

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENTCOMMISSION "B"Report of the 1st Sub-Committee

In its 2nd meeting, Commission "B" appointed a Sub-Committee composed of the Delegates of CUBA, CZECHOSLOVAKIA, INDIA, the NETHERLANDS, the UNITED KINGDOM and the UNITED STATES OF AMERICA, and instructed this Sub-Committee to elaborate proposals with regard to the inclusion or exclusion of services in Chapter VI of the Draft Charter.

The Sub-Committee elected as Chairman the Delegate of the Netherlands, Dr. P. Leendertz and under his chairmanship met in two meetings in the morning and afternoon of May 30th 1947.

In debating the issue of services, the Sub-Committee observed that a distinction must be made between those services for the regulation of which specialized agencies exist or are contemplated, and other services for which no specialized bodies are at present envisaged.

In discussing a draft proposal of the Cuban Delegate for a proposed new Article 44 A, the Sub-Committee agreed on the principle that restrictive business practices in the field of those services for which specialized agencies are in existence or contemplated should be dealt with by the respective specialized agencies. In this connection, the Sub-Committee explored the possibility of inserting a clause into Chapter VI or Chapter VIII corresponding to the provisions of Article 50.

The Sub-Committee agreed that with regard to other services the provisions of Article 61 and especially those of subparagraphs (c) and (e) allowed for the possibility to regulate restrictive practices if such should be found to exist.

The Sub-Committee appointed a small Drafting Group, composed of the Delegates of Cuba and the United Kingdom, to elaborate a text embodying the conclusions of the Sub-Committee. The following text, prepared by this Drafting Group was unanimously approved by the Sub-Committee and is herewith recommended for adoption by Commission "B":

"ARTICLE 44 - AProcedure with respect to Services

1. Members recognize that transportation, telecommunications,

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insurance, banking and certain other services are substantial elements of international trade, and that any restrictive business practices in relation to them may have harmful consequences similar to those described in Article 39. Such practices shall be dealt with in accordance with the following paragraphs of this Article.

2. If any Member should consider that there exist restrictive business practices in relation to an international service in the meaning of Paragraph 1 which have or are about to have such harmful effects, and that its interests are seriously prejudiced by this situation, the Member may submit a written statement explaining the situation to the Member or Members the public or private enterprises of which are engaged in the services in question. The Member or Members concerned shall give sympathetic consideration to the statement and to such proposals as may be made with a view to affording adequate opportunities of consultation and effecting a satisfactory adjustment of the matter.

3. If no adjustment can be effected, and if the matter is referred to the Organization it shall be transferred to the appropriate specialized inter-governmental agency if one exists, with such observations as the Organization in its discretion may wish to make. If no such specialized agency exists, Members may, under Article 61(c), ask the Organization to make recommendations for, and promote international agreement on, measures designed to improve the conditions of operation of the service in question so far as they affect the purposes of the Organization.

4. The Organization shall, subject to Article 61(e), co-operate with specialized inter-governmental agencies in connection with restrictive business practices affecting the general field covered by the Charter and those agencies shall be entitled to consult the Organization, to seek advice, and to ask that a study of a particular problem be made."

The Sub-Committee instructs the Secretariat to request the aid of the Delegates of France and Belgium in preparing the French version of this text.