

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

COMMISSION B.

Summary Record of the Twelfth Meeting held on
Thursday, 19 June 1947 at 2.45 p.m. at
the Palais des Nations, Geneva.

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

1. CONSIDERATION OF REPORT OF SUB-COMMITTEE II ON CHAPTER VI
OF THE CHARTER.

The CHAIRMAN, in opening the meeting, said that since Commission B last met to consider Chapter VI, Sub-Committee 2, which was set up to consider the amendments and reservations submitted on the various Articles of that Chapter, had completed its work, and the Report of the Sub-Committee (document E/PC/T/102) had been submitted to members of the Preparatory Committee on June 18th.

Commission B had now received the Reports of Sub-Committees 1 and 2, and the Chairman felt that the most logical way to consider those Reports would be to call on the Chairman of Sub-Committee 2 to present his Report. A general discussion could follow, after which the various Articles of the Chapter could be taken in consecutive order. After Article 44 had been considered, there might be a general discussion on the Report of Sub-Committee 1. The text of Article 44A could then be approved and Article 45 discussed.

Mr. LAWRENCE (New Zealand) asked whether representatives were expected to commit their Governments at the present meeting on the contents of the various paragraphs of the Report.

The CHAIRMAN said it was intended that after consideration of Chapter VI Commission B would report to the Preparatory Committee, and Chapter VI, together with the other Chapters, would then be submitted for consideration. He felt that the report from Commission B should not go forward with any reservations so far as it was possible to avoid such reservations. Commission B should see that Chapter VI was finally approved, and the consideration of that Report by the Preparatory Committee in executive session should be more or less formal.

Mr. LAWRENCE (New Zealand) pointed out that there were certain provisions in Chapter VI which interested his Government. As he had received the Report of Sub-Committee 2 only on the previous day, he had not had time to receive cabled instructions from his Government, and therefore did not know whether or not certain points in the Report would be the subject of comment or reservation, or whether they would be accepted. He would therefore have to register a reservation to the extent that it was not possible for him to advise the Commission at present as to the viewpoint of his Government.

The CHAIRMAN considered that all delegations should have sufficient opportunity to consider the Reports of the Sub-Committees. However, one of the difficulties was to fit the reports of the Sub-Committees into the timetable which had been set up for Commission B. He therefore proposed that on June 19th and 20th there should be a general debate on the

Report of Sub-Committee 2, and then the Report of Sub-Committee 1 should be considered. That would enable the Commission to dispose of Article 44A, and the other Articles of the Chapter could be taken up on Friday June 27th.

Mr. LAWRENCE (New Zealand) agreed to the Chairman's proposal.

The CHAIRMAN said that as there were no other comments on his proposal he considered that the Commission agreed to the programme suggested.

Mr. HOLMES (United Kingdom), Chairman of Sub-Committee 2 in presenting the report of that Sub-Committee (document E/PC/T/102) said that the Sub-Committee had met fifteen times, had devoted 35 to 40 hours to close consideration of the problem, and had produced a unanimous report. Every question which had come up on the subject in Commission B, with the exception of that which had been considered by Sub-Committee 1, had been referred to Sub-Committee 2. He assured members of the Commission that detailed consideration had been given to all points raised. The Report, more particularly the vital part of the Report which was the proposed text of Chapter VI, should be regarded as a whole. Every attempt had been made to see that it hung together. The order of the Articles had been considered very carefully in the light of the criticisms made by the representative of New Zealand, and the Sub-Committee was grateful to him for the thought which he had given to the matter. In drawing up its Report, Sub-Committee 2 had gone outside its Terms of Reference in that, in the final paragraph of Chapter VI, it had included the text of Article 44A as proposed by Sub-Committee 1, and he felt that that would be

of considerable advantage in enabling Commission B to see a complete text of Chapter VI.

The CHAIRMAN thanked the Chairman of Sub-Committee 2 for the presentation of the Report of that Sub-Committee. Both Sub-Committee 1 and Sub-Committee 2 had furnished an excellent example to the whole Preparatory Committee. If there were no comments on the Report of Sub-Committee 2 the Commission would pass to the consideration of the Report of Sub-Committee 1.

Mr. COLBAN (Norway) said he understood that the final discussion of the Report of Sub-Committee 2 would be postponed until June 27th. However, in order to gain time, it would perhaps be useful to go through the various Articles of the Report, beginning with Article 44A.

The CHAIRMAN pointed out that he had suggested that there should be a general discussion on the Report of Sub-Committee 2, but that the Articles should be taken up on June 27th.

Mr. MCGREGOR (Canada) asked whether there could be a general discussion on the Sub-Committee's Report at the present meeting and, on the following day, the various Articles could be considered. He felt that the matter should not be postponed until June 27th.

Replying to the CHAIRMAN, who asked whether he agreed to the proposal made by the representative of Canada, Mr. LAWRENCE (New Zealand) said his delegation would not be ready to discuss the Report on the following day, but, if it suited other delegations to do so there would be no objection on the part of his delegation. However, he wished to have the right to bring up later any points which his Government might wish to raise before the Commission, and therefore the date suggested by the Chairman would suit him.

Mr. CHEN (China) pointed out that his delegation had proposed an amendment to paragraph 2 of Article 39, (document E/PC/T/W/151), but that amendment had not been dealt with by Sub-Committee 2. His delegation did not wish to press its point of view, but felt that the proposed amendment should be mentioned in paragraph 2 on page 2 of the Report, and hoped that the necessary correction would be made to the text.

Mr. HOLMES (United Kingdom), Chairman of Sub-Committee 2, assured the representative of China that his proposal regarding paragraph 2 of Article 39 had been taken into account by Sub-Committee 2, and hoped that the wording of that passage in the revised draft was sufficient to meet his point of view.

Mr. COLBAN (Norway) asked what was the real meaning of the first line of paragraph 2 of Article 39 "Without limiting the generality of paragraph 1 of this Article. . . ." He considered those words superfluous and somewhat misleading. Was anything gained by repeating references to paragraph 1 which, in his opinion, contained a general statement of the obligation of all members to adopt a certain policy?

Mr. HOLMES (United Kingdom), Chairman of Sub-Committee 2, pointed out that the expression to which the representative of Norway had drawn attention derived from the draft on which the Preparatory Commission had reached agreement in London, i.e. paragraph 2 of what was then Article 34. Although the words used were not vital, he believed the expression was of common use in such documents in such circumstances.

Mr. McGREGOR (Canada) explained that paragraphs 2 and 3 of Article 39, contained a detailed statement of many practices that might not be all-inclusive and more general terms were provided in paragraph 1.

Mr. CHENN (China) pointed out that his delegation had also proposed the deletion of the phrase mentioned by the representative of Norway. That proposal appeared in document E/PC/T/W/151.

Mr. COLBAN (Norway) drew the attention of the representative of Canada to paragraph 3 (g) of the Sub-Committee's Report which, in his opinion, covered the first sentence of paragraph 2.

Mr. TERRILL (United States of America) said he appreciated the reason given for the proposed deletion of the phrase "without limiting the generality of paragraph 1 of this Article", namely that it was superfluous. However, there were reasons for not deleting the phrase. Referring to the point raised by the Norwegian delegation regarding sub-paragraph (g) to paragraph 3, he said that paragraphs 2 and 3 were closely related to each other and set up a very special type of procedure under which the Organization in very limited circumstances would investigate a complaint or permit a consultation to take place. Paragraph 1 was not directly related to that investigation procedure - it was rather a general commitment without any means of implementation. It was a precept which everyone should bear in mind, and the purpose of the introductory clause "Without limiting the generality of paragraph 1 of this Article" served the purpose of relating two matters (1) a general obligation and (2) the special

limited procedure of the Organization.

Mr. COLBAN (Norway) thanked the representative of the United States of America for his explanation which clarified the position.

Replying to the CHAIRMAN, Mr. CHEN (China) said that in view of the explanation given by the representative of the United States he would withdraw his objections.

Mr. Van der POST (Union of South Africa) said that it was not clear why there should be three sub-paragraphs to paragraph 2. Apparently sub-paragraph (b) was intended to indicate the nature of the complaint referred to in sub-paragraph (a) and sub-paragraph (c) was intended to describe either the nature of the enterprise or a condition which the complaint must satisfy. Although he did not wish to criticise the work done by Sub-Committee 2, he suggested that paragraph 2 should be redrafted.

Mr. HOLMES (United Kingdom), Chairman of Sub-Committee 2, felt that it was quite clear from paragraph 2 that the procedure regarding investigations could not be initiated simply on the presentation of a complaint unless that complaint related to certain practices as described in sub-paragraph (b), and that the commercial enterprises to which the complaint was related were described in sub-paragraph (c). It would not be impossible to restore sub-paragraph (a) to the main part of the paragraph, but the Sub-Committee had decided that it would be better, in view of the lengthy preamble, that the arrangement should be in the form presented.

Mr. Van der POST (Union of South Africa) said he would not press his point, but might raise the matter at the next meeting of Commission B, on June 27 if he still thought

it desirable that paragraph 2 should be redrafted; in this case he would submit an amendment in writing for that meeting.

Mr. THILTGES (Belgium) said that a number of members of Sub-Committee 2 had felt that the texts originally proposed did not throw sufficient light on the fact that an enquiry should take place every time there was a complaint. As it appeared that a complaint was the essential element justifying an enquiry, that fact had been brought out in paragraph 2 (a) of the present draft.

Mr. KORTEWEG (Netherlands) referring to paragraph 3 (f) of Article 39 said that in the meetings of Sub-Committee 2 he had pointed out that the new text did away with his delegation's principal objection to the New York draft, but did not take care of the minor objections. He now felt that paragraph 3 (f) was superfluous and should be deleted, because the practices under paragraph 3 (f) are actually covered under one or more of the preceding sub-paragraphs, especially under sub-paragraph (c).

Mr. SOBOL (Czechoslovakia) referred to the clause "or are about to have" in paragraph 2 of Article 39 and agreed that members should have the right to complain regarding practices which they considered should be investigated and that the Organization should be free to make an investigation. On the other hand, however, he felt that the Organization might give too broad an interpretation to that clause in paragraph 2.

Mr. MCGREGOR (Canada) said that members of Sub-Committee II had considered that the Organization might interpret the phrase "are about to have" in paragraph 2 too narrowly and not too broadly as suggested by the representative of Czechoslovakia.

He felt one would have to rely on the wisdom of the Executive Board of the Organization to interpret the phrase as widely as Commission B would if it were in charge of the administration of the Article.

Mr. DIETERLIN (France) referring to the remarks of the representative of the Netherlands said that his delegation supported this suggestion.

The CHAIRMAN pointed out that Article 39 would be taken up again on June 27th, but it would be useful to have a discussion on the points raised regarding that Article, before passing on to the consideration of Article 40.

Mr. HOLMES (United Kingdom), Chairman of Sub-Committee 2, hoped that the representative of Czechoslovakia was satisfied on the point he had raised. He emphasised, as Chairman of Sub-Committee 2, that the arrangement which the Sub-Committee had made represented a very carefully considered arrangement. How exactly the members of an Organization which had not yet been established would look on their obligations in carrying out the terms of the Charter was a matter which the Commission could not foresee. However, he felt that as regards the draft chapter in front of the Commission, the Organization had been given a carefully balanced and reasonable lead to carry out its functions in such a manner as to ensure that the purposes of the Organization were duly met. He hoped that the members of the Commission would be prepared to accept the draft before them as it stood on the assurance that the matter had been most exhaustively considered by Sub-Committee 2.

The CHAIRMAN endorsed the remarks of the Chairman of the Sub-Committee and hoped that the members who had not been on the Sub-Committee would be able to accept the text, so that the Commission might reflect the unanimity of the Sub-Committee.

Mr. TERRILL (United States of America) said he would like to support paragraph 3 (f). From a narrow technical standpoint the delegate of the Netherlands was probably correct. However, if they were to accept his logic on paragraph 3 (f) they would also have to eliminate paragraph 3 (e). The Netherlands delegate had pointed out that the acts contemplated under paragraph 3 (f) were really included under paragraph 3 (c). By the same token acts contemplated under 3 (e) were covered by paragraph 3 (d).

But before eliminating paragraphs 3 (e) and 3 (f) they should consider the purpose that might be served by their retention. Chapter VI was a technical agreement between governments, but it also must serve as a general guide to business concerning what might be regarded under certain circumstances as harmful, and it should be made clear in the Charter that the mere fact that one or several firms possessed patents did not legitimise all restrictive practices on their part under all circumstances. Such, however, might be the interpretation if the Sub-Committee were now to eliminate a provision that was in both the London and New York texts. Paragraphs 3 (e) and 3 (f) should therefore be retained.

Mr. KORTEWEG (Netherlands) did not consider the argument of the delegate of the United States of America convincing; the only argument he had advanced for the retention of the paragraphs was that they would be a guide to business. But if business men found only the first four points of the Article in the Charter there would be few misuses of patents; such cases would all fall under paragraphs (a) (b) (c) or (d) and would be thus forbidden. He agreed, however, that if sub-paragraph (f) were to be deleted the same reasons would apply to the deletion of sub-paragraph (e).

and he therefore moved for deletion of sub-paragraphs (e) and (f).

The CHAIRMAN proposed that the preliminary examination of Article 39 be concluded. He understood the point raised by the delegate of the Netherlands had been thoroughly explored in the Sub-Committee, and hoped when they returned to Article 39 the delegate of the Netherlands would be able to agree that he should not persist in maintaining his point.

Mr. Van der POST (South Africa) requested elucidation of "trading agencies of governments" in paragraph 4 (a). He was not clear on the meaning of the term "agencies"; he thought it was intended that the term should cover statutory or semi-statutory organizations such as they had in South Africa, and he suggested consultation with Commission A, which was dealing with Article 31, in order to find out what definition they had given to "public commercial enterprises".

The CHAIRMAN did not think any good purpose would be served by consulting Commission A. Should there be any inconsistency between the text of Chapter VI and other articles dealing with state trading, it would no doubt be noticed by the Legal and Drafting Committee and brought to the attention of the Commissions concerned.

Mr. MCGREGOR (Canada) was surprised that the delegate of the United States of America had even suggested the possibility of eliminating paragraphs 3 (e) and 3 (f). No such suggestion had been made in any document considered by the Sub-Committee or by any member of the Sub-Committee. He had understood that the Netherlands delegation had proposed an amendment to paragraph (f), and that had been considered; but it would be calamitous to eliminate paragraphs (e) and (f) altogether.

The CHAIRMAN felt that the Netherlands delegation would carefully consider the arguments on this point before the final review of the report.

Mr. FLETCHER (Australia) questioned the meaning behind the words "including control of engagement" in paragraph 4 (b).

Mr. HOLMES (United Kingdom) explained that the paragraph was part of an attempt to reconcile the views of members on the application of Chapter VI to a single public commercial enterprise. It was an attempt to limit the investigation proceeding under Chapter VI to such public commercial enterprises where there could be no doubt that the authority of the country concerned was, or had been, or would be behind the indulgence of the enterprise in the practices listed in paragraph 3.

ARTICLE 4: PROCEDURE WITH RESPECT TO INVESTIGATIONS AND CONSULTATIONS.

The CHAIRMAN said that if there were no preliminary comments he would draw their attention to document E/PC/T/80 containing the text of a letter from the International Cooperative Alliance, and specifically to the passage on page 6 which read:

"If so, the Alliance submits to the consideration of the Preparatory Committee, whether it might not be useful to prescribe the procedure of this consultation in a more detailed manner, which, it seems, might easily be done by inserting appropriate provisions in Article 40, paragraph 1, stating the duty of the Organization, in connection with the procedure with respect to complaints and conferences, to request not only Member Countries, but also non-governmental (and inter-governmental) organizations to furnish information

relevant to the investigation of complaints and to the determination by the Organization whether the practices in question have or are about to have the effect described in paragraph 1 of Article 39.

Mr. COLBAN (Norway) considered that the point was covered by Article 76 - Functions of the Commission on business practices. He felt it was not advisable to insert detailed prescriptions in the Charter.

ARTICLE 41: STUDIES RELATING TO RESTRICTIVE BUSINESS PRACTICES.

There were no comments with regard to Article 41.

ARTICLE 42: OBLIGATIONS OF MEMBERS.

Mr. LAURENCE (New Zealand) said it might be profitable for the delegates to consider the obligations undertaken by members under paragraph 1 of Article 42, particularly in relationship to the general undertaking prescribed in paragraph 1 of Article 39. Paragraph 1, Article 39 said, "Members shall take appropriate measures"; in paragraph 1, Article 42, it was prescribed that they should "take all possible steps by legislation or otherwise to ensure that private and public commercial enterprises within its jurisdiction do not engage in practices which have the effect described in paragraph 1 of Article 39; (b) take fullest account of the Organization's determinations, requests and recommendations made under paragraph 2(a) of Article 40 and determine appropriate action in accordance with its system of law and economic organization...". It might be said that paragraph 1 of Article 42 was saying the same thing in a slightly expanded form.

In paragraph 1 of Article 39 it was stated that appropriate measures were to be taken "individually or through the Organization or in both ways", but in Article 42 it was prescribed that members should assist other members in preventing practices which had the effect described in paragraph 1 of Article 39.

It seemed possible that if the Chapter became the subject of application it would be the ground for a considerable amount of work by eminent counsel because in many cases substantial interests would be at stake; and if the Commission could eliminate now possible grounds for legal conflict and at the same time clarify its meaning a good purpose would be served.

Paragraph 1 of Article 39 was a general undertaking or confession of faith with regard to the obligation of members. On the question of tense in relation to harmful effects, it was stated in Article 39 that members were to take appropriate measures whenever such practices had harmful effects. He envisaged that if substantial interests were at stake and if there were any ground for establishing that action under that clause would be conditioned by a general prescription or confession of faith, it could possibly be argued on the basis of paragraph 1 of Article 39 that a pre-requisite of action must be that such practices had harmful effects.

In order to dispose of the points he had made in connection with the similarity and yet the minor point of dissimilarity between paragraph 1, Article 39, and paragraph 1, Article 42, and to make it more clear that paragraph 1, Article 39, was a general statement and paragraph 1, Article 42, a specific application, and to get rid of the worry about the application of tense or time in that general confession of faith, he would submit for consideration a redraft of Article 39 in line with the co-operation which there was at present in Article 39 as between the member as individual and the Organization, and the co-operation in Article 42 between one member and another. Accordingly he proposed the following re-wording of paragraph 1, Article 39:

"Members shall take appropriate measures, individually or in co-operation among themselves or through the Organization, or in any or all of these ways, to prevent business practices affecting international trade (whether engaged in by private or public commercial enterprises) which restrain competition, limit access to markets, or foster monopolistic control, from having harmful effects on the expansion of production or trade and from interfering with the achievement of any of the other purposes of the Organization as set forth in Article 1."

Article 42 might say:

"Without limiting the generality of the obligation under paragraph 1 Article 39 each member shall, in accordance with its system of law and economic organization, take all possible steps by legislation or otherwise to ensure, within its jurisdiction, that private and public commercial enterprises do not engage in practices which have the effect described in the said paragraph 1 of Article 39."

He suggested the Commission might pay attention to the possible inconvenience which could arise in the future if they did not now take account of those points.

The CHAIRMAN suggested that one of the members of the Sub-Committee might reply.

Mr. HOLMES (United Kingdom) apprehended that the Commission might find it not entirely easy to follow precisely the purport of the proposed re-drafting and he understood that there would not be a verbatim record of the meeting. The Sub-Committee would have been happy to give the fullest consideration to the proposed new text had it been before them. Now, however, it was for the Chairman to decide what procedure should be followed.

Mr. LAURENCE (New Zealand) explained that it had only been since the emergence of the new text that it was apparent that the difficulties of which he had spoken remained.

The CHAIRMAN felt it was difficult at the present stage to take cognizance of the proposals submitted by the delegate of New Zealand unless the Commission was of the view that the Sub-Committee should be reconstituted or a new sub-committee appointed to go into the matter. He pointed out that the whole text of the Draft Charter would be thoroughly examined by the

Legal and Drafting Committee, which might make drafting suggestions covering the point.

Mr. LAURENCE (New Zealand) felt his proposal had no greater significance than to clear up untidiness and conflict between the general and specific obligations. If records of the proceedings could go to the Legal and Drafting Committee or if his delegation could make a statement to this Committee, it would not be necessary to take up more of the time of Commission B on this point. He was not raising a matter of substance.

Mr. COLBAN (Norway) was not convinced that there was any incompatibility between Articles 39 and 42.

Mr. DIETERLIN (France) saw no contradiction between paragraph 1, Article 39, and paragraph 1, Article 42. With regard to the suggestion of reference to the Legal and Drafting Committee, he felt there was the danger that changes in wording might have implications of substance, and he considered it preferable to refer the matter either to the reconstituted Sub-Committee or to an ad hoc Sub-Committee.

The CHAIRMAN suggested that the former Sub-Committee be reconstituted for the purpose, with the addition of the delegate of New Zealand.

Mr. CHEN (China) suggested that the text of the proposed amendment be distributed in advance, in writing.

The CHAIRMAN proposed that the suggested new text be circulated as a conference document. If the delegate of China wished to make any observations, he could then ask leave to appear before the Sub-Committee.

Decision: It was agreed that Sub-Committee II be reconstituted, with the addition of the delegate of New Zealand, for the purpose of considering the proposal of the New Zealand

delegation, and that the proposal be in the meantime submitted to the Secretariat in writing.

ARTICLE 43: SUPPLEMENTARY ENFORCEMENT ARRANGEMENTS.

There were no comments with regard to Article 43.

ARTICLE 44: CONTINUED EFFECTIVENESS OF DOMESTIC MEASURES AGAINST RESTRICTIVE BUSINESS PRACTICES.

There were no comments with regard to this Article.

CONSIDERATION OF REPORT OF SUB-COMMITTEE 1 (Document E/PC/T/W.144)

The CHAIRMAN asked whether any member wished to make any general observations on the report of Sub-Committee 1.

Mr. COLBAN (Norway) said he could not vote either in favour of, or against, the proposal in Document E/PC/T/W.144. He understood that the Inter-governmental Maritime Consultative Commission would have a meeting in November 1947 and only when the results of that meeting were known would it be possible for his government to say definitely what would be their attitude to the report of the Sub-Committee. He emphasized however that this position did not in any way imply a lack of desire to co-operate.

The CHAIRMAN asked whether the delegate of Norway wished to submit a reservation on Article 44A in the report to the Preparatory Committee and Mr. COLBAN (Norway) reserved for the present the position of his Government.

Mr. HOLMES (United Kingdom) queried the necessity of the word "certain", in the second line of paragraph 1 of Article 44A.

Mr. Van der POST (South Africa) proposed the wording:
"Members recognise that certain services such as
transportation, telecommunications, insurance and banking,
are substantial elements of international trade." etc.

After further discussion the CHAIRMAN put the amend-
ment proposed by the delegate of South Africa to the
Commission.

Decision: Paragraph 1 with the amendment proposed
by the delegate of South Africa was adopted.

The CHAIRMAN asked for comments on paragraph 2.

Decision: Paragraph 2 was adopted.

Mr. TERRILL (United States of America) suggested with
regard to paragraph 3 that the words "improve the conditions
of operations of the service in question so far as they
affect" be replaced by "remedy the particular situation so
far as it relates to". He felt there had been a drafting
error.

The CHAIRMAN put the proposed amendment to the Meeting.

Decision: The amendment to paragraph 3 suggested by
the delegate of the United States of America was adopted.

Mr. HOLMES (United Kingdom) requested information on
the purport of the words "Such observations as the
Organization may wish to make".

After discussion the CHAIRMAN said he took it that
there was no proposal before the Commission with respect to
those words.

Mr. LAURENCE (New Zealand) felt a drafting improvement to paragraph 3 would be the insertion of the words "in accordance with the provisions of paragraph 2" after the words "If no adjustment can be effected."

Decision : The amendment proposed by the delegate of New Zealand to paragraph 3 was adopted.

Mr. LAURENCE (New Zealand) felt that members of the Commission should appreciate what the words "appropriate specialised inter-governmental agency" in paragraph 3 were intended to mean: he wondered under what circumstances an organization would come within that definition, for the purpose of paragraph 3.

Mr. McGREGOR (Canada) suggested that if the point raised by the delegate of New Zealand found favour the following wording might be used: "If one exists and has power to deal adequately with such matters".

Mr. Van der POST (South Africa) suggested that the words "if one exists" were unnecessary.

Mr. FLETCHER (Australia) considered that the paragraph did not need alteration.

Mr. HAKIM (Lebanon) proposed the substitution of the word "competent" for "appropriate".

After further discussion the Chairman felt that the Commission had no very decided views and added that if any legal difficulty was involved it would be attended to by the Legal and Drafting Committee.

Decision : Paragraph 3 as amended was adopted.

Decision : Paragraph 4 was adopted.

Decision : Article 44A, as amended, was approved as a whole.

ARTICLE 45: EXCEPTIONS TO THE PROVISIONS OF CHAPTER VI

The CHAIRMAN asked whether any delegates wished to make preliminary observations with regard to Article 45.

Mr. HOLMES (United Kingdom) said he would again mention the United Kingdom reservation to Article 45.

ARTICLES 39 and 42.

Mr. TERRILL (United States of America) raised the question whether the amendment to Articles 39 and 42 proposed by the delegate of New Zealand would be available before the Commission decided whether to send the Sub-Committee into session. He had understood that in his remarks the delegate of New Zealand had gone considerably beyond the drafting suggestion with which he had begun.

Mr. LAURENCE (New Zealand) said he made no apology for an attempt further to improve a very difficult and involved chapter. His delegation would be happy to supply a working paper before the sitting of the Sub-Committee, and to co-operate in any way possible in an endeavour to find a solution.

The CHAIRMAN felt there would be no purpose served in having a meeting of Commission B on the following day. The Commission would meet again to consider Chapter VI on Friday, June 27.

ARTICLE 44A.

Mr. Van der POST (South Africa) proposed that paragraph 3 of Article 44A should begin : "If, because no adjustment can be effected, the matter is referred.... "

After discussion the Chairman enquired whether in view of the fact that the text of that Article had been already established the delegate of South Africa would withdraw his proposal.

Mr. Van der POST (South Africa) accepted the ruling of the Chair.

ARTICLES 39 AND 42.

The CHAIRMAN said the date of the sitting of the Sub-Committee appointed to consider the proposal of the delegate of New Zealand would depend upon when the New Zealand paper was placed in the hands of the delegation.

Mr. TERRILL (United States of America) asked whether the Commission should not have the document in its hands and discuss it before the Sub-Committee began its work.

The CHAIRMAN said he had understood the delegate of New Zealand to say that it was a matter of drafting, not substance, and he did not think any good purpose would be served by the Commission's going into drafting points.

Mr. TERRILL (United States of America) said he was entirely satisfied.

Mr. DIETERLIN (France) said in view of the hesitation of the delegate of the United States of America and perhaps of other delegates regarding re-examination of the matter, he was prepared to withdraw his previous suggestion on the point, while maintaining his reservation regarding the competence of the Legal and Drafting Committee. He pointed out that the delegate of Belgium would be leaving soon and his presence for a consideration of the proposal would be essential.

The CHAIRMAN took it that the delegate of France was suggesting a discussion of the question in the full commission.

Mr. DIETERLIN (France) thought the delegate of the United States of America had made a suggestion in that sense, and he was prepared to support the proposal.

The CHAIRMAN enquired whether the delegate of New Zealand could prepare a paper to be placed in the hands of delegates on the following morning, to enable the Commission to discuss the matter in the afternoon.

Mr. LAURENCE (New Zealand) said that the paper on which his proposals were based had been prepared for the last meeting of the Sub-Committee but apparently had not been brought forward. The solution agreed to earlier in the present meeting was perfectly satisfactory to his delegation. He did not think there was any point in the proposal which concerned Belgium. He would prefer the decision already made to stand, and repeated that the consideration was purely one of drafting.

Mr. DIETERLIN (France) thought that as there were no questions of substance involved the delegate of New Zealand might be able to submit a text on the following morning.

Mr. LAURENCE (New Zealand) said as it was a New Zealand proposal, he thought his delegation should be permitted to advance upon it in their own way, and as some members had seen implications that were not in the proposal he would prefer to consult with them before the suggested amendment was published. He would ask that the decision made earlier should stand.

The CHAIRMAN said in view of the assurance by the delegate of New Zealand that his proposals related only to drafting, he thought the appropriate place for the discussion was in the Sub-Committee.

Decision: It was agreed that the decision taken earlier by the Commission with regard to the proposal of the New Zealand delegation should stand.

Mr. KORICAN (Secretary) stated that neither the Secretary nor the Secretariat had received any papers from the New Zealand delegate on the subject of his delegation's proposal.

Mr. LAURENCE (New Zealand) remarked that the document must be still in transit.

The meeting rose at 6.43 p.m.