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JOINT REPORT BY THE SECRETARY-GENERAL AND THE NEGOTIATING COMMITTEE
ON THE NEGOTIATIONS WITH THE AUTHORITIES OF THE UNITED STATES OF
AMERICA CONCERNING THE ARRANGEMENTS REQUIRED AS A RESULT OF THE
ESTABLISHMENT OF THE SEAT OF THE UNITED NATIONS IN THE UNITED
STATES OF AMERICA

INTRODUCTION

By its resolution of 13 February 1946 (Journal of the General Assembly, First Session, No. 34, Page 693) the General Assembly entrusted the Secretary-General with the task of negotiating "with the competent authorities of the United States of America the arrangements required as a result of the establishment of the seat of the United Nations in the United States of America". The resolution provided that in these negotiations the Secretary-General should be assisted by a committee, hereinafter called the "Negotiating Committee". This body was to consist of ten members nominated respectively by the governments of Australia, Belgium, Bolivia, China, Cuba, Egypt, France, Poland, the United Kingdom and the Soviet Union. The agreement resulting from the negotiations was to be submitted for approval to the General Assembly before being signed by the Secretary-General. A draft convention drawn up by the Assembly and annexed to the above-mentioned Assembly resolution was to serve as "basis of discussion" in the negotiations.

The Negotiating Committee held its first meeting in New York on 15 May. It consisted of: Professor K.E. Bailey (Australia); Mr. J. Nisot (Belgium); C. Salamanca (Bolivia); Mr. Shuhsi Hsu (China); Mr. G. Belt (Cuba); Abd. Bay Fawzi (Egypt); Mr. J. Cahen-Salvador (France); Mr. A. Rudzinski (and); Mr. V.F. Tepliakov (Soviet Union); Mr. H. McKinnon Wood (United Kingdom).

Professor Bailey was elected Chairman. On his being obliged to return to Australia, Mr. Body acted as the Australian member of the Committee, and

Mr. McKinnon Wood was elected chairman.

The Secretary-General was represented throughout the negotiations by Mr. Kerno, Assistant Secretary-General for Legal Affairs, assisted by Mr. A. Feller, General Council and Director, Legal Department, and Mr. M. Schreiber, Legal Advisor, who acted as Secretary to the United Nations Delegation. It was intended that, after studying the draft convention, Mr. Kerno, his assistants and the Committee should proceed to Washington, where the negotiations with the United States of America would take place. In fact, however, the State Department was not in the position to commence formal negotiations until 10 June, although the officials concerned were good enough to furnish the negotiating committee unofficially with indications of their probable attitude, which were extremely useful to its preparatory work. The negotiations proceeded continuously from 10 June to 19 June inclusive, and have resulted in a text which represents the state of the negotiations up to date. (See Annex I) It was felt, however, by the representatives of the United States of America that further discussions might be necessary after the General Assembly had selected a specific location as the site of the permanent headquarters of the United Nations. (See Annex II, letters exchanged between Mr. Charles Fahy, Legal Advisor to the Department of State, and Mr. Ivan Kerno, Assistant Secretary-General for Legal Affairs, of the United Nations) It is hoped that it will be possible to hold these further negotiations during the Second Part of the First Session of the General Assembly, with a view to submitting a final text for the approval of the Assembly before it adjourns.

The Secretary-General and the Negotiating Committee desire to express their appreciation of the spirit of cordial co-operation in overcoming difficulties and of sympathetic understanding of the requirements of the United Nations which was shown by Mr. Fahy, the Legal Advisor of the State Department, and his able associates.

The text which has resulted from the preliminary negotiations is in general self-explanatory, but the following brief comments may facilitate

study by the General Assembly.

GENERAL CHARACTER OF THE INSTRUMENT

The text of the instrument dated 20 June 1946 differs in detail but in the main follows the substance of the convention drawn up as a basis for discussion, which will hereinafter be called the "basis of discussion". It must be remembered that this latter document was drafted without the participation of the United States delegation and without full knowledge of the complexity of the problems involved. The changes are in every case the result of most careful discussions with expert United States officials as to the most practical and convenient means of attaining the purposes aimed at in the Assembly's text. In some cases, changes have been made in order to remove misapprehensions which were found to exist as to the extent of the rights claimed by the United Nations. The Secretary-General and the Negotiating Committee are satisfied that none of the changes diminish the rights and powers which under its Charter (Articles 104 and 105) the United Nations should enjoy within its seat. Furthermore, since neither the exact location nor the dimensions of the headquarters district have been settled, the Secretary-General and the Negotiating Committee have kept in touch with the Headquarters Commission and have endeavoured to make the provisions of the agreement easily adaptable to any plan which may be adopted.

While it was recognized that the method of obtaining the necessary constitutional approval for the conclusion of the instrument must be decided by the United States, the Secretary-General and the Negotiating Committee felt it to be its duty to urge that the method adopted should be one which would give the United Nations the maximum legal protection, and in particular insure that those provisions which concerned states of the Union should be directly binding upon those states as well as upon the United States of America. The representative of the United States stated that the form of an "executive agreement" authorized by a joint resolution of Congress might be adopted, and not that of a treaty subject to ratification by the Senate, and that they considered either form would have the same

legal effect both in international law and in the United States law.

(See Annex III)

The parties to the instrument are the United Nations and the United States of America. Certain provisions impose specific obligations on the "appropriate American authorities" which are defined to mean "such federal, state or local authorities in the United States of America as may be appropriate in the context and in accordance with the laws and customs of the United States of America" (Section 1c). It is, however, expressly provided that wherever the instrument imposes obligations on the appropriate American authorities, the Government of the United States of America shall have the ultimate responsibility for the fulfilment of such obligations (Section 40).

COMMENTS ON PARTICULAR PASSAGES.

ARTICLE I

Definitions

This article merely defines certain terms used in subsequent articles

ARTICLE II

The Headquarters District and the Zone

By providing for the concentration of the activities of the United Nations in a headquarters district which forms part of a larger zone serving as a protection for the amenities and tranquillity of the district and its eventual enlargement, Article II gives the greatest possible freedom of action to the Headquarters Commission and the General Assembly. The system enables the United Nations to limit expenditure at the beginning to the most necessary requirements. At the same time it leaves it free to expand the area acquired by it and taken under its control as the necessities of its work demand and according to its financial possibilities.

The first section of the article (Section 2) declares that the seat of the United Nations shall be the headquarters district. The Article contains (Sections 3, 4 and 5) the provisions which have been found necessary for vesting the required land in the Organization. They are somewhat complicated

but are believed to be fair to all parties concerned.

It is anticipated that, even in the case of gifts, if there are any, the land (including buildings thereon) will be acquired first by the United States and transferred by it to the United Nations.

Section 3 imposes upon the United States the obligation to place itself in a position to transfer the whole area of the headquarters district to the United Nations on being requested to do so by the Secretary-General. Further acquisitions of land will be made by the United States as the needs of the United Nations may require. The title to land acquired and transferred to the United Nations by the United States will be guaranteed by the United States (Section 4).

The United States representatives intimated that a special statute might be enacted by Congress to provide whenever necessary for the compulsory acquisition (condemnation) of the necessary land. Under Section 5 the actual cost to the United States will be repaid to it by the United Nations. It is understood that in the condemnation proceedings the Secretary-General will have an opportunity to state his views as to the price, and will have the right to have the proceedings discontinued if the cost proves to be more than he thinks proper. The United States may acquire land by purchase but only if the Secretary-General agrees to the price. The question how the payments due to the United States are to be made should, for obvious financial and budgetary reasons, be examined by the General Assembly and is accordingly to be dealt with in a supplemental agreement or agreements. In order to meet fears of depreciation of land values in the Zone as the result of the United Nations receiving the right to have such land compulsorily acquired for transfer to it, it is provided that if the courts of the United States should decide that there has been a "taking of an interest" in the land not so acquired which entitles its owners to compensation, the question of reimbursing the United States for money paid as such compensation shall be made the subject of an equitable settlement.

It has been agreed that the United Nations, while retaining for itself the ownership of the land, may invite specialized agencies which have been brought into relationship with it to establish their headquarters in the Zone, or even in the Headquarters District, and a paragraph in Section 3 enables additional land outside the Headquarters District to be acquired for this purpose.

Section 6 defines the rights of the United Nations in the sub-soil of the land acquired by it. The reservations permitted by the section are necessary owing to the uncertainty as to where the United Nations' seat will ultimately be located.

Section 7 deals with the highly technical subject of telecommunication. It assures the United Nations a possibility of world-wide coverage by short-wave broadcasting. In the case of emergency, as well as in special circumstances to be determined by the Secretary-General the existing United Nations short-wave facilities may be used for radiotelegraph, teleteléfono, telephoto and similar services. If the United Nations so desires, its zone shall be covered by standard and frequency modulation broadcasting stations.

The text of the section has been drawn up in agreement with the United States Telecommunications Co-ordinating Committee. The experts, Mr. Khagan and Mr. Van Dissel, consider that it meets all the foreseeable needs of the United Nations.

Section 8 entitles the United Nations to establish an airport but leaves the details of its operation to be negotiated between the United Nations and the United States when the time for creating such an airport arrives.

Section 9 enables the radio station and airport to be established outside the zone, but nevertheless as legally part of the headquarters district.

ARTICLE III

Law and Authority in the Headquarters District

In the opinion of the representatives of the United States, the term

in which the control and authority to be exercised by the United Nations within the headquarters district were defined in Article III, as it appeared in the basis of discussion (Section 11 and 16) were not precise enough to be accepted. At the same time, they were prepared to give the United Nations a substantial measure of exemption from United States laws and regulations and of power to make its own regulations. A solution acceptable to both the United States representatives and those of the United Nations has been found in the adoption of two amendments. The first gives the United Nations only such control and authority as is provided in the instrument (Section 11) while the second substitutes for Section 16 of the basis of discussion an entirely new text which imposes no limitation on the power of the United Nations to make regulations which will be operative within the headquarters district, and to exclude the operation of United States laws or regulations inconsistent therewith, so long as the United Nations regulations can properly be held to have for their object the establishment in the district of "conditions in all respects appropriate for the full exercise" of the functions of the United Nations. Disputes as to whether a United Nations regulation really has the required character, or a United States law or regulation really is inconsistent with a United Nations regulation, will be settled by arbitration under Section 39 and 40 but pending the settlement the United Nations regulation and not the United States law or regulation will apply. A provision (Section 41) which, at the suggestion of the United States representatives, has been inserted at the end of the agreement, and which directs that the agreement "shall be construed in the light of its purpose to enable the United Nations at its headquarters in the United States of America fully and efficiently to discharge its responsibilities and fulfil its purposes" should prevent the arbitrators from placing a narrow construction on the United Nations' right to make regulations.

The questions of the air above and the sub-soil below the Headquarters district are dealt with in Sections 13 and 16 respectively.

ARTICLE IV

Communications and Transit to and from the Zone

The first section of this Article (now Section 20) has been redrafted so as to deal exclusively with public roads, which are the only means of transport normally provided in the United States by the public authorities. All other means of transport and communications are dealt with in Section 30.

The remaining sections dealing with the treatment to be accorded to the various classes of persons having occasion to come to the headquarters district have been somewhat altered as the result of the negotiations, but the legal effect remains the same.

ARTICLE V

Resident Representatives Accredited to the United Nations

The representatives of the United States accepted the principle of this Article as it stood in the basis of discussions, but felt that there should be some safeguard against too extensive an application. The Secretary-General and the Negotiating Committee consider the new text (Section 27) to be a possible compromise.

This Article deals only with the special situation of members of resident delegations and its provisions are in addition to the privileges and immunities provided in the general convention.

ARTICLE VI

Police Protection of the Headquarters District

This article (Sections 28 and 29) has been redrafted. Provisions have been inserted entitling the American authorities to ask reimbursement for the cost incurred in giving police protection in the headquarters district.

ARTICLE VII

Public Services and Protection of the Zone

Section 30 which deals with the provision of public services has been made more complete and more precise.

Under Section 31 the United Nations and the United States are jointly to make arrangements for the "zoning" (Town-planning) of that part of the

United Nations zone which is outside the headquarters district, and under Section 32 they reciprocally assume obligations regarding the maintenance of the amenities of the United Nations zone and the land in its vicinity.

Section 32 forbidding racial and religious discrimination has been transferred from the original Section 16.

ARTICLE VIII

Matters Relating to the Operation of this Convention (Agreement)

This article deals with the channels through which the United Nations and United States authorities are to communicate with one another and provides for the making of agreements to supplement the principal agreement. It retains from the basis of discussion a provision that at the request of the Secretary-General the Secretary of State of the United States will appoint a special representative for the purpose of liaison.

ARTICLE IX

Relation between this Convention Agreement and the General Convention

This provision has the same effect as Sections 33 and 34 of the basis of discussion.

The annex reproducing the provisions of the General Convention has been omitted since (Section 42) the agreement is to be brought into force by an exchange of notes between the Secretary-General and the United States and it is thus possible for the United Nations to prevent it from coming into force before the United States has acceded to the General Convention.

ARTICLE X

Final Provisions

The provisions (Sections 37 and 38) of this article as to what is to happen if the seat of the United Nations is removed from the territory of the United States are new and are believed to be preferable to those of the corresponding sections of the basis of discussion.

In Sections 37 and 38, the "umpire" provided for in the original text has been replaced, at the request of the United States representatives, by a board of three arbitrators.

As already mentioned, the agreement is to be brought into force by a simple exchange of notes between the Secretary-General and the United States of America (Section 42).

ANNEX I

WORKING DRAFT - NOT AS YET FINALLY APPROVED BY EITHER PARTY

20 June 1946

CONVENTION/AGREEMENT BETWEEN THE UNITED NATIONS
AND THE
UNITED STATES OF AMERICA

THE UNITED NATIONS AND THE UNITED STATES OF AMERICA;

Desiring to conclude a convention/agreement for the purpose of
 carrying out the Resolution adopted by the General Assembly on
 to establish the seat of the United Nations in.....
and to regulate questions arising as a result thereof;

Have appointed as their {plenipotentiaries
 {representatives

for this purpose:

The United Nations: Trygve Lie
 Secretary-General

The United States
 of America James F. Byrnes,
 Secretary of State

Who have agreed as follows:

ARTICLE I

Definitions

SECTION 1

In this convention/agreement:

- (a) the expression "zone" means the area identified as such in Annex I and includes the headquarters district;
- (b) the expression "headquarters district" means the original acquisition identified as such in Annex I and any other lands and buildings which, from time to time, may be added in accordance with Sections 3 and 9;
- (c) the expression "appropriate American authorities" means such federal, state, or local authorities in the United States of America as may be appropriate in the context and in accordance with the laws

and customs of the United States;

(d) the expression "General Convention" means the Convention on the Privileges and Immunities of the United Nations approved by the General Assembly of the United Nations 13 February 1946, as acceded to by the United States;

(e) the expression "United Nations" means the international organization established by the Charter of the United Nations, hereinafter referred to as the "Charter";

(f) the expression "Secretary-General" means the Secretary-General of the United Nations.

ARTICLE II

The Headquarters District and the Zone

SECTION 2

The seat of the United Nations shall be the headquarters district.

SECTION 3

At the written request of the Secretary-General, the United States of America will without delay cause possession of the headquarters district (including the buildings therein) to be vested in the United Nations, and, as soon as possible thereafter, it will also cause the full ownership to be so vested.

The United States will, in the same manner, at the written request of the Secretary-General accompanied by a statement that the property in question is required for the efficient performance of the functions of the United Nations or of specialized agencies which have been brought into relationship with it in accordance with the Charter, cause possession and full ownership of additional land (including buildings) situated in the zone and specified in the request, to be vested in the United Nations. The additional land so acquired shall become part of the headquarters district on the giving of notice to that effect to the United States by the Secretary-General.

Any part of the headquarters district shall cease to be a part of the headquarters district for such period as may be specified on the giving of notice to that effect to the United States by the Secretary-General.

SECTION 4

The United States of America shall guarantee and defend against adverse claims whatever property interest in land and buildings is conveyed to the United Nations in pursuance of Section 3.

SECTION 5

For any real property acquired by the United States of America at the request of the United Nations for conveyance pursuant to Section 3, the United Nations shall pay to the United States the actual cost, if any, to the United States of any such acquisition. In case owners of any land in the zone which is not so conveyed shall be held to be entitled under the constitutional requirements of the United States to compensation by the United States for the taking of an interest in their land by the creation of the zone, the question of any reimbursement to the United States for such compensation shall be made the subject of an equitable settlement between the United Nations and the United States.

In the event that any property in the original acquisition referred to in Annex I is owned by the United States at the time of the coming into force of this convention/agreement, or in the event that any property conveyed pursuant to the second paragraph of Section 3 is owned by the United States before its conveyance is requested by the United Nations, the price to be paid shall be settled by mutual agreement or, in the absence of such agreement, as provided in Sections 38 and 39.

In negotiations for the purchase of any property to be conveyed to the United Nations, the United States will act in agreement with the Secretary-General regarding the price to be paid. Any condemnation proceedings brought by the United States for the acquisition of property requested by the Secretary-General under Section 3 shall be discontinued

on request of the Secretary-General and reimbursement by the United Nations to the United States of the expenses incurred by it which are directly attributable to the conduct of such proceedings.

The method by which payment shall be made shall be determined by supplemental agreement between the United Nations and the United States.

SECTION 6

The United Nations shall have exclusive rights over the sub-soil of land conveyed to it pursuant to Section 3, and in particular the right to make constructions underground and to obtain therefrom supplies of water, subject to such reservations as may be provided in Annex I with respect to minerals or on account of local water supply conditions.

SECTION 7

The United Nations may establish and operate in the headquarters district its own short-wave radio broadcasting facilities (sending and receiving stations) which in the case of emergency, or when the Secretary-General considers that special circumstances justify doing so, may be used for radio, telegraph, radio teletype, telephone, telephoto and similar services. The United Nations shall make arrangements for the operation of such services with the International Telecommunications Union, the appropriate agencies of the United States Government and the appropriate agencies of other affected governments with regard to wave lengths and other similar matters.

Arrangements will also be made to enable the United Nations to establish in the headquarters district a standard and frequency modulation broadcasting station of the type normally licensed in the United States to serve a community of comparable line to the zone.

SECTION 8

The United Nations may establish and operate an airport within the zone or in its vicinity. The location and use of such airport and the conditions under which there shall be entry into and exit from the airport

shall be determined by mutual agreement between the United Nations and the United States of America.

SECTION 9

If the United Nations shall find it impracticable to obtain within the zone suitable land for an airport, or for a radio station or other terminal communication facilities to be operated by it, the United States of America shall, at the request of the Secretary-General, cede suitable land in the vicinity of the zone to be conveyed to the United Nations in the same manner as provided in Section 3 with respect to land in the zone. Such land shall be selected by mutual agreement between the United Nations and the appropriate American authorities, it being understood that the United Nations shall be entitled to acquire land that will permit the efficient functioning of the desired facilities. Unless otherwise provided in such agreement, the land so acquired shall be made part of the headquarters district in the same manner as provided in Section 3 and the price to be paid shall be determined as provided in Section 5.

ARTICLE III

Law and Authority in the Headquarters District

SECTION 10

The headquarters district shall be inviolable. Federal, state or local officers or officials of the United States of America, whether administrative, judicial, military or police, shall not enter the headquarters district to perform any official duties therein except with the consent of and under conditions agreed to by the Secretary-General. The service of legal process, including the seizure of private property, may take place within the headquarters district only with the consent and under conditions approved by the Secretary-General.

SECTION 11

The headquarters district shall be under the control and authority of the United Nations as provided in this agreement/convention.

SECTION 12

The United Nations shall have the exclusive right to authorize or prohibit entry of persons and property into the headquarters district and to prescribe the conditions under which persons may remain or reside there.

SECTION 13

At the request of the Secretary-General, the appropriate American authorities will issue such regulations approved by the Secretary-General as may be necessary to prevent the operation of aircraft over the zone in a manner which would interfere with the exercise of the functions of the United Nations or with the tranquility of the headquarters district.

SECTION 14

Without prejudice to the provisions of the General Convention, or Article IV of this convention/agreement, the United Nations shall not permit the headquarters district to become a refuge either for persons who are avoiding arrest under the federal, state, or local law of the United States of America or are required by the Government of the United States for extradition to another country, or for persons who are endeavouring to avoid service of legal process.

SECTION 15

Except as otherwise provided in this convention/agreement, or in the General Convention, the federal, state and local law of the United States of America shall apply within the zone.

SECTION 16

The United Nations shall have the power to make regulations, operate within the headquarters district, for the purpose of establishing therein conditions in all respects appropriate for the full execution of its functions. No federal, state or local law or regulation of the United States of America which is inconsistent with a regulation of the United Nations authorized by this section shall, to the extent of such inconsistency, be applicable within the headquarters district.

Any dispute, between the United Nations and the United States; as to whether a regulation of the United Nations is authorized by this section or as to whether a federal, state or local law or regulation is inconsistent with any regulation of the United Nations authorized by this section, shall be promptly settled as provided in Sections 38 and 39. Pending such settlement, the regulation of the United Nations shall apply, and the federal, state or local law or regulation shall be inapplicable in the headquarters district to the extent that the United Nations claims it to be inconsistent with the regulation of the United Nations.

SECTION 17

Except as otherwise provided in this convention/agreement, or the General Convention, the federal, state and local courts of the United States of America shall have jurisdiction over acts done and transactions taking place in the headquarters district as provided in applicable federal, state and local laws.

SECTION 18

The federal, state and local courts of the United States of America, when dealing with cases arising out of or relating to acts done or transactions taking place in the headquarters district, shall take into account the regulations enacted by the United Nations under Section 16.

SECTION 19

The United Nations may expel or exclude persons from the headquarters district for violation of its regulations adopted under Section 16 or for other cause. Persons who violate such regulations shall be subject to other penalties or to detention under arrest only in accordance with the provisions of such laws or regulations as may be adopted by the appropriate American authorities.

ARTICLE IV

Communications and Transit

SECTION 20

The appropriate American authorities shall provide and maintain

adequate public roads as specified in Annex I for the transportation of persons and goods to and from the headquarters district and between any non-contiguous parts thereof. Adequate facilities for other means of transportation and communication shall be provided for in supplemental agreements.

SECTION 21

The federal, state or local authorities of the United States of America shall not impose any impediments to transit to and from the headquarters district by representatives of Members or officials of the United Nations or their families or by experts performing missions for the United Nations. The appropriate American authorities shall take such measures as may be necessary to protect such persons while in transit to or from the headquarters district against any violence and against any activities designed to interfere with such transit. This section does not apply to general interruptions of transportation, which are to be dealt with as provided in Section 30.

SECTION 22

Officials of specialized agencies which have been brought into relationship with the United Nations in accordance with the Charter and their families, and representatives of the press, or of radio, film, or other information agencies, who have been accredited by the United Nations in its discretion after consultation with the United States, and representatives of non-governmental organizations recognized by the United Nations for the purpose of consultation under Article 71 of the Charter, shall likewise enjoy the rights referred to in Section 21.

SECTION 23

The protection to be provided to individuals under Sections 21 and 22 shall be furnished irrespective of the relations existing between their governments and the Government of the United States of America.

SECTION 24

The Secretary-General and the appropriate American authorities shall,

at the request of either of them consult as to methods of facilitating entrance into the United States of America, and the use of available means of transportation, by persons coming from abroad who wish to visit the headquarters district and do not enjoy the rights referred to in Sections 21 and 22.

SECTION 25

Laws and regulations in force in the United States of America regarding the entry and residence of foreigners shall not be applied in such manner as to interfere with the rights referred to in Sections 21 and 22. Visas required by the persons referred to in those sections shall be granted without charge and as promptly as possible.

SECTION 26

Except as provided in this Article, and in the General Convention, the United States of America retains full control and authority over the entry of persons or property into the territory of the United States and the conditions under which persons may remain or reside there.

The Secretary-General shall, at the request of the appropriate American authorities, enter into discussions with such authorities, with a view to making arrangements for registering the arrival and departure of persons who have been granted visas valid only for transit to and from the zone and sojourn therein and in its immediate vicinity.

ARTICLE V

Resident Representatives to the United Nations

SECTION 27

Every person accredited to the United Nations by a Member as the principal resident representative of such Member or as a resident representative with the rank of ambassador or minister plenipotentiary, and such resident members of their staffs as may be agreed upon between the Secretary-General, the United States of America and the Government of the Member concerned, shall whether residing inside or outside the zone, be entitled in the territory of the United States to the same privileges

and immunities as it accords to diplomatic envoys accredited to it. In the case of Members whose governments are not recognized by the United States of America, such privileges and immunities need be extended to their representatives, or persons on the staffs of such representatives, only within the zone, at their residences and offices outside the zone, in transit between the zone and such residences and offices, and in transit on official business to or from foreign countries.

ARTICLE VI

Police Protection of the Headquarters District

SECTION 28

The appropriate American authorities shall exercise due diligence to ensure that the tranquility of the headquarters district is not disturbed by the unauthorized entry of groups of persons from outside or by disturbances in its immediate vicinity and shall cause to be provided in the zone and on the boundaries of the headquarters district such police protection as is required for these purposes.

SECTION 29

If so requested by the Secretary-General, the appropriate American authorities shall provide a sufficient number of police for the preservation of law and order in the headquarters district, and for the removal thereof of persons as requested under the authority of the United Nations. The United Nations shall, if requested, enter into arrangements with the appropriate American authorities to reimburse them for the reasonable cost of such services.

ARTICLE VII

Public Services and Protection of the Zone

SECTION 30

The appropriate American authorities will exercise to the extent requested by the Secretary-General the powers which they possess with respect to the supplying of public services to ensure that the headquarters district shall be supplied on equitable terms with the necessary public

services, including electricity, water, gas, post, telephone, telegraph, transportation, drainage, collection of refuse, fire protection, snow removal, etc. In case of any interruption or threatened interruption of any such services, the appropriate American authorities will consider the needs of the United Nations in the zone as being of equal importance with the similar needs of essential agencies of the Government of the United States of America, and will take steps accordingly, to ensure that the work of the United Nations is not prejudiced.

SECTION 31

For that part of the zone which does not constitute the headquarters district arrangements shall be made between the United Nations and the appropriate American authorities regarding the erection of new buildings, the establishment of commercial or industrial enterprises, the laying of new streets, and other matters pertaining to zoning, in order to protect the amenities of the zone as a community suitable for the efficient functioning of the United Nations and for the enlargement, if necessary, of the headquarters district as provided in Section 3.

The appropriate American authorities shall take all reasonable steps to ensure that the amenities of the zone are not prejudiced and the purposes for which the zone is required are not obstructed by any use made of the land in the vicinity of the zone. The United Nations shall on its part take all reasonable steps to ensure that the amenities of the land in the zone or its vicinity are not prejudiced by any use made of the land in the headquarters district by the United Nations.

SECTION 32

It is agreed that no form of racial or religious discrimination shall be permitted within the zone.

ARTICLE VIII

Matters Relating to the Operation of this Convention/Agreement

SECTION 33

The Secretary-General and the appropriate American authorities shall

settle by agreement the channels through which they will communicate regarding the application of the provisions of this convention/agreement and other questions affecting the zone, and may enter into such supplement agreements as may be necessary to fulfil the purpose of this convention/agreement. If the Secretary-General so requests, the Secretary of State of the United States of America shall appoint a special representative for the purpose of liaison with the Secretary-General.

ARTICLE IX

Relation Between this Convention/Agreement and the General Convention

SECTION 34

The provisions of this convention/agreement shall be complementary to the provisions of the General Convention. In so far as any provision of this convention/agreement and any provision of the General Convention relate to the same subject matter, the two provisions shall wherever possible be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of absolute conflict, the provisions of this convention/agreement shall prevail.

ARTICLE X

Final Provisions

SECTION 35

This convention/agreement shall cease to be in force if the seat of the United Nations is removed from the territory of the United States of America.

SECTION 36

The seat of the United Nations shall not be removed from the zone unless the United Nations should so decide.

SECTION 37

The United Nations shall not dispose of all or any part of the land owned by it in the zone without the consent of the United States of America.

If the United States is unwilling to consent to a disposition which the United Nations wishes to make of all or any part of such land, the United States shall buy the same from the United Nations at a price to be determined as provided below in this section.

If the seat of the United Nations is removed from the zone, the land owned by the United Nations in the zone, or any part of it, shall, on request of either the United Nations or the United States, be conveyed to the United States or, at the election of the United States, to the state or states in which the land is located.

If the United Nations alienates all or any part of the headquarters district, the provisions of this convention/agreement which apply to the headquarters district shall immediately cease to apply to the land and buildings so disposed of.

The price to be paid for any conveyance under this section shall, in default of agreement, then be the fair value of the land, buildings and installations, to be determined as provided in Sections 38 and 39.

SECTION 38

Any dispute between the United Nations and the United States of America concerning the interpretation or application of this convention/agreement or of any supplemental agreement, which is not settled by negotiation or other agreed mode of settlement shall be referred for final decision to a tribunal of three arbitrators, one to be named by the Secretary-General, one to be named by the United States, and the third to be chosen by the two or, if they should fail to agree upon a third, then by the President of the International Court of Justice.

SECTION 39

The Secretary-General or the United States of America may ask the General Assembly to request of the International Court of Justice an advisory opinion on any legal question arising in the course of the proceedings referred to in Section 38. Pending the receipt of the opinion

of the Court, an interim decision of the arbitral tribunal shall be observed by both parties. Thereafter, the arbitral tribunal shall render a final decision, having regard to the opinion of the Court.

SECTION 40

Wherever this convention/agreement imposes obligations on the appropriate American authorities, the Government of the United States of America shall have the ultimate responsibility for the fulfillment of such obligations by the appropriate American authorities.

SECTION 41

This convention/agreement shall be construed in the light of its primary purpose to enable the United Nations at its headquarters in the United States of America, fully and efficiently to discharge its responsibilities and fulfill its purposes.

SECTION 42

This convention/agreement shall be brought into force by an exchange of notes between the Secretary-General, duly authorized by a resolution of the General Assembly of the United Nations, and the United States of America.

ANNEX II

LETTERS EXCHANGED BETWEEN MR. CHARLES FAHY,
LEGAL ADVISOR, DEPARTMENT OF STATE, WASHINGTON, D.C.,
AND DR. IVAN KERNO, ASSISTANT SECRETARY-GENERAL,
UNITED NATIONS

Department of State
Washington

July 30 1946

Dear Mr. Keruo

This will confirm the understanding of the State Department regarding the proposed agreement between the United Nations and the United States with respect to the establishment of the permanent headquarters of the United Nations.

The attached draft embodies the changes in the document originally submitted to the Secretary-General by the General Assembly which have resulted from the extremely helpful and friendly negotiations recently held between representatives of the United Nations and the Department of State, in which representatives of the States of Connecticut and New York also participated.

An effort was made in these negotiations to reach a form of agreement which would be suitable regardless of the location and size of the headquarters, on the theory that, before the agreement is actually executed, the details which must be worked out after determination of the location and size would be incorporated in an annex. Very satisfactory progress has been made in this respect, but it seems unwise, for two reasons, to approve this document definitely now as representing agreement between the Secretary-General and the Department of State.

In the first place, the significance of several provisions of the proposed agreement cannot be adequately determined except in the light of specific locations which may be under consideration and with the benefit of consultation with representatives of the particular communities affected. This is especially true with respect to such matters as loss of local tax revenues and the effect on land values of the proposed option to acquire additional land in the defined "zone".

In the second place, although the Committee named by the General Assembly assist in the negotiations of the agreement is no longer in session, the Headquarters Commission is continuing to explore with various local officials many of the legal problems which may be involved. These discussions are most sure to shed new light on various matters which are covered by the proposed agreement and to result in suggestions for mutually agreeable modifications.

It is understood that the attached draft agreement will be included in the report of the Secretary-General to the General Assembly as representing the result of the negotiations to date; that it is to be regarded as an unfinished draft, with respect to which both parties remain free to request modifications in the light of various factors which may be developed as particular locations come up for specific consideration; that the Secretary-General's report including this document will be made public; but that all copies of the draft agreement which are released either by the United Nations or by this Department will be plainly marked so as to indicate that it is an unfinished or working draft only and has not been finally approved by either party.

2 August 1946

My dear Mr. Fahy,

I acknowledge with thanks the receipt of your letter of July 30th, and the enclosed copy of the draft instrument relating to the establishment of the permanent headquarters of the United Nations.

It is also my understanding that the draft instrument does not, at this stage, represent a definitive agreement between the Secretary-General and Secretary of State, and that further discussions may be needed when a specific location is chosen as the site of the permanent headquarters. I am certain that you share my hope that it will be possible to hold these further discussions during the forthcoming session of the General Assembly, with a view to submitting a definitive text before the Assembly adjourns.

It is the intention of the Secretary-General to report on this matter to the General Assembly and to transmit the present text with the explanation that it represents the results of negotiations to date and that a definitive text will be prepared at a later date, probably during the course of the session.

In publishing the text, the Secretariat will use the following caption: "Working Draft - Not as yet finally approved by either party". I would suggest that a similar caption might be used on any text released by the Department of State.

May I thank you again for the close and helpful co-operation which we have had from you and your associates, and in particular the broad comprehension of the needs of the United Nations which you have shown in our negotiations.

Sincerely yours,

Ivan Kerno
Assistant Secretary-General for Legal
Affairs

Mr. Charles Fahy,
Legal Adviser,
Department of State,
Washington, D.C.

Allow me to express once more my appreciation of the friendly spirit, devotion to the ideals of the United Nations, and keen understanding of the many problems involved, which have been shown by you and your associates and the members of the Negotiating Committee in the course of our discussions of this subject.

Sincerely yours,

CHARLES FAHY,

Charles Fahy
Legal Adviser