

FOURTH COMMITTEE: RESTRICTIVE BUSINESS PRACTICES

SUMMARY RECORD OF THE THIRD MEETING

Held at the Capitol, Havana, Cuba,
Wednesday, 3 December 1947, at 10.30 a.m.

Chairman: Mr. C. CHARLONE (Uruguay)

1. GENERAL DISCUSSION

The CHAIRMAN, opened the meeting, and declared that all meetings until the end of the present week would be devoted to the general discussion of Chapter V, reminding the delegates that the time for the submission of amendments was 6 December.

Mr. MCGREGOR (Canada), after expressing satisfaction that Mr. Charlone had accepted the chairmanship of the Committee, made a general survey of the discussions in Geneva regarding Chapter V.

He pointed out that Chapter V as it stands now is a joint product; delegates of a number of countries representing all continents and different economies helped in drafting it.

It recognizes the necessity of preventive, as well as remedial, action. The organization to be set up could not order any country to take any specific remedial action. Each nation would be free to act in a way which it would consider appropriate, but it would be required to explain why it had not acted on any decision taken by the ITO.

There was urgent need for the type of joint action called for in Chapter V. Acting alone a nation could not protect itself - it could only be protected by the type of international co-operation now proposed.

The delegation of Canada had no reservations or amendments to submit to Chapter V. It regarded the Draft Charter as a substantial basis for effective action and its principles and policies would be endorsed wholeheartedly by the Government and Parliament of Canada.

Mr. LIMA (El Salvador) speaking on a point of order, requested that Spanish be used as a third working language of the Committee and, in that connection, referred to Article 53 of the draft rules of procedure.

Mr. CAMP (Argentina) supported the remarks of the representative of El Salvador.

/Mr. COLBAN

Mr. COLBAN (Norway) pointed out that Article 53 had been included in the draft rules of procedure to enable committees to simplify their procedure and save time.

Mr. MONGE (Peru) pointed out that the acoustics of Committee Room C were not satisfactory and that if some other arrangement was not made he would have to support the delegate of El Salvador.

The CHAIRMAN informed the Committee that within the next forty-eight hours it will be possible to hold the meetings of Committee in a room provided with simultaneous interpretation and suggested that in the meantime it would be helpful if representatives would speak clearly, and would deliver their speeches standing.

The Chairman's suggestion was accepted.

Mr. ALCAR (Mexico) emphasized that there should be equal treatment of all nations, and said that Chapter V contained three main points which were outlined in Article 44. It would be necessary, in dealing with the Chapter to clarify that part referring to the obligation of Member States. No State should suffer because its legislation had laid down certain systems involving restrictive measures. The delegation of Mexico would not accept any measure which was contrary to its own legislation. It would therefore have to submit amendments to Chapter V and to request clarification on certain points.

Referring to the question of monopolies, Mr. Alcar pointed out that they could do great harm to the development of international trade. However, it should be made clear in Chapter V that in mentioning monopolies reference was not being made to organizations of interest to a State or of a social nature.

Mr. CAMPS (Argentina) in presenting the Argentine amendments to this Chapter, contained in document E/CONF.2/11/Add.3, explained that they dealt with three main points. In the first place, his delegation fully agreed that in private trade restrictive practices should be avoided. With regard to public enterprises, the case was a little different, because the higher interests of the respective States came into consideration. In eliminating from this Chapter all mention of public enterprises, it should be borne in mind that public enterprises did not have the aim of limiting international trade, and were therefore not restrictive. In Argentina there existed an organization known as the IATI whose object was not to limit international trade, but to organize and co-ordinate international exchanges, and to implement the Argentine programme of co-operation in world reconstruction. He stated that if the Argentine amendments were not adopted, /his delegation

his delegation would have to formulate a general reservation with regard to Chapter V.

In the second place, the amendments dealt with the power of decision given to new Organization, and did not apply only to Chapter V. The delegation of Argentina acknowledged the competence of the new Organization to deal with studies and investigations and its right to formulate recommendations, but considered that the States Members should retain the right to make final decisions.

In the third place, the amendments dealt with procedure with respect to services. There were two points with regard to this which he wished to raise. Firstly, the Argentine legislature provided that telecommunications and posts, telegraphs and telephones belonged to the State. Secondly, the banking system was being reorganized. The Central Bank had been nationalized and a State guarantee of deposits in private banks had been introduced, which was tantamount to nationalization. Moreover, all means of transportation were in process of being nationalized.

Mrs. KILROY (United Kingdom) recalled that during the London discussions there had been considerable divergence of opinion on this Chapter, and these divergences might persist if the matters continued to be discussed on a theoretical basis. While some condemned and others approved of restrictive practices in theory, the delegation of the United Kingdom took a middle view. She thought it was the general view of the delegates present that if these practices militated against the objectives which they were gathered together to further, harm was being done. Chapter V followed this line and neither condemned nor approved, but provided for investigation and the lodging of complaints.

With regard to the summary of the Chapter which had been circulated she wished to make it clear that it was only accepted as a summary by the delegation of the United Kingdom. Any amendments would be made on the basis of the official text.

The meeting rose at 12.15 p.m.
