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SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE  
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

VERBATIM REPORT

FIRST MEETING OF COMMISSION B

HELD ON THURSDAY, 29 MAY 1947, AT 10.30 A.M. IN  
THE PALAIS DES NATIONS, GENEVA

Hon. L.D. WILGRESS (Chairman) (Canada)

Delegates wishing to make corrections in their speeches should address their communications to the Documents Clearance Office, Room 220 (Tel. 2247).

M. Max SUETTENS (Chairman of the Preparatory Committee)  
(Interpretation): The Meeting is called to order.

Before commencing the work of Committee B, I should like to inform all Delegations that to-morrow morning at 10.30 we shall have an Executive Session, for the examination of a Report which has been circulated under the reference E/PC/T/70 and which contains recommendations of the Working Party on Tariff Negotiations. I will ask every Delegate to inform their respective Delegations.

After that, we shall meet as Committee A.

Gentlemen, as Chairman of the Preparatory Committee, I declare open the first meeting of Committee B, which is responsible for the examination of Chapters VI and VII of the Draft Charter.

In the use of my powers as Chairman, I have appointed, with his agreement, Mr. Wilgress, First Delegate of Canada, Ambassador and Vice-Chairman of the Preparatory Committee, as your Chairman. I can assure you that he will prove an excellent Chairman and I wish you good work and Good luck. I will ask Mr. Wilgress to come to the Chair.

The Chair was then taken by

The Hon. L.D. Wilgress (Canada)

CHAIRMAN, Mr. Suettens, fellow Delegates, I wish to express my thanks and appreciation for the honour which has been conferred upon me and upon my country in being nominated Chairman of this important Committee. Whilst extremely grateful for the honour which has thus been conferred upon me, I am at the same time deeply conscious of the very heavy responsibility I have assumed in accepting this task.

Committee B, whilst it has not as heavy an Agenda before it as Committee A, still has to deal with some very important and difficult parts of the Draft Charter. It will be necessary for me to have the co-operation of all Members of the Committee and I shall do my utmost to discharge the functions of Chairman to the best of my ability.

The first item on our Agenda is the nomination of a Vice-Chairman of this Committee. I will ask for nominations.

M. THILTGES (Belgium) (Interpretation): Mr. Chairman, I have the honour to nominate M. Royer, French Delegate, as Vice-Chairman.

CHAIRMAN : The nomination of M. Royer has been proposed by the Delegate of Belgium. Are there any other nominations?

I take it then that the nomination of M. Royer is unanimous?

(Agreed)

I will ask M. Royer to take his place on the rostrum.

CHAIRMAN: Fellow delegates, we shall follow in Commission B the same kind of work as has been followed in Commission A, that is, we shall take up the various items of the draft Charter which have been assigned to this Commission and we shall consider the various points of difference, the reservations which have been made to the Draft Charter, and also the amendments which have been proposed by the various delegations. We shall endeavour to consider these points of principle and, if any questions arise which are best suitable for resolution in a sub-committee, the Chairman will exercise his authority to appoint a sub-committee for the purpose.

Our agenda for today consists of Chapter VI, Articles 39 to 45 inclusive, of the draft Charter, drafted by the Drafting Committee in New York. The working document for this purpose will be document E/PC/T/W/132 which has been circulated to delegations this morning.

Are there any observations on this proposed procedure?

Mr. Chairman,  
Mr. G.L. MEHTA: /there is a general question which I desire to raise on behalf of my delegation arising out of the Exception provided in the United Kingdom Amendment to Article 45 (Paper E/PC/T/W/131 of 28th May), since that pertains to the whole chapter and involves a fundamental issue.

We have been given to understand all along that the assumption on which not only this Chapter but the Charter as a whole has been drafted is that services are to be excluded altogether from the scope of this Charter. It will be recalled that the question was debated at some length in London where some delegates suggested that the provisions of this Chapter should be extended to cover services, while one delegate stated that the Chapter would have no meaning if the question of restrictive business practices, relating to services such as shipping, insurance and banking, were excluded. In the

General Comments on Chapter VI of the Drafting Committee's Report, this position has again been reiterated. It is clear therefore that services are sought to be cut out of the purview of this Chapter and of this Charter.

But the United Kingdom Amendment as it stands implies that restrictive business practices pursued by individual enterprise in regard to services as well as goods would come within the scope of the Charter while such practices, if pursued under an agreement or understanding would be exempted as a result of the Exception provided for whether such agreement or understanding is a private or inter-governmental one, or concluded under the authority of the United Nations. In other words, the Exception in the United Kingdom Amendment implies that certain practices in regard to services would be included within the scope of the Charter. I would suggest, Sir, in all humility, that this is not consistent and we have to decide whether services are to be included or excluded from the scope of the Charter. It is not logical to say at one stage that services are to be excluded and then reintroduce an Exception which was originally provided for in the U.S.A. draft relating to services.

It is also necessary to clarify this point because there is another Amendment which brings in service and which has been tabled by the U.S.A.; - Amendment as an addition after Article 15, put as Article 15A in paper T/W/23. I may point out incidentally that the term "Transportation" also occurs in Article 15 (Paragraph 3) where it obviously refers to internal transport service although external or overseas services are excluded from the scope of the Charter. I would therefore urge that the Commission should clarify this point before we proceed to examine the various amendments relating to this Chapter.

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CHAIRMAN: With regard to the point just raised by the delegate of India, I would draw the attention of the members of the Commission to the first page of document 152 on which they will note that a reservation against the exclusion of services mentioned in the Drafting Committee's Report was made by the delegates for Brazil, Chile, Cuba and India.

The Czechoslovakian delegation has expressed its adherence to this reservation. The delegate of Cuba has also expressed himself in similar terms.

This question gives rise to a question of principle which affects the whole of Chapter VI, and therefore I think it is a suitable subject for discussion at the outset of our deliberation. Therefore, I suggest that the discussion be confined to the question of principle, and that the actual text of the United Kingdom amendment dealing with Article 45 be not discussed until we come to that particular Article of the Chapter.

I would also wish to remind delegates at this time that we have only three meetings in which to get through our work. There had been four meetings scheduled, but it is necessary for Commission A to meet tomorrow morning, so that if we do not get through our work tomorrow afternoon, it will be necessary for us to call a meeting Saturday morning. Therefore, if the members of the Commission wish to avoid meeting on Saturday morning, it would be desirable to limit discussion as much as possible, but I shall do my best to give all members of the Commission ample opportunity to express their views, but I would urge them to be as brief as possible.

The discussion is now open on the question of principle raised by the delegate of India.

The delegate for the United Kingdom.

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MR. S.L. HOLMES (United Kingdom): Mr. Chairman, I feel that the views of the United Kingdom have been expressed at some length on previous occasions, and they are probably so well known that I need not go into them at any length here and now.

The point is, I think, this, and it should be stressed, that we do not wish to avoid the issue of restrictive business practices in relation to services, but that we do not feel that Chapter VI of the Charter is at all a convenient or appropriate way of dealing with the issue seeing that there other bodies either in the field or about to be in the field which will be dealing in a comprehensive way with the various services which have been mentioned. It would be, in our view, inappropriate and inconvenient to deal with one aspect only of services in the Charter whereas other aspects of services, which we would have something to say about ourselves, were to be taken over later by some other more appropriate or specialized bodies.

Insofar as the remarks of the Indian delegate are directed to some possible inadequacy of the United Kingdom proposal in regard to Article 45, bowing of course to your ruling, I would only say that we would put that right if necessary when we come to consider Article 45. I think that an amendment to meet the suggestion of some inadequacy or illogicality in our proposal would be a very simple matter.

As regards the remarks of the Indian delegate generally, I can only say here and now that we must adhere to our position, and that it would not, in our view, be appropriate to deal with the field of services in this connection now as has been suggested by certain other delegations.

CHAIRMAN: The Delegate of Czechoslovakia.

Mr. MINOVSKY (Czechoslovakia) (Interpretation): A good many services are absolutely indispensable for a normal development of the world economy, and the Charter provides already for certain services - I am bearing in mind transit, but it is not possible to exclude others which are of equal importance to the Charter.

In my opinion it is not necessary to deal with the services in detail in the Charter; but I believe that the principle must be adopted that any discrimination between the services is contrary and in contradiction to the spirit of the Charter itself. Therefore, Mr. Chairman, in order to be brief, the Czechoslovak Delegation associates itself fully with the reservation made by the Delegate of India.

CHAIRMAN: The Delegate of Cuba.

Mr. GUTIERREZ (Cuba): Mr. Chairman, the Cuban Delegation has no doubt that there is a big gap in the Charter. In a Charter that is supposed to be directed to the purposes of developing trade and employment we have had the experience that after negotiating in relation to the lowering of customs duties we have noticed with shipping lines that have raised their freight rates that they have raised them to such an extent that all the good intentions of lowering the duties between two countries have been good for nothing, and that we have only been working for the benefit of the shipping companies.

We are working, again, against the things that make possible the enlarging of trade; and we are leaving out the question of shipping, when shipping in many cases not only under direct control of the Governments, but of cartels, even of Trusts and Organisations, is of such a kind that really we are not helped as to the freights and rates that have to be applied.

Sometimes their decision as to freights goes over the decisions of Governments. What is the use of working here for weeks and months to bring down the customs duties of countries if afterwards the freights are set in such a form that undue use can be made of the benefits we intend by our work? The argument that this is not the proper part of the Charter, or that there are other institutions that should take care of this matter, I do not think is very important, because we have an international union that has been working in relation to customs unions for many years, and yet more than 40 per cent. of the text of the Charter is devoted to new regulations of an international character relating to customs duties.

The Cuban Delegation sympathises very deeply with some of the phrases used by the Czechoslovak Delegation, and is of the opinion that some principles relating to services such as shipping, insurance and banking should be inserted in the Charter, and that if desirable, something developed through other international agencies already established ought to be created; but the Charter, without principles in relation to shipping, insurance and banking, will never be a complete Draft.

CHAIRMAN: The Delegate for Chile.

M. F. GARCIA OLDINI (Chile) (Interpretation): Mr. Chairman, we have not yet found a possibility of not working under duress. I shall not bring forward our arguments against this omission. Our arguments are the same as those which were brought forward by the Delegate of Cuba, and the principle has been ably explained by the Delegate of India.

We must not forget, Mr. Chairman, that there are countries like our country which are principally exporters, and which in order to live commercially are compelled to resort to maritime transport. If such restrictive practices are admitted, this will be a gap in the Charter; and it will be practically impossible to fulfil other obligations which derive from the Charter if this gap exists - a gap which would throw a shadow on these obligations.

CHAIRMAN: The Delegate of Australia.

Mr. E. McCARTHY (Australia): Mr. Chairman, the Australian Delegation is in complete sympathy with the views of India, Chile, Cuba and others in support of the viewpoint that services should be referred to in this Chapter; but whilst being in sympathy with those views, the Australian Delegation does face the fact that it seems that nothing really can be done about it at this meeting of the Preparatory Committee.

I am in agreement with the United Kingdom Representative in saying that within Chapter VI the circumstances that are objected to in regard to services cannot be met. In shipping alone, I am prepared to agree that many of the objectives of the Charter will, in a measure, more or less be offset by certain shipping

practices; but it cannot be dealt with in this particular Chapter, and to deal with it effectively at all, it would require a much more comprehensive approach than is now suggested. The shipping problems which countries will have to face, and which were very much in operation before the War, would require a very special study, and would require work, extending overtime, by people competent to deal with them. Delegations, in my view, are not equipped to tackle the shipping question here. I doubt very much whether it is in the terms of reference of the Preparatory Committee -- whether we could actually do it.

Probably, if the shipping monopoly practices were examined, it would be found that they deal with the zoning of certain areas where certain groups of ships serve certain ports and not others. It would be argued and it is argued, with a certain degree of truth, that such practices as those under certain circumstances conduce to efficiency. In other circumstances, I am satisfied that they militate against many of the forms of international trade which we are trying to improve.

I am prepared to say personally that shipping requires attention -- that there are many practices which require examination; but it has got to be done in a very comprehensive and a very discriminating way. Like others who have spoken on this subject, Australia is vitally interested in overseas shipping, and would be very glad to subscribe to any propositions that were put forward for the review of international shipping. But it has come to the view that nothing can be done, not only in Chapter VI but at this Conference.

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I would, therefore, summarise our view by saying that we are in sympathy with the views put forward by the representatives who desire services to be introduced, but we believe that their views could only be met by/very much more comprehensive approach than is possible in this Chapter. Then the next question is, can it be dealt with in other Chapters? Our view would be that we doubt whether this Preparatory Committee is competent to do it, and further, even if were, we are not equipped and I am certain that many other Delegations are not equipped, to enter into such a comprehensive examination of the subject, and, at any rate, it is too late to attempt it now. Therefore, our attitude would be that we cannot agree that the subject of services should be introduced into this Chapter, and we would agree with the amendment which the United Kingdom will bring forward in due course.

M. MONTEIRO de BARROS (Brazil) (Interpretation): Mr. Chairman, the Brazilian delegation consider that the inclusion of services in this Chapter is not only useful but of primary necessity, because if this inclusion is not made it might lead to the failure of negotiations on tariffs, if all clauses regarding the phrase are absent. We all know that certain commercial activities tend towards the monopolisation, and the transports are certainly one of these activities. Now since experience shows us that international transport and international trade are closely linked and are particularly closely linked with international maritime transport, this must be mentioned in our Charter and certain rules must be established. I agree that as it is not possible to discuss during this Session the matter in detail, this must, of necessity, call for the presence of experts, and certain rules must provide for certain particular cases, but as the honourable delegates of Czechoslovakia and Cuba pointed out, it is possible at least to adopt the principle. It is necessary that the principle should be adopted now so that, when the time arrives and another Conference or another international agency deals with the problem, it finds the principle firmly established. I thank you, Mr. Chairman.

Mr. A.P. van der POST (South Africa): Mr. Chairman, all economic activities are necessarily inter-related, and if there should be mal-practices in one field they would probably, in most cases, affect the activities in another field. But, on the other hand, we have special fields for the different economic activities. We do the work of specialists. ITO is a trade organization which deals primarily with trade, and although nobody would deny that

mal-practices in the field of banking, insurance and shipping have their effect on trade, I cannot agree with our Indian delegate and his supporters that the ITO Charter is a suitable place to include a provision for all these various fields. We must be prepared to deal with the thing properly, and if we are to include such a wide range of human activities in the ITO Charter as is proposed by our friends from India and from South America, we run the risk of over-loading ourselves and undertaking too much. Services are special agencies. We have special organizations, already international organizations, in the field of banking to deal with them, and we cannot hope to provide an adequate organization in the ITO to deal with these highly specialised services. I cannot but support the attitude adopted by the United Kingdom, and feel that it would be highly unwise of us to extend the ITO Charter so as to include all the various services. It is argued that we should refer, at any rate, to the principle. I do not think, even, that this is necessary, because that would be merely a pious expression of an opinion and would, in itself, be an admission that we are not able to deal with all these various activities - essentially economic activities - in the ITO Charter.

CHAIRMAN: The Delegate of France.

M. LECUYER (France) (Interpretation): Mr. Chairman, the French Delegation certainly does not misjudge the importance which is attached to the question of services, and we would be happy if it could be mentioned in this Chapter, especially since France has always depended to a certain extent upon services which were ensured by other nationals than nationals of the French Republic, and this fact is now accentuated. Therefore it would appear to us highly desirable if it were possible to deal with this question here, as it is of primary importance.

During the course of the discussion nobody contested -- and I believe that nobody will contest -- the importance of this problem. However, I also think we would all agree that there are no questions which are more complex and more difficult than the questions concerning insurance, shipping, air transport and banking. In a few words, the honourable Delegate for Australia has pointed out the difficulties which I attach to the question of shipping. If we had experts here, I believe that a trustworthy demonstration of this complex question could be given in a few moments. Therefore I believe that such a discussion would lead us so far that we would all recognise very quickly the need for a special conference, and, although we sympathise in a very high measure with the proposal to include services in this Chapter, we are of the opinion that it would be wise to abide by the conclusions which were reached in London.

CHAIRMAN : The Delegate of the Netherlands,

Dr. P. LEENDERTZ (Netherlands): It is very comprehensible that when one is talking about restrictive business practices, say, about cartels, the idea comes up that in this connection the complexities of shipping, insurance and finance should also be considered, but, as

a matter of practice - I will not repeat the reasons, which have already been reported here by the Working Party - it does not seem possible to do it in this Charter of the I.T.O. The fields of each of those so-called services are so extensive that cartel practices are only one of the activities which are pursued in those fields and it is entirely impossible to take the matter of cartels and restrictive business practices out of those fields, to treat them apart and put them into this Charter. They must be seen together with all the other questions which also arise in connection with those services.

One can have equal sympathy with the views expressed by the Delegate of India and the others who are in agreement with him, and it is perhaps a point which might be considered here, that it is the intention of the Economic and Social Council to set up a specialised agency for maritime questions. This being so, I do think we could not make any allusion to those services in this Charter. It has been argued here that just one general allusion could be made to them, in order to induce any specialised agency which might be set up to give attention to it. I rather doubt whether that is within the competence of the Organisation we are considering here. I do think that would be a matter for the Economic and Social Council to deal with and not for the Organisation we are now trying to set up. Thank you,

Mr. Chairman.

M. STANISLAV MINOVSKY (Czechoslovakia) (Interpretation):

Mr. Chairman, the view was expressed that services are an important part of the Charter and nobody denied this point of view, but on the other hand the view has also been expressed that we have no experts here who could deal with the problem to the fullest extent. I repeat, that in our opinion it is not necessary to deal fully with the problem at the present stage, but I believe that it is highly desirable to establish certain principles, among them the principle that any discrimination for transport, insurance and banking would be contradictory to the Charter. I also cannot accept the idea that we cannot deal with this problem here because it is a difficult problem. Well, what of it? Even if the problem is difficult, we have had questions presented which are more difficult and less important than the question of services and still they have been included in the Charter. Therefore it seems to me fully justified to establish certain principles at this stage and here.

CHAIRMAN: The delegate of India.

Mr. G.L. MEHTA (India): Sir, I suppose I am now the last speaker because we have had a full discussion on this question, but before you close the discussion I should like to make a few points clear.

First of all, in the statement which I read out at the outset, I had raised only a very specific issue, namely, if we are going to exclude these services from the purview of the Charter, whether there was any place for amendments such as those tabled by the United Kingdom (I am particularly referring to this amendment in regard to Exceptions to which I referred earlier), as well as to such amendments as tabled by U.S.A. as Article 15A.

I submit, Sir, that if services are to be included that should be done in a direct and straightforward manner, that is, by laying

down a certain general principle, if the Committee so desires; but if it is found that on balance it is desirable to exclude services, then I submit that no reference should be made to services in either this Chapter or any other Chapter of the Charter.

The Australian delegate referred, for example, to the question of the terms of reference. As regards the terms of reference, I believe this question was debated at some length in London and it was also suggested that the question whether these services fell under the terms of reference of the Preparatory Committee or not should be referred for a ruling to the Economic and Social Council.

In fact, you will see that in the General Comments on Chapter VI in the Drafting Committee's Report, in sub-clause (a), it has been mentioned that "one delegate held the opinion that services fell under the terms of reference of the Preparatory Committee..." etc. The point is, if this was the difficulty, then surely reference could have been made to this Council before this Preparatory Committee met in Geneva.

Then I should also like to say this: that actually the first U.S.A. draft that was prepared did include this exception, as will be evident by reference to Article 40 of the U.S.A. Draft Charter. Article 40, sub-clause(c) makes reference to "agreements or understandings concerning railway transportation, aviation, shipping, and telecommunication services."

It was after considering this draft and because the relative Committee in London came to the conclusion that services should not be included that in the revised draft which was put forward this sub-clause (c) was excluded, with the result that it will be found, by reference to Article 45 of the London Committee's Report, that in this provision of "Exceptions to the Provisions of this Chapter" there is no reference to Services.

I submit that that was a consistent attitude to adopt. If there was going to be no inclusion of services, then there is no point for providing for a special exception in regard to this matter.

There are many other matters, Mr. Chairman, - take immigration, for example, or movement of labour, movement of capital, and so on, which are also connected directly or indirectly with international trade, but these are not dealt with in the Charter and there is no reason why, if we decide on balance to exclude services, any special exceptions should be provided in the Charter.

The Australian delegate said that there should be no reference to services, not only in this Chapter but in this Conference as a whole. Well, if that is the case, then there should be no reference to services in this Chapter as provided for in any other place.

I should also like to state, Mr. Chairman (I apologise for that because I thought I would make the position of the Indian delegation clear at a later stage), that I have referred to the United Kingdom amendment not because I want it to be discussed on its merits - I bow to your ruling that that can be done later - but because it raises this fundamental principle and this fundamental issue, whether services are to be included or not, and our submission is that services are not to be included, then there is no place for such exceptions to be provided.

As regards the other question, namely the inclusion of services, I said I apologise because I did not really make the position clear at the outset. I thought that would be considered later. But since you have invited discussion on the question of principle, I should like to mention that the Indian delegation has been carefully considering this question since the London Conference, and in Geneva. We recognise the close connection and relationship between goods and services such as shipping, aviation, banking, insurance,

telecommunications, etc. which really combine the producer with the distributor and are essential to international trade. In fact, as our friends from South America said, we too in our own shipping and banking and insurance have suffered very severely because of the discriminatory practices which have been adopted against them. Therefore we have also felt that this is a matter which an Organisation like this should be competent to deal with.

But I must say this: that, speaking for the delegation as a whole, there is considerable force, we feel, in the argument that the International Trade Organisation should not be overburdened with too many tasks and obligations and functions at the outset, and I think there is also considerable force in the contention that some of these questions which are, as the other delegates have mentioned, so complex and technical, had better be dealt with by the specialized agencies of the United Nations concerned in consultation with the International Trade Organisation whenever necessary.

That is all that I want to state.

CHAIRMAN: I wonder if I am correctly interpreting the views just expressed by the Indian delegate if I state that he is not proposing that services should be specifically included in Chapter VI, but that he is only opposed to the exclusion of services as covered by the amendment proposed by the United Kingdom delegation, and that he would be content if the text was left as it was in New York so far as services were concerned, which will then enable the International Trade Organization to consult with other specialized agencies on restrictive practices in the field of services. Would that conform with your view?

MR. G.L. MEHTA (India): That is quite correct.

CHAIRMAN: The delegate for Czechoslovakia.

M. STANISLAV MINOVSKY (Czechoslovakia) (Interpretation): Mr. Chairman, I would only like to mention that Article 12 speaks of capital funds, specialized personnel and managerial skill. This is nothing else than services. Therefore, if we want to avoid speaking of services in the Charter we must also come back to Article 12.

CHAIRMAN: In reply to the delegate of Czechoslovakia, I would point out that we do not expressly exclude services. There is no objection to including in other parts of the Charter services which have a bearing on those particular articles on other subjects.

I do not think that what the delegate for Czechoslovakia has just said is inconsistent with the view expressed by the Delegate of India. I am wondering if the other delegations who have expressed themselves in favour of the inclusion of services are also sharing the same views expressed by the delegate of India.

MR. G. GUTIERREZ (Cuba): The Cuban delegation reserves the possibility to present an amendment in order to find out where those principles related to services could be inserted, because I am very much afraid that every one of the Committees, when they cover Chapter I, will say "This is not the proper Chapter"; when they take Chapter II, they will say the same, and so on with the third, fourth and fifth until the Charter ends. So we wish to find out first in what part of the Charter this matter can be contemplated.

CHAIRMAN: If I interpret the view expressed by the Delegate of India correctly, it is that if services are not expressly excluded from this Chapter the Organisation would be able to deal with services in consultation with other specialised agencies specially set up to cover the fields relating to particular services.

Mr. GUTIERREZ (Cuba): Mr. Chairman, if that is the interpretation I do not share it; so I cannot support the Delegate of India's suggestion as to the effect of its Amendment.

CHAIRMAN: I was hoping to be able to find a solution to this problem at the present stage of our discussion, if those Delegates who had spoken in favour of the inclusion of services should all have shared the view of the Delegate of India. We could then leave this subject at the present time and return to it when we deal with the Amendment proposed by the United Kingdom.

Mr. GARCIA-OLDINI (Chile) (Interpretation): We must go back somewhat. We cannot accept the view that this agency is not competent to deal with the problem. I believe that if our views could be heard outside these walls people would be astonished. Commerce is a means of exchange between countries, and there is no commerce without transport; and if we do not find a fair solution for this problem then a lower and fair commerce is not possible either. If we leave this very important gap as it stands, then countries may adopt certain measures to fill this gap out; and then they will be free/<sup>not</sup> to abide by certain agreements.

It would be contrary to commonsense to decide that we are not competent to deal with the problem. In our opinion it would be quite wrong not to include a reference to it in the Charter. Of course, the problem is complex, and it is possible that its solution necessitates a special Conference; but we believe that

the principles should be clearly established in one of the other Articles of the Charter. This will be a safeguard for us and on that point we make a formal reservation.

CHAIRMAN: The Delegate of Brazil.

Mr. MONTEIRO DE BARROS (Brazil): The Brazilian Delegation fully adheres to the statement just made by the Chilean Delegation.

CHAIRMAN: If I may sum up the present state of our discussion, it is this. Some Delegations are in favour of the inclusion of services in Chapter 6. The Indian Delegation takes the position that if services are not excluded from the scope of Chapter 6, then any Member who considers that practices relating to services are having a harmful effect on trade could raise the question in the International Trade Organisation, and could then consider it in consultation with the specific specialised agency concerned with that question. Is that the correct interpretation, Delegate from India?

Mr. MEHTA (India): Yes, Sir.

CHAIRMAN: Other Delegations propose that there should be a specific exclusion of services. The way it seems to the Chair is that the position taken by the Delegate of India does present a possible mutual ground on which we might all reach a unanimous conclusion, and therefore I would like to take the sense of the Commission as to whether or not a basis does exist for a solution of this difficulty in the manner proposed by the Delegate of India.

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CHAIRMAN: The Delegate of South Africa.

Mr. A.P. VAN DER POST (South Africa): Mr. Chairman, I am not quite sure now about the position as summed up by you. That seems to be in a way the correct interpretation of the course of the discussion, but, on the other hand, India says that it does not want services to be specially excluded. We, for our part, feel that we do not want services specifically included, and the interpretation you have given is that it is at any rate implied that they are included.

Now, we have got an amendment on Article 15(3) in Commission A to exclude transportation from 15(3), and I could therefore not at this moment subscribe to the interpretation which you have given on behalf of India. I very much regret that without further consultation I cannot enable you to arrive at that unanimous decision on the basis of the Indian interpretation.

CHAIRMAN: The Delegate for Australia.

Mr. E. McCARTHY (Australia): Mr. Chairman, with a view to clarification as to the proposition, it does seem to us that if that view were taken you would find that the Organization would be obliged to undertake investigations on receiving a complaint which it might be unable to bring to a conclusion, the reason being that this Chapter is linked up with the rest of the Charter. It refers to Article 1, and to take just one example: if a complaint comes from any Member on an agricultural product or goods dealing with subsidies, the Organization has got a Chapter on subsidies to define what is admissible and what is not, and that would assist it in coming to a conclusion; but if a complaint were made under Article 40 on shipping, for example, and

the subject of that complaint was subsidies, what could the Organization do? It says it shall examine and take every possible action to prevent it, and so on, and I suggest that on the question of subsidies as applied to shipping, it could not possibly give a decision unless it went over the whole field of subsidies, and its infinite variety as applies to shipping.

Now, is that right? I suggest that the objection to examining services in the way that the Indian proposition might require is that the restrictive business practice, as it stands now, is a part of the Charter. where the Organization will get a whole lot of criteria to judge what is objectionable and what is not. As an alternative, it might be that an extra paragraph could be put into Article 45 or at least an extra Article on the lines that where the Organization deems that a complaint is not within the terms of this Charter, it might refer to another specialised agency. That would avoid any exclusion and it would avoid the Organization perhaps having to undergo a lot of investigations which this Article 40 lays down, and on which it could not come to any conclusion, because it was a service and services are not covered in the Charter.

We are, therefore, in some doubt as to whether we could support the view that the leaving out of the United Kingdom proposition might have the result of the Organization being able to automatically pass over a complaint on a service to some other Organization. I do not know whether that is very clear, but it seems therefore that we would want to have a look at it again before we say that we agree to the Indian proposition.

Mr. P. LEENDERTZ (Holland): Mr. Chairman, I do not see clearly - perhaps I did not follow entirely well - what could be the use of the Organization being able to transmit any complaint to another specialized agency. Could they not transmit their complaints directly to the Organization?

Mr. S.L. HOLMES (United Kingdom): I am not quite sure whether I followed in detail what the representative of Australia said, but I think that, in general, we agree with it. The difficulty at the moment, as we see it, of accepting the solution which he proposed is that we are not quite clear whether that would put the position beyond doubt, or whether the same sort of question or item would now arise under the Charter, whenever anybody made a complaint on the ground of restrictive business in relation to a service. Our object in putting forward our amendment to Article 45 had been to put the matter beyond doubt, hoping that members would be generally satisfied with the full opportunities which we believe will be provided to them and to all of us if necessary, to raise this question at the proper time and in relation to the proper type of agency. It would, I think, perhaps be better to see for the moment whether a further reading of the Article which we proposed - the revision of Article 45 - does not really meet the point which a good many delegations have expressed, and the point which was made by the representative of India in the second place. I rather hesitate to go through the actual wording of our proposed revision of Article 45, because we are not dealing with the text, but I would feel that that, or something very close to it, is representative of the general view of the members here.

CHAIRMAN: In view of the remarks just made by the delegate of the United Kingdom, and in view of the fact that we have already had a very exhaustive discussion on the principles of the inclusion and exclusion of services, I would propose that we take up now the text of the United Kingdom amendment to Article 45, and discuss further the text of this amendment. We could have a statement from the United Kingdom delegate explaining the nature of his proposal and the reasons behind it. We could then adjourn and reconvene sharply at 3 o'clock to consider the United Kingdom amendment. I would like to know if this proposal meets the wishes of members of this Committee?

M. Stanislav MINOVSKY (Czechoslovakia) (Interpretation): I think, in order not to increase the existing difficulties, my Delegation will not insist that the matter be dealt with in connection with Article 39 and we reserve our right to come back to it when we take up the United Kingdom amendment for discussion.

If my other colleagues agree with this proposal, I suggest that we should continue the discussion, Article by Article, and that we take up the next Article this afternoon.

CHAIRMAN: I take it the Czechoslovak Delegate has no objection to taking up the United Kingdom amendment along with Article 39 at the present time?

Mr. F. Garcia OLDINI (Chile) (Interpretation): Mr. Chairman, is it understood that we shall take up the whole matter again, otherwise I do not understand how we can discuss an exception to a rule which does not exist.

CHAIRMAN: Is the United Kingdom Delegate agreeable to the course proposed?

Mr. S.L. HOLMES (United Kingdom): Certainly, if that is the wish of yourself and the Committee.

I might make a few remarks on Article 45, in the terms of the revision which we propose.

As I have explained, we felt that the only important thing, perhaps, was that there should be a certain clarity and that we ought to know where we stand. It had always been our view that to introduce the whole field of services in this connection in the Charter would be to extend the range too greatly and that it would be perhaps to ignore the very great complexities which the whole question of services introduces, as several speakers this morning have explained.

We feel that what we want to do is to put things in their right places and that this is what our amendment would do. As has been mentioned, certain particular services, certain particular transportation services, for instance, are covered or are about to be covered by particular specialised agencies and one would not be surprised if those agreements setting up such specialised agencies made provision - perhaps not altogether out of line with the sort of provision that is made in Chapter VI here - for dealing with complaints regarding restrictive business practices which in some way impede the objects of those agreements.

I might, I think, say that some of the remarks made this morning do seem to suggest a certain confusion between the objects of Chapter VI and discrimination, but we would recognise also that in certain cases - in one, at any rate, perhaps, that of insurance - there is no very obvious body at the moment that would be prepared or competent to take over the subject as a whole or, incidentally to the subject, complaints which might be made against certain practices in the insurance field. Though there again I am speaking without prejudice to the question whether such complaints can appropriately be made against insurance companies; that would remain to be seen.

Now the whole field, perhaps, is not covered by existing agencies or agencies which are in immediate prospect. We would feel that banking - transportation I have mentioned, because there are many such agencies - would obviously be the field more of the International Bank. That would leave us perhaps with one or two gaps, of which insurance might be one.

In the opening words of our revision, you will find, Mr. Chairman, a reference to Article 61 (c). Article 61 (c) comes in that part of the Charter which relates to the Organization and it provides that among the functions which this International Trade Organization will have would be to make recommendations for and promote international agreements on certain measures designed to improve the bases of trade.

Now if it does appear that there is some service which is not covered by an existing and appropriate agency, and there were general agreement that that type of service should be covered by some international understanding, then it might be that there was general agreement that this was an appropriate matter for the Organization to take up under the functions attributed to it in Article 61. So that the object of the first part of our amendment was to remedy any possible omission, to fill any possible gap which might exist in the field of services, but to leave services where there was an appropriate agency to deal with them to be dealt with by that agency.

If we trespass on each other's territory, we feel that confusion is likely to arise. If, for instance, we make recommendations about civil aviation, or we try and take some action in relation to civil aviation, then shall we not confuse the issue, and will it be for the general benefit?

The whole field with which the new post-war arrangements are dealing is a very large and complicated field and it is quite essential, we feel, that there should be a fairly clear understanding as to who does what. On the other hand, supposing we do feel it necessary to intervene in other people's business, then shall we not find that other people wish to intervene in ours?

MR. S.L. HOLMES (United Kingdom) (Contd.): I wonder whether it would be for the general benefit if we had addressed to us from a whole number of other agencies a lot of recommendations about how we should conduct our business. Therefore, Mr. Chairman, I would hope that with the provision which I have explained that exists in the terms of our amendment for gaps to be filled, it might be the pleasure of this Commission to take our amendment in the spirit in which it is intended - as a helpful amendment designed both in the short run and in the long run to promote the orderly conduct of business and to inure to the general advantage.

I do not think, Mr. Chairman, that I need say more than that, at this stage at any rate, in defence or explanation of the straightforward amendment which we have proposed.

CHAIRMAN : The Commission will resume sharply at 3 o'clock. We will resume discussion on the question of the inclusion or exclusion of services in relation to both Article 39 and Article 45. The meeting is adjourned.

The meeting rose at 1.00 p.m.