could be fixed with some degree of

certainty. It appealed to most of the governments represented on the Executive Committee as permitting a neat, early, and definitive solution. Certain delegations, opposing it, argued that it would operate to place the burden of liquidating the League on the United Nations and that it would imply a form of "succession" which they felt to be undesirable.

On the other hand, the advocates of the *selective* formula felt that it alone could preserve for the United Nations all the freedom in devising new spheres of non-political and technical work which a new organization ought to have; that if any assets were taken over they should not be encumbered with liabilities; that the League could stay in being or operate through some sort of liquidating body until the United Nations had made the selection of functions and activities which it might wish to assume; and that meanwhile the League should bear the cost of maintaining those functions and activities as well as the risk arising out of the possession of valuable properties until their ultimate disposition could be determined. The process of selection of the functions and activities should not, in their judgment, take more than a few months, perhaps a year.

The opponents of the *selective* formula felt, however, that the process, depending as it would on prior constituting of the organs of the United Nations and their going into operation, could easily take some two or more years. Meanwhile, the League itself or some liquidating body authorized by it would have to stay in being until all League affairs had been wound up. States members of the United Nations which were also League members could not view with enthusiasm a solution which would likely entail for them dual financial and other burdens which might run on for several years until the League was terminated in fact and in law.

In the meantime, for reasons of economy or otherwise, services of great value to the international community might have to be discontinued by the League. Various of the technical experts still employed by the League, facing an uncertain future, might find it necessary to seek other employment, leaving important work unperformed. This loss of experienced personnel could hardly be afforded at a time when it was most desirable that there be no interruption in such non-political and technical work.

<sup>27</sup> Report of the Preparatory Commission, ch. XI, sec. 1.

<sup>28</sup> Journal no. 30, p. 526, and *ibid.*, no. 34, p. 706.

<sup>29</sup> e.g. all political matters, activities concerning refugees and international bureaus, and the League Intellectual Cooperation Organization; and certain of the funds and liabilities of the League.

There could be little question that a going concern like the United Nations could find suitable uses for the plant and equipment of the League at Geneva in the future, even if the headquarters were moved to some other place in Europe or to America. It could be used for a branch office, for some of the periodic meetings, or as the seat of one or more specialized agencies. With this prospect, it was felt by most members of the Committee that it would hardly be equitable to require a moribund organization to bear the risk and expense of maintaining the plant beyond a minimum of time needed for transition.

Underlying these considerations, for and against the two formulas, were others of a political, sentimental, and fiscal character. Resentment toward the League of Nations for having allegedly failed in its mission; opposition to any settlement which might involve a "return to Geneva" even in some tentacular form; fear, perhaps hope, that acquisition of the properties in Geneva might influence the choice of a site for the new headquarters—feelings such as these were implicit in certain of the arguments put forth in the committee. There was, however, a strong current of belief that undignified or inconsiderate treatment of the interests of the League and its members could hardly redound to the credit of the new Organization to which the loyalties of many governments and individuals were being transferred. Finally it might be observed that, if the United Nations acquired the material assets of the League, those members of the United Nations which had as members of the League contributed to the creation of those assets would, in equity, be entitled to some credit toward their financial obligations under the new Organization—a consideration not without weight in a period of financial retrenchment.

### Adoption of So-called "En Bloc" Transfer Formula

In the end, Committee 9 recommended and the Executive Committee adopted, with certain qualifications, the *en bloc* (or *in toto*) formula for transfer of League functions, activities, and assets.<sup>30</sup> Throughout the deliberations in Committee 9 the representatives of the Union of Soviet Socialist Republics reserved their position with respect to the *en bloc* formula, and in the Executive Committee they voted against adoption of the report containing it. They preferred a restricted form of

the selective principle.<sup>31</sup> In the Executive Committee the Australian Delegation announced its preference for the selective principle and joined the Soviet Delegation in voting against adoption of the report.<sup>32</sup>

In all discussions of transfer of League assets until a satisfactory arrangement was achieved under the Common Plan the representatives of the United States reserved their position on the valuation of the buildings involved.<sup>33</sup> At all appropriate times also they insisted that the discretion of the Secretary-General of the United Nations in engaging the services of any of the former League technical personnel remain completely unfettered.<sup>34</sup>

The scheme of transfer as it emerged from the Executive Committee is set forth in the three sections and one appendix contained in chapter IX of part III of its Report. Briefly, those documents embrace the following features:

(a) Section 2 disposes of the problem of treaties entrusting functions to the League along the lines indicated above.

(b) Section 3 surveys the functions, activities, and assets involved in the transfer and stipulates certain exceptions and qualifications to the principle of *en bloc* transfer.

These exceptions and qualifications had become so numerous in the course of the deliberations of Committee 9 that the committee felt in its final drafting sessions that the term *in toto* (or *en bloc*), as used in earlier drafts of the recommendations, could no longer be accurately used. Hence the term was stricken out of the recommendations<sup>35</sup> as presented to the Executive Committee. If a single term were desired to describe the quantum of functions, activities, and assets contemplated under these recommendations for transfer, *residual* would have been more nearly accurate.

<sup>30</sup> Report of the Executive Committee, p. 108.

<sup>31</sup> PC/EX/96, Oct. 12, 1945.

<sup>32</sup> *Ibid.*

<sup>33</sup> e. g. PC/EX/LN/27, Oct. 8, 1945; PC/EX/LN/27/Corr. 1, Oct. 8, 1945; PC/LN/11, Dec. 8, 1945.

<sup>34</sup> Also with respect to engagement of former League personnel by the contemplated new international health organization (PC/LN/10, Dec. 5, 1945).

<sup>35</sup> Sec. 1; but the term was retained with respect to "assets and liabilities" as qualified in paragraph 28 of the accompanying report in sec. 3.

(c) The appendix contains a brief statement of assets and liabilities of the League of Nations as of December 31, 1944.

(d) Section 1 contains the so-called *en bloc* formula, hedged with the restrictions finally agreed upon, in the following language:

"The Executive Committee,

"Having considered the possibility of transferring certain functions, activities and assets of the League of Nations which it may be considered desirable for the United Nations to take over; and

"Considering, after it had received the report, contained in Section 3, of a committee which had examined this problem, that it would be useful for the United Nations to state certain terms for this transfer;

"Recommends:

"1. that the functions, activities and assets of the League of Nations be transferred to the United Nations with such exceptions and qualifications as are made in the report referred to above, and without prejudice to such action as the United Nations may subsequently take with the understanding that the contemplated transfer does not include the political functions of the League, which have in fact already ceased, but solely the technical and non-political functions."

For the convenience of the Executive Committee, the conclusions of the report in section 3 were summarized in the following language which appears as a footnote to the above paragraph 1:<sup>36</sup>

"The Committee recommends that no political question should be included in the transfer. It makes no recommendation to transfer the activities concerning refugees, mandates or international bureaux. The contemplated transfer will not include transfer of personnel. Transfer of assets and liabilities should imply neither profit nor loss for the United Nations. The problem of separating the finances of the International Labour Organisation from those of the League is left for later consideration.

<sup>36</sup> *Report of the Executive Committee*, p. 108.

<sup>37</sup> Consisting of the representatives of Poland (Mr. Morderow, *chairman*), the U.S.S.R. (Professor Stein), the United Kingdom (Mr. McKinnon Wood), and Egypt (Ahmed Saroit Bey).

<sup>38</sup> *Report of the Preparatory Commission*, ch. XI, sec. 1.

"The transfer of economic activities is limited to such work in this field as the United Nations might wish to continue; that of the health activities will be subject to any decisions made in the future regarding a new health organisation; and that of the social activities would take place with the understanding that the question as a whole will have to be referred to the competent organ of the United Nations. The transfer of functions arising from treaties is contemplated only as far as is possible and desirable."

(e) The remainder of section 1 contains, *inter alia*, a recommendation that continuity be maintained in the work done by the League on economic and health questions and in relation to the control of the drug traffic. It recommended also that "the United Nations effectively assume at the earliest possible moment the powers and functions attributed to the League of Nations under international conventions concerning the control of the Drug Traffic". It further recommended that "the League of Nations, prior to the transfer, settle the question of contributions to be paid to the League of Nations by members in arrears, the question of the payment to the judges of the Permanent Court of International Justice of arrears in salaries and other claims". It also contains a suggestion by the Executive Committee: "that the Preparatory Commission should appoint a small Committee to discuss with the Supervisory Commission of the League of Nations the parallel measures that should be adopted by the League of Nations and the United Nations. This Committee might, where necessary, consult with representatives of the International Labour Office on all matters regarding the liquidation of the League of Nations which are of interest to the International Labour Office and which it was impossible to settle directly with the League."

#### Revision by the Preparatory Commission

Committee 7 of the Preparatory Commission, assisted by a highly competent small drafting committee,<sup>37</sup> refined the product of the Executive Committee. It separated very clearly the question of transfer of functions and activities from the question of transfer of assets. It drew up two separate recommendations on the subjects. The recommendation relating to functions entrusted to the League under separate treaties was sent forward with only stylistic changes.<sup>38</sup>

### Assumption of Functions, Powers, and Activities of the League

Early in the deliberation of Committee 7,<sup>39</sup> a sharp distinction was made between the nature of the operation involved in so-called "transfer of functions and activities" and the nature of the operation involved in the transfer of assets. In the latter case, there would be actual handing over by one organization to the other of certain buildings, equipment, furnishings, and other properties. In the former case, it was contended, despite the language of the Interim Arrangements,<sup>40</sup> there could be, in legal contemplation, only the cessation of performance of function or activity by the League when its mandate expired and the taking up or assumption of the performance of the same substantive tasks by the United Nations under its new mandates. The use of the term *assumption*, it was argued, would avoid the implication of a legal continuity which did not exist. Although it was pointed out that no such implication necessarily arose out of the use of the term *transfer* and that use of the term *assumption* made a distinction without a difference in effect, the Committee, to satisfy doubts on the point, adopted the term *assumption* in its final recommendation on the subject.<sup>41</sup> It was also believed, at the outset of the discussion, that such a terminological change would meet in part the objections of the Union of Soviet Socialist Republics to the Executive Committee's Report.

Verbal magic could not, however, meet those objections. After the Committee had quickly agreed in principle to separate out from the problem of transfer the whole question of assets and to deal with it through a special committee authorized to consult with the Supervisory Commission of the League,<sup>42</sup> the Soviet spokesman, Professor Stein, proposed to the Committee the following formula for "assumption" of League functions and activities:

"that the Economic and Social Council should consider which of its organs might exercise certain non-political functions formerly performed by the League of Nations."<sup>43</sup>

This proposal was in effect a revival of the *selective* formula with the added safeguard that, if the Economic and Social Council performed strictly within its Charter mandate, no function

or activity previously exercised by the League and assumed by the Council could lawfully partake of a political character.

"In explanation of the proposed amendment Mr. Stein . . . maintained that the difference of opinion which had caused the Soviet Delegation to vote against chapter IX in the Executive Committee was a difference of opinion on substance and not on presentation as had been suggested at the previous meeting. Recommendation 1 of the Report by the Executive Committee was based on the principle that all non-political functions of the League should be transferred to the United Nations. This principle was not acceptable to the Delegation of the Soviet Union on the grounds that no general distinction could be drawn between political and non-political functions. Separate, careful and concrete consideration was necessary of each particular function before any decision on the desirability of the United Nations carrying out such a function could be made. As the majority of the functions concerned would fall within the competence of the Economic and Social Council it was this body which should properly carry out such an examination."<sup>44</sup>

### New Formula of Transfer

The formula proposed by Professor Stein was, of course, open to most of the objections voiced in Committee 9 of the Executive Committee when it discussed the *selective* principle. Committee 7 of the Preparatory Commission was, therefore, not willing to accept it without considerable qualification. In the end, the formula relating to functions and activities was a compromise between the selective principle as restricted in the Soviet proposal and the so-called *en bloc* principle as restricted in the Executive Committee's Report.

The metamorphosis of Professor Stein's proposal can be sketched briefly. An early suggestion that a time limit should be placed on the sur-

<sup>39</sup> PC/LN/2, Nov. 28, 1945; PC/LN/5, Nov. 29, 1945 and PC/LN/7, Nov. 30, 1945.

<sup>40</sup> Par. 4 (c) quoted above.

<sup>41</sup> PC/12, Dec. 15, 1945.

<sup>42</sup> PC/LN/2, Nov. 28, 1945.

<sup>43</sup> PC/LN/4, Nov. 29, 1945.

<sup>44</sup> PC/LN/5, Nov. 29, 1945.

vey by the Economic and Social Council<sup>45</sup> was dropped when it was agreed that "pending the adoption of the measures decided upon as a result of this examination, the Council should, on the dissolution of the League,<sup>46</sup> assume and continue on a provisional basis, the work hitherto done" by the Economic, Financial, and Transit Department and the Health and Opium Sections of the League. Additional provision was made for "taking over and maintaining in operation" certain functions of the League which could not fall within the orbit of choice exercisable by the Council, namely, the Library, the Archives, and the completion of the League of Nations Treaty Series. It was also suggested that it was "desirable to engage for the above-mentioned work on appropriate terms such members of the experienced personnel by whom it is at present being performed as the Secretary-General" of the United Nations might select. Having said this, Committee 7 added that it believed the foregoing recommendations covered "all the parts of the Report"<sup>47</sup> by the Executive Committee relating to the transfer of functions, powers, and activities of the League of Nations, with the exception of

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<sup>45</sup> To the effect that the Council "should report to the General Assembly not later than the second part of the General Assembly's first session" (PC/LN/7, Nov. 30, 1945).

<sup>46</sup> Changed in the General Assembly to "on or before the dissolution of the League" (A/28, Feb. 4, 1946).

<sup>47</sup> Meaning sec. 3 of ch. IX of part III of the comprehensive Report.

<sup>48</sup> See discussion immediately below.

<sup>49</sup> *Report of the Preparatory Commission*, pp. 117-18.

<sup>50</sup> A/28, Feb. 4, 1946; *Journal* no. 34, p. 708.

<sup>51</sup> For brief description, see *Powers and Duties Attributed to the League of Nations by International Treaties*, pp. 28-35, cited above, footnote 3.

<sup>52</sup> *Report of the Executive Committee*, p. 111.

<sup>53</sup> PC/LN/4, Nov. 29, 1945.

<sup>54</sup> PC/LN/5, Nov. 29, 1945.

<sup>55</sup> PC/12, Dec. 15, 1945; *Report of the Preparatory Commission*, p. 118.

<sup>56</sup> A/28, Feb. 4, 1946.

paragraph 9 [relating to League-sponsored loans]."<sup>48</sup> As so elaborated in Committee 7, the formula on assumption of functions and activities was adopted by the Preparatory Commission<sup>49</sup> and, with the necessary stylistic changes, by the General Assembly.<sup>50</sup>

### League-Sponsored Loans

Another troublesome question disposed of at the Preparatory Commission related to League-sponsored loans.<sup>51</sup> The Executive Committee recommended in paragraph 9 of section 3 of chapter IX of its Report that the United Nations should take over from the League its surviving functions under the several loan arrangements, declaring that "these functions are of a technical character and would involve no financial liability on the part of the United Nations".<sup>52</sup> The Soviet and Chinese Delegations in both the Executive Committee and the Preparatory Commission opposed the assumption of such a responsibility by the United Nations. As part of his original proposal dealing with functions and activities, described above, Professor Stein included a suggestion that the item relating to the loan functions be deleted from any new recommendation on the subject of transfer.<sup>53</sup> His proposal, he said, "was based on the view that the public loans issued with the assistance of the League were in fact more or less political loans for which the United Nations should take no responsibility, even if that responsibility amounted to no more than the appointment of trustees".<sup>54</sup> A compromise was thereupon effected, the recommendation of Committee 7, after excepting from the scope of the transfer formula "Paragraph 9", declaring: "The Preparatory Commission makes no recommendation on this subject; it considers that it can be brought by any interested government before the Economic and Social Council."<sup>55</sup> There the matter rested. The Report of the League of Nations Committee to the General Assembly contains no reference to the subject.<sup>56</sup>

## PART II

### Committee on Transfer of League Assets

The Preparatory Commission, in pursuance of a recommendation of Committee 7,<sup>1</sup> on December 18, 1945 "set up a committee to enter, on its behalf, into discussion with the League of Nations Supervisory Commission, . . . for the purpose of establishing a common plan for the transfer of the assets of the League of Nations on such terms as are considered just and convenient."<sup>2</sup> This plan was to be subject, so far as the United Nations was concerned, to approval by the General Assembly. The Committee consisted of one representative each designated by the Delegations of Chile, China, France, Poland, South Africa, the Soviet Union, the United Kingdom, and the United States. The Committee was instructed to consult the duly authorized representatives of the International Labor Organization on questions connected with the transfer which affected that organization; to have regard to the views of the Executive Committee as expressed in certain parts of its Report; and to submit its plan to the General Assembly, if possible during the first part of the first session.

All of these instructions the Committee on Transfer of League Assets carried out. Beginning on January 4, 1946, in a series of seven meetings by itself and of four jointly with the Supervisory Commission, and after informal consultations by the chairman with representatives of the ILO, the Committee performed its task and reported on February 1 to the full *ad hoc* Committee on the League of Nations set up by the General Assembly.<sup>3</sup>

### Elaboration of the Common Plan and Accompanying Report

The Committee, after discussion of principles upon which a transfer of assets could be arranged and which would be consistent with the instructions of the Preparatory Commission, invited the Supervisory Commission to propose a draft plan for joint discussion.<sup>4</sup> Agreement was relatively speedily reached along certain lines consistent with these principles:

1. That the *material* assets, fixed and movable (i.e. buildings, equipment, furnishings, supplies and stocks on hand, books, archives, etc.), be separated from the *liquid* assets and the corresponding liabilities;

2. That, on transfer of the *material* assets, some form of total credit covering them be placed on the books of the United Nations in favor of those members of the United Nations which were still members of the League of Nations and which had contributed to the creation of those assets, the total credit depending, of course, upon the value which could ultimately be placed upon those assets after their final disposition had been determined;

3. That the League itself bear the responsibility (a) of fixing the percentages of the total credit to be accorded to its own members as well as (b) of satisfying the claims to shares in the material assets of those members of the League which at the time of transfer should not be members of the United Nations; and

4. That the above credit established on the books of the United Nations take a form consistent with the fiscal policies and needs of the new organization.

With respect to the *liquid* assets and corresponding liabilities and related fiscal matters it was agreed:

5. That the League itself should bear exclusively the responsibility for a proper liquidation or settlement of these intricate matters. They would include (a) the discharge of all League obligations as soon as possible, including the claims of the judges of the Permanent Court of International Justice for salary arrears; (b) the settlement of the question of arrears in contributions of its member states; (c) the separation of the interests of the ILO in the assets of the League before transfer

<sup>1</sup> PC/11, Dec. 17, 1945.

<sup>2</sup> *Report of the Preparatory Commission*, ch. XI, sec. 3.

<sup>3</sup> *Journal* no. 22, supp. no. 7-A/LN/2.

<sup>4</sup> The documents recording the negotiations of this committee are of a "restricted" character and are on file in the Department. The final report and Common Plan, A/18, Jan. 28, 1946, have, however, been published. See appendix to this article.



of the material assets to the United Nations; (d) the making of provision for the continued administration of the Staff Pensions Fund for League employees; (e) the making of arrangements for the continued administration of the pensions due the judges of the Permanent Court of International Justice; and (f) the making of arrangements for the crediting or distributing of the remaining liquid assets to members of the League under some scheme to be determined by it.

In view of the desire of the members of the ILO to continue that organization and of the United Nations to utilize<sup>6</sup> for the new Court the premises at The Hague occupied by the old Permanent Court of International Justice, it would be necessary for any common plan for the transfer of League assets to make provision with respect to these matters so far as they were affected by the contemplated transfer. This provision was effected in the following manner:

With respect to the Court premises, it was readily agreed that the furniture, fittings, equipment, library, archives, and other similar properties used by the Permanent Court of International Justice at The Hague should go over to the United Nations as part of the transaction relating to the transfer of material assets of the League. Alterations had, however, been made in the Peace Palace at The Hague to house the old Court. Several instalments on two loans obtained from the Carnegie Endowment for the purpose were still due. Since the United Nations would have the advantage of the improved arrangements at the Palace, it was agreed to assume the obligation of the unpaid instalments.<sup>7</sup>

Although it was well known that the burden of severing the interests of the ILO from the assets of the League would fall upon the League, the Preparatory Commission had enjoined the Committee to "consult the duly authorized representatives of the International Labor Organization on questions connected with the transfer which affect that Organization."<sup>8</sup> This was done through the medium of the chairman of the Committee on Transfer of League Assets, M. Moderow (Poland). The Committee could accordingly in its discus-

sions with the Supervisory Commission dispose of certain of the "connected" questions. Thus it was understood that the ILO building at Geneva, in the final settlement of the transition problem, should be transferred to that organization. It was further agreed that the ILO might "use the Assembly Hall [in Geneva], together with the necessary committee rooms, office accommodation and other facilities connected therewith at times and on financial terms to be agreed from time to time between the United Nations and the International Labour Organization;" and that the ILO might "use the library under the same conditions as other official users thereof."<sup>9</sup>

On details to implement a successful transfer of the material assets there was also ready concurrence, for example, fixing a date for the legal transfer of the assets involved (i.e. on or about Aug. 1, 1946, "the precise date to be determined by the administrative authorities of the two Organizations"); providing for the setting up of properly authorized committees or other agents of the United Nations and the League to make the detailed arrangements attendant upon transfer of the assets with the Swiss and Netherlands Governments respectively and with the Carnegie Foundation at The Hague; and providing for mutual use of the plant and equipment involved by the administrations of the two organizations before and after the date of legal transfer until the business in hand should have been consummated.

### Problem of Evaluation of the Material Assets

But the most persistent of the problems facing the Committee and the Supervisory Commission was the value to be placed upon the material assets contemplated for transfer. That problem lay in the background of all the deliberations of Committee 9 of the Executive Committee and Committee 7 of the Preparatory Commission. Upon its solution depended the transfer of those assets—indeed, quite likely, the speedy and satisfactory liquidation of the League itself.

Obviously, value depended upon the use to which the plant and equipment could be put, and use depended upon political decisions of an intricate and subtle character relating to the position of a European center, particularly one located in Geneva, in the plans for the future of the United Nations. The United Nations Committee sought to make the determination of the value contingent upon deci-

<sup>6</sup> *Report of the Preparatory Commission*, ch. V, sec. 3.

<sup>7</sup> *Report of the Committee on Transfer of League Assets*, A/18, par. 11.

<sup>8</sup> *Report of the Preparatory Commission*, ch. V, sec. 3.

<sup>9</sup> A/18, par. 10.

sions to be taken by the United Nations with respect to future use. Hence they offered a formula under which the material assets would be transferred at a provisional value subject to an adjusted valuation to be made by the United Nations not later than December 31, 1948.

This formula, however, was unacceptable to the League Supervisory Commission. Aside from placing the power in the hands of the United Nations unilaterally to write down the values to virtually any sum, it would meanwhile place the League in an exceedingly difficult position regarding League members not members of the United Nations. Their claims to moieties could be settled somehow by the League, but the basis of settlement might be widely different from that adopted in determining the credits to be accorded to members of the League who were members of the United Nations. The unpredictable factor of currency fluctuations also had to be considered. A contingent valuation would require at least the Financial Department of the League to stay in being for another two or three years.

Other complications in winding up the affairs of the League could be visualized. The risk involved for the United Nations, particularly for those members which were not also League members, was, however, forcefully presented in and by the Committee. Possibilities of sale or other disposition of the buildings were explored. Reproduction costs as well as appreciation and depreciation in relation to present book values under various conceivable uses of the property were discussed. At all times, however, the Committee bore in mind the instruction of the Preparatory Commission that it should find a value which should "in principle imply neither profit nor loss for the United Nations" and that the transfer should be consummated on such terms as were "considered just and convenient".<sup>10</sup>

In the end, after the Committee and the Supervisory Commission had in several separate and joint sessions discussed the problem further and after representatives on the United Nations Committee had consulted their respective delegations to the General Assembly, agreement was reached on the basis of a formula which the Supervisory Commission had been invited by the Committee to submit.

### Formula for Transfer of Material Assets

In brief the formula agreed upon, subject of course to approval of the General Assembly, as was all the work of the Committee, provided for the taking over by the United Nations of all the material assets of the League at the price they had cost the League. All gifts, many of which have a high artistic and monetary value, would therefore be transferred without any pecuniary consideration. A schedule of fixed and movable assets, together with their valuations, to be appended to the Common Plan, would, with respect to the inventory of the movable assets and their valuations, be subject to revision as of the date of legal transfer. Finally, with respect to the credits to be entered on the books of the United Nations in favor of the members of the United Nations which were also members of the League of Nations at the time of the transfer, it was agreed that the General Assembly of the United Nations should decide upon the purposes, i.e. to which financial account—building fund, administrative expenses, etc.—these credits should be applied, and on which dates they should be so applied, provided, however, that the credits should begin to be available not later than December 31, 1948.

### The General Assembly *ad hoc* Committee on the League of Nations

In addition to the six main committees of the General Assembly two *ad hoc* committees composed of representatives of all the members of the United Nations were set up, one of them for the purpose of considering "the possible transfer of certain functions, activities and assets of the League of Nations."<sup>11</sup> In one meeting, its second,<sup>12</sup> this committee discharged its task:

1. It examined and, after making certain stylistic changes, approved sections 1 and 2 of chapter XI of the Report of the Preparatory Commission, which dealt, respectively, with the assumption of functions and powers entrusted under separate treaties to the League and the assumption of non-political functions and activities of the League other than those mentioned in section 1.

2. It examined, discussed, and approved without

<sup>10</sup> Report of the Preparatory Commission, ch. V, sec. 3.

<sup>11</sup> Journal no. 16, Jan. 26, 1946, p. 316.

<sup>12</sup> Feb. 1, 1946, Journal no. 22: supp. no. 7-A/LN/2.

any changes the Report of the Committee on the Transfer of League Assets together with the Common Plan agreed to by the League Supervisory Commission.

In the course of the consideration by the *ad hoc* Committee, various members solicited and received explanations by Mr. Moderow of parts of the two documents. The Delegate of the United States, Frank Walker, for example, "asked whether in connection with the use by the ILO of the League Assembly Hall and committee rooms it was clear that the ILO had no vested or legal right in the buildings other than that of right of user during the time that the United Nations owned them."

<sup>12</sup> *Ibid.*, p. 5.

<sup>13</sup> A/28, Feb. 4, 1946, sec. 4.

<sup>14</sup> *Journal* no. 30, p. 526; text of rapporteur's report, *Journal* no. 34, pp. 706-9. In pursuance of the resolution of the General Assembly thus adopted, the Economic and Social Council at its twelfth meeting, Feb. 16, 1946 (*Journal of the Economic and Social Council*, no. 11, p. 110), adopted a resolution, E/19, Feb. 15, 1946, requesting "the Secretary-General to undertake the survey called for by the General Assembly and to report at an early date to the Economic and Social Council" and directing him "to take the steps necessary to the provisional assumption and continuance of the work hitherto done by the League departments named" in the resolution adopted by the General Assembly. (For text of E/19, see appendix to this article.) Furthermore, the Council in setting up its commissions and committees specifically authorized certain of them to take the action within their fields necessary under the General Assembly resolution A/28 and under E/19 cited above; E/20, Feb. 22, 1946, Temporary Social Commission; E/31, Feb. 22, 1946, Temporary Transport and Communications Commission; and E/34, Feb. 27, 1946, Commission on Narcotic Drugs.

<sup>15</sup> *Journal* no. 30, p. 524; *ibid.*, no. 31, p. 544; *ibid.*, no. 32, p. 584.

<sup>16</sup> At this stage of the negotiations, Howard Elting, Jr., American Consul at Geneva, substituted for Benjamin Gerig as the representative of the United States on the Negotiating Committee.

Mr. Moderow assured him that "this is the case. To emphasize this the words 'entitled to use' in the first draft had been changed to 'may use'. This point of view had been finally accepted by the ILO."<sup>13</sup>

3. Finally, the *ad hoc* Committee agreed to leave to the General Committee and the General Assembly the nomination of the small committee to negotiate with the Swiss Government and the Carnegie Foundation in relation to the assets located in Geneva and at The Hague respectively. In the absence of objection, however, the final report of the rapporteur of the *ad hoc* Committee provided that this Negotiating Committee should "consist of one representative designated by the delegations, if they so desire, of each of the same eight Members as previously constituted the Committee [on the Transfer of League Assets] created by the Preparatory Commission."<sup>14</sup>

#### Approval by the General Assembly

Without debate and with no objections the General Assembly on February 12, 1946 adopted the report of its *ad hoc* Committee as presented by the rapporteur, H. T. Andrews of South Africa.<sup>15</sup>

#### Work of the Negotiating Committee

The small Negotiating Committee set up by this action of the General Assembly immediately held several informal meetings in London<sup>16</sup> and, after adjournment of the General Assembly, proceeded to The Hague, where it discussed with the representatives of the Dutch Government and the Carnegie Foundation details relating to the transfer of the use of the Court premises.

Subsequently, the Negotiating Committee made the necessary arrangements with the Swiss authorities in relation to the transfer of the material assets located in Geneva.<sup>17</sup>

## APPENDIX: TEXTS OF DOCUMENTS

I. A/28, February 4, 1946<sup>1</sup>

### Report of the League of Nations Committee to the General Assembly *Transfer of Certain Functions, Activities and Assets of the League of Nations<sup>2</sup>*

Rapporteur: Mr. H. T. Andrews (Union of South Africa)

The General Assembly in its Eighteenth Plenary Meeting held on 26 January 1946, referred to the League of Nations Committee the question of the possible transfer of certain functions, activities and assets of the League of Nations.

After having considered these questions on the basis of Chapter XI of the Report of the Preparatory Commission of the United Nations and of the Report of the Committee set up by the Preparatory Commission to discuss and establish with the Supervisory Commission of the League of Nations a Common Plan for the transfer of the assets of the League of Nations, (see Documents A/18; A/18/Add/1; A/18/Add/2), the League of Nations Committee has approved the following resolutions, the adoption of which I have the honour to propose:

#### I

##### FUNCTIONS AND POWERS BELONGING TO THE LEAGUE OF NATIONS UNDER INTERNATIONAL AGREEMENTS

Under various treaties and international conventions, agreements and other instruments, the League of Nations and its organs exercise, or may be requested to exercise, numerous functions or powers for the continuance of which after the dissolution of the League, it is, or may be, desirable that the United Nations should provide.

Certain Members of the United Nations, which are parties to some of these instruments and are Members of the League of Nations, have informed the General Assembly that at the forthcoming session of the Assembly of the League they intend to move a resolution whereby the Members of the League would, so far as this is necessary, assent and give effect to the steps contemplated below.

##### THEREFORE

1. The General Assembly reserves the right to decide, after due examination, not to assume any particular function or power, and to determine which organ of the United Nations or which specialized agency brought into relationship with the United Nations should exercise each particular function or power assumed.

2. The General Assembly records that those Members of the United Nations which are parties to the instruments referred to above assent by this Resolution to the steps contemplated below and express their resolve to use their good offices to secure the co-operation of the other parties to the instruments so far as this may be necessary.

3. The General Assembly declares that the United Nations is willing, in principle and subject to the provisions of this Resolution and of the Charter of the United Nations, to assume the exercise of certain functions and powers previously entrusted to the League of Nations,

and adopts the following decisions, set forth in A, B, and C below.

##### A. *Functions Pertaining to a Secretariat*

Under certain of the instruments referred to at the beginning of this Resolution, the League of Nations has, for the general convenience of the parties, undertaken to act as custodian of the original signed texts of the instruments, and to perform certain functions, pertaining to a secretariat, which do not affect the operation of the instruments and do not relate to the substantive rights and obligations of the parties. These functions include: the receipt of additional signatures and of instruments of ratification, accession and denunciation; receipt of notice of extension of the instruments to colonies or possessions of a party or to protectorates or territories for which it holds a mandate; notification of such acts to other parties and other interested states; the issue of certified copies; and the circulation of information or documents which the parties have undertaken to communicate to each other. Any interruption in the performance of these functions would be contrary to the interests of all the parties. It would be convenient for the United Nations to have the custody of those instruments which are connected with activities of the League of Nations and which the United Nations is likely to continue.

##### THEREFORE

The General Assembly declares that the United Nations is willing to accept the custody of the instruments and to charge the Secretariat of the United Nations with the task of performing for the parties the functions, pertaining to a secretariat, formerly entrusted to the League of Nations.

##### B. *Functions and Powers of a Technical and Non-Political Character*

Among the instruments referred to at the beginning of this Resolution are some of a technical and non-political character which contain provisions, relating to the substance of the instruments, whose due execution is dependent on the exercise, by the League of Nations or particular organs of the League, of functions or powers conferred by the instruments. Certain of these instruments are intimately connected with activities which the United Nations will or may continue.

<sup>1</sup> KEY: A stands for General Assembly

E stands for Economic and Social Council

<sup>2</sup> Adopted Feb. 12, 1946. *Journal* no. 30, pp. 526-7; *ibid.*, no. 34, pp. 706-9.

It is necessary, however, to examine carefully which of the organs of the United Nations or which of the specialized agencies brought into relationship with the United Nations should, in the future, exercise the functions and powers in question, in so far as they are maintained.

#### THEREFORE

The General Assembly is willing, subject to these reservations, to take the necessary measures to ensure the continued exercise of these functions and powers, and refers the matter to the Economic and Social Council.

#### C. *Functions and Powers Under Treaties, International Conventions, Agreements and Other Instruments Having a Political Character*

The General Assembly will itself examine, or will submit to the appropriate organ of the United Nations, any request from the parties that the United Nations should assume the exercise of functions or powers entrusted to the League of Nations by treaties, international conventions, agreements and other instruments having a political character.

## II

#### NON-POLITICAL FUNCTIONS AND ACTIVITIES OF THE LEAGUE OF NATIONS OTHER THAN THOSE MENTIONED IN I

1. The General Assembly requests the Economic and Social Council to survey the functions and activities of a non-political character which have hitherto been performed by the League of Nations in order to determine which of them should, with such modifications as are desirable, be assumed by organs of the United Nations or be entrusted to specialized agencies which have been brought into relationship with the United Nations. Pending the adoption of the measures decided upon as the result of this examination, the Council should, on or before the dissolution of the League, assume and continue provisionally the work hitherto done by the following League departments: The Economic, Financial and Transit Department, particularly the research and statistical work; the Health Section, par-

ticularly the epidemiological service; the Opium Section and the secretariats of the Permanent Central Opium Board and Supervisory Body.

2. The General Assembly requests the Secretary-General to make provision for taking over and maintaining in operation the Library and Archives and for completing the League of Nations Treaty Series.

3. The General Assembly considers that it would also be desirable for the Secretary-General to engage for the work, referred to in paragraphs 1 and 2 above, on appropriate terms, such members of the experienced personnel by whom it is at present being performed as the Secretary-General may select.

## III

#### TRANSFER OF THE ASSETS OF THE LEAGUE OF NATIONS TO THE UNITED NATIONS

The General Assembly having considered the Report of the Committee set up by the Preparatory Commission to discuss and establish with the Supervisory Commission of the League of Nations a Common Plan for the transfer of the assets of the League of Nations, approves of both the Report of the Committee set up by the Preparatory Commission and of the Common Plan submitted by it.

## IV

#### APPOINTMENT OF A NEGOTIATING COMMITTEE

The General Assembly approves of the setting up of a small negotiating committee to assist the Secretary-General in negotiating further agreements in connection with the transfer of certain assets in Geneva, and in connection with the premises in the Peace Palace in the Hague. This Committee shall consist of one representative designated by the delegations, if they so desire, of each of the same eight Members as previously constituted the Committee created by the Preparatory Commission: Chile, China, France, Poland, South Africa, the Soviet Union, the United Kingdom and the United States of America.

II. A/18, January 28, 1946

### **Report of the Committee Set Up By the Preparatory Commission to Discuss and Establish With the Supervisory Commission of the League of Nations a Common Plan for the Transfer of the Assets of the League of Nations**

1. The Committee was set up by the Preparatory Commission on 18 December 1945 and consists of one representative designated by the Delegations of each of the following eight Members: Chile, China, France, Poland, South Africa, the Soviet Union, the United Kingdom and the United States of America.

The Committee's terms of reference were to enter on behalf of the Preparatory Commission, into discussions with the League Supervisory Commission, for the purpose of establishing a common plan for the transfer of the assets of the League to the United Nations on such terms as are considered just and convenient. The duly authorized representative of the International Labour Organi-

zation were to be consulted on questions connected with the transfer which affected that Organization.

The Committee was instructed to have regard to the views expressed by the Executive Committee in paragraphs 24, 25, 28-31 of the "Report on the Transfer of Certain Functions, Activities and Assets of the League of Nations" (Report by the Executive Committee, pages 112-114).

The Committee was not called on to make recommendations on the transfer of functions and activities of the League which is the subject of a separate recommendation of the Preparatory Commission. The Committee, however, calls attention to the desirability of acting on this matter promptly in order to facilitate the termination of the League as soon as possible.

The Preparatory Commission recommended that the plan developed by the Committee should be submitted for approval to the General Assembly, if possible during the First Part of the First Session.

2. The Committee held conversations with the Supervisory Commission of the League of Nations and consulted duly authorized representatives of the Governing Body of the International Labour Organization. The Committee has received all possible assistance from these bodies who share the Committee's desire that the necessary steps should be taken with the greatest possible speed.

3. The main concern of the United Nations Committee was to survey the present position of the assets of the League and to determine how the assets taken over should be evaluated and how any financial settlement should be effected.

The Supervisory Commission was, however, concerned with a number of other questions connected with the liquidation of the League, and indirectly affecting the transfer of assets. Therefore, the Common Plan established contains several points not immediately of interest to the United Nations.

4. The Committee recommends that the United Nations should, in order to facilitate the early dissolution of the League of Nations in definite and proper conditions, take over all material assets of the League of Nations. These material assets include:

(a) the buildings in Geneva holding the offices of the Secretariat, the Assembly Hall with the committee rooms and the library, together with the transferable rights of the League of Nations to use the land on which the building stands, the land within one hundred metres of the buildings and the roads leading to the buildings;

(b) the surrounding grounds belonging to the League of Nations including fields, woodlands and four villas purchased to maintain the amenities of the immediate surroundings;

(c) the furniture fittings and equipment belonging to the League;

(d) the stocks of stationery, printing paper and publications, office supplies and equipment of the League;

(e) the books belonging to the League;

(f) the League archives.

A more precise specification is set out in column I of the Schedule attached to the Common Plan.

The Committee is of the opinion that the cost of maintenance of the fixed assets mentioned under (a) and (b) should not be excessive in relation to their value.<sup>1</sup>

The question of the premises of the Court of Justice in the Hague is referred to in paragraph 11.

5. In accordance with its terms of reference the Committee was to find a value which should "in principle imply neither profit nor loss for the United Nations". The Committee and the Supervisory Commission agreed that in general a "just and convenient" evaluation of these assets today would be the price they had cost the League of Nations.

For the movable assets the cost price is certainly on balance favourable to the United Nations. It should be noted that the inventory of movable assets is subject to minor

changes, since the figures given are based on a survey made in July 1945. It is understood that all gifts, many of which have a high artistic and monetary value, will be transferred without any pecuniary consideration.

As regards the fixed assets a method of evaluation on any basis other than that recommended by the Committee was found to be extremely difficult in view, amongst other things, of the uncertainty of the future use of the buildings. Postponement of valuation until a later date was considered by the Committee, but this plan was regarded by the Supervisory Commission as impracticable due to the uncertainties involved and to the need for a more definite and clear cut arrangement if the League is to be terminated at an early date. Further this procedure might involve the United Nations in financial dealings with States non-Members.

The Committee recommends that the valuation at cost price set out in column II of the Schedule attached to the Common Plan, with the reservations as to revision set out in the notes appended, be accepted.

6. The Common Plan agreed with the Supervisory Commission proposes the following procedure for a financial settlement.

The shares in the total credit established in settlement of the transfer should be distributed between the States entitled to participate, in accordance with percentages to be laid down by the League at its next Assembly. The fixing of these percentages is a matter to be decided exclusively by the League of Nations Assembly. The shares, thus established, of such of those States as are Members of the United Nations shall be credited to them respectively in the books of the United Nations. These credits should be translated into dollar currency at the rate effective on the day of transfer of the material assets. The claims of States non-Members of the United Nations should be dealt with otherwise by the League of Nations.

As regards the credits booked to the Members of the United Nations, the General Assembly should decide on the purposes to which these credits shall be applied and on the dates on which they shall be so applied. It is, however, agreed that these credits should, in any event, begin to be available not later than 31 December 1948. This provision preserves the budgetary freedom of the General Assembly, but it gives some guarantee to the recipient states that the settlement of their claims will not indefinitely be postponed.

This procedure provides for a financial settlement within the United Nations and avoids all payments or transfers of credit to non-Members of the United Nations or to the League. The Committee, therefore, recommends that it be accepted.

7. In view of the legal, financial and administrative arrangements to be made, 1 August 1946 appears to be the earliest date that can be fixed for the legal transfer

<sup>1</sup> EDITOR'S NOTE: This sentence originally read "The Committee is of the opinion that the cost of maintenance of the fixed assets mentioned under (a) and (b) should be excessive in relation to their value", but was changed by the General Assembly in document A/18/Corr/1 of Jan. 31, 1946 to read as printed here.

of the material assets. It is, however, prudent to provide for some degree of elasticity to prevent embarrassment for the administrations concerned. Therefore, the Committee recommends that the transfer be effected on or about 1 August 1946, the precise date to be determined by the administrative authorities of the two organizations.

8. It may not be convenient for the League of Nations to set free certain premises or equipment on the date selected for the legal transfer. On the other hand the United Nations may wish to use the premises or equipment of the League before that date. It is understood that in either case the Administration of the Organization legally entitled to the ownership will make all reasonable arrangements to accommodate the other Administration without any charge.

9. The Supervisory Commission of the League of Nations has agreed to recommend to the League Assembly that the assets mentioned in paragraph 4 be transferred to the United Nations. The Supervisory Commission will also recommend that all other questions relating to the liquidation of the League of Nations shall be handled exclusively by the League of Nations, the United Nations having no voice in these matters nor responsibility for them. The League of Nations would, therefore, make arrangements:

(a) to discharge all its obligations as soon as practicable;

(b) to settle the question of contributions of Member States in arrears;

(c) to separate the interests of the International Labour Organization in the assets of the League before transfer to the United Nations; (It is understood that the International Labour Organization building at Geneva will be transferred to that Organization.)

(d) for the continued administration of the Staff Pensions Fund, and with regard to the pensions of the Judges of the Permanent Court of International Justice;

(e) when it has discharged all its obligations and made the necessary dispositions concerning the Working Capital Fund and regarding outstanding contributions, for crediting or distributing the remaining liquid assets to Members of the League under a scheme to be determined by it.

Though the question of contributions in arrears of Members of the League of Nations does not directly concern the United Nations, the Supervisory Commission stated that a satisfactory solution of the question would be of considerable assistance in expediting the final settlement and liquidation of the League.

10. The Supervisory Commission has done all that is possible to separate the interests of the International Labour Organization in the assets of the League. The International Labour Organization has, however, some interests in the material assets that are to be transferred to the United Nations that could not be separated. These interests had to be discussed.

The International Labour Organization is interested in the continued use of the Assembly Hall at Geneva for its conferences and in the continued use of the League library. The Committee recommends that the United Nations should agree that the International Labour Organization may use the Assembly Hall, together with the necessary com-

mittee rooms, office accommodation and other facilities connected therewith at times and on financial terms to be agreed from time to time between the United Nations and the International Labour Organization; and further that the International Labour Organization may use the library under the same conditions as other official users thereof.

The Committee is of the opinion that the detailed arrangements necessary in this connection should be made by the competent authorities of the two organizations.

The following suggestions, which have been tentatively put forward by the International Labour Organization, might afford an appropriate basis for these negotiations.

A share of the cost of maintaining the Assembly Hall corresponding to its period of use in the course of the year, together with any additional charges incurred in respect of meetings held under the auspices of the International Labour Organization should be borne by that Organization.

The International Labour Organization should notify the United Nations at least three months in advance of the date on which the International Labour Organization wishes to make use of the Hall and the initial and terminal dates for such use shall be agreed between the competent authorities of the International Labour Organization and of the United Nations.

The United Nations and the International Labour Organization should agree upon the most convenient period of the year at which the Assembly Hall shall normally be available for meetings of the International Labour Conference.

11. In connection with the transfer of certain assets in Geneva agreements must be made with the Swiss authorities. A small negotiating committee to assist the Secretary-General should be appointed to make these agreements.

As to the premises for the use of the new Court in the Hague, arrangements must be made with the Carnegie Foundation.

In this context it should be noted that the premises in the Peace Palace in the Hague were considerably altered to house the Permanent Court of International Justice. The United Nations will have the advantage of this arrangement for which several instalments on two loans obtained from the Carnegie Foundation are still due.

The Committee recommends that the small committee mentioned above should be sent to the Hague to make the necessary arrangements.

12. The League of Nations will, during the liquidation and the transfer of assets take all steps necessary to assist in the assumption and continuance, under the auspices of the Economic and Social Council of the United Nations, of those League activities which the United Nations decides to assume and continue. Any ex-official of the League of Nations subsequently engaged temporarily or otherwise by the United Nations should enter service under conditions of employment established by the United Nations.

The League agrees to transfer the archives, particularly those dealing with current matters, as soon as desired. The two Secretaries-General should be empowered to make detailed arrangements. The archives should be located where they could best serve the work of the United Nations.

IIa. A/18/Add/1, January 28, 1946

**Annex to the Report of the United Nations Committee on League of Nations Assets**  
**Common Plan for the Transfer of League of Nations Assets Established by the United Nations**  
**Committee and the Supervisory Commission of the League of Nations**

1. The League of Nations agrees to transfer to the United Nations, and the United Nations agrees to receive on or about 1 August 1946, the precise date to be determined by the administrative authorities of the two Organizations, all material assets of the League of Nations shown in column I of the attached Schedule at the valuation shown in column II.

The League of Nations agrees that the shares in the total credit thus established shall be distributed between States entitled to participate, in accordance with percentages to be laid down by the League at its next Assembly.

The United Nations agrees:

(a) that the shares, thus established, of such of these States as are Members of the United Nations shall be credited<sup>1</sup> to them respectively in the books of the United Nations: and

(b) that the General Assembly shall decide on the purposes to which these credits shall be applied and on the dates on which they shall be so applied; and further that these credits shall in any event, begin to be available not later than 31 December 1948.

The United Nations further agrees:

(a) that the International Labour Organization may use the Assembly Hall, together with the necessary committee rooms, office accommodation and other facilities connected therewith at times and on financial terms to be agreed from time to time between the United Nations and the International Labour Organization;

(b) that the International Labour Organization may

<sup>1</sup> These credits shall be translated into dollar currency at the rate effective on the day of transfer of the material assets referred to in par. 1.

II b. A/18/Add/2, January 28, 1946

**Appendix to the Common Plan for the Transfer of League of Nations Assets Established**  
**by the United Nations Committee and the Supervisory Commission of the League of**  
**Nations**

*Schedule*

I	II
Secretariat building and Assembly Hall.....	38, 553, 914. 03
Library building.....	.....
Real estate belonging to the League of Nations having an area of 203,446 square meters and comprising four villas and other buildings.....	2, 889, 453. 45

<sup>2</sup> Cost of building and equipment of the Secretariat and the Assembly Hall. The League has a transferable right to use the land on which the buildings stand, the land 100 meters around it and the two roads leading to the buildings. The League further has a non-transferable right to use the remainder of the plot of

use the library under the same conditions as other official users thereof.

2. The League of Nations shall take steps to discharge all its obligations as soon as practicable.

3. The League of Nations shall take steps to settle the question of contributions of Member States in arrears.

4. The League of Nations shall take steps to separate the interests of the International Labour Organization in the assets of the League, before transfer to the United Nations. It is understood that the International Labour Organization building at Geneva will be transferred to that Organization.

5. Any ex-officials of the League of Nations subsequently engaged by the United Nations shall enter service under conditions of employment established by the United Nations, and it will be for the League of Nations to take the necessary steps to make this possible.

6. It is understood that the League of Nations shall make arrangements, independently of the United Nations, with regard to the continued administration of the Staff Pension Fund and with regard to the pensions of the Judges of the Permanent Court of International Justice.

7. When the League has discharged all its obligations and made the necessary dispositions concerning the Working Capital Fund and regarding outstanding contributions, the remaining liquid assets shall be credited or distributed to Members of the League under a scheme to be determined by it.

8. Both the United Nations and the League of Nations shall authorize competent authorities to make any necessary agreements with the Swiss Authorities on all matters connected with the transfer of assets of the League of Nations to the United Nations.

land in Ariana Park in which the buildings stand. No value is placed on these rights in the schedule.

<sup>3</sup> The cost of this building given by Mr. Rockefeller was 5,564,206.22 Swiss francs.



I	II
Furniture, fittings, typewriters, etc., for the use of the Secretariat, including the branch offices, and for the other buildings in Geneva.....	-----
Total according to the annexed inventories.....	3,329,978.70
Total included under Secretariat building and Assembly Hall to be deducted.....	1,429,185.02
Furniture, fittings, typewriters, etc., for the use of the Court of Justice in the Hague.....	1,900,793.68
Stocks of stationery, printing paper and publications, office supplies and equipment, in Geneva and branch offices.....	278,615.20
Books, stocks of stationery, printing paper and publications, office supplies and equipment for the Court in the Hague.....	199,657.25
Gifts.....	291,596.00
Library: Books, etc., in Geneva according to the annexed inventory.....	3,518,089.00
Archives of the League of Nations and of the Permanent Court of International Justice.....	-----
<b>TOTAL.....</b>	<b>47,631,518.61</b>

<sup>4</sup> Owing to possible changes before the date of transfer these figures are provisional and subject to revision.

<sup>5</sup> Owing to possible changes before the date of transfer these figures are provisional and subject to revision. Deduction might also be made for gifts included in this figure.

<sup>6</sup> The nominal value of the gifts should be put at 1,234,640 Swiss francs.

<sup>7</sup> This figure includes gifts and will therefore be revised, a deduction being made for gifts.

EDITOR'S NOTE: The figures in this schedule are given in Swiss francs.

III. E/19, February 15, 1946

## Non-Political Functions and Activities of the League of Nations

(Draft submitted by the Secretariat)

1. In its resolution of 12 February 1946, on the Transfer of Certain Functions, Activities and Assets of the League of Nations, the General Assembly has requested that:

(a) the Economic and Social Council survey the functions and activities of a non-political character which have hitherto been performed by the League of Nations in order to determine which of them should, with such modifications as are desirable, be assumed by organs of the United Nations or be entrusted to specialized agencies which have been brought into relationship with the United Nations; and

(b) the Council, pending the adoption of the measures decided upon as the result of this examination, assume and continue provisionally the work hitherto done by the fol-

lowing League departments: The Economic, Financial and Transit Department, particularly the research and statistical work; the Health Section, particularly the epidemiological service; the Opium Section, and the Secretariats of the Permanent Central Opium Board and Supervisory Body.

2. The Economic and Social Council accordingly,

(a) Requests the Secretary-General to undertake the survey called for by the General Assembly and to report at an early date to the Economic and Social Council.

(b) Directs the Secretary-General acting in accordance with the Resolution of the General Assembly, to take the steps necessary to the provisional assumption and continuance of the work hitherto done by the League departments named above.



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