UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL

PREPARATORY COMMITTEE
of the
INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report
of the
EIGHTH MEETING
of
COMMITTEE III
held at
Church House, Westminster, S.W.1
on
Monday, 11th November 1946
at
4 P.M.

CHAIRMAN: M. PIERRE DIETERLIN (France).

(From the shorthand notes of
W.B.Gurney, Sons and Funnell,
58 Victoria St.,
Westminster S.W.1.)

CORRECTION: In the Verbatim Report of the
Fifth Meeting of Committee III on Tuesday,
5th November 1946, (E/PC/T/C.III/PV/5, on
page 19, line 9, for "investigation" read
"industrialisation."
The first item on our agenda is concerned with a letter dated 7th November 1946 and addressed to Mr. Wyndham White by the President of the International Chamber of Commerce on the subject of the work of the Preparatory Committee. This letter was submitted to me by Mr. Wyndham White, who asked me to do one of two things: either to ask Mr. Philips, the President of the Chamber, to submit to you all explanations or suggestions he might think useful, or else to get into direct touch with him myself. Having acquainted myself with suggestions submitted by the International Chamber of Commerce, which are mentioned in Document 101 of this agency, it has appeared to me, as it must also have appeared to the Members of the Committee, that the general ideas expressed in this document conform to those which have inspired the Report we are at the moment discussing. Considering all this, I had a visit from Mr. Philips this morning and explained this point of view to him. When we had exchanged ideas, purely for purposes of information, Mr. Philips declared that he was entirely satisfied with the explanations I gave him, which he said appeared to conform to the ideas held by the Chamber. It seemed to Mr. Philips that it was unnecessary for him to be heard by the Committee.
On the other hand, I should have liked to have entered into similar contact with Mr. Duret, who is the representative of the World Federation of Trade Unions. Unfortunately, Mr. Duret is not in London. He will be in Oxford for the next few days. I myself will have to leave London tomorrow morning for Paris, so I am afraid it will not be possible for me to establish contact with Mr. Duret as I would have liked to have done concerning the work of our Committee. Therefore, I shall ask the Secretariat to send him the report of our meeting containing a record of my words on this subject, and express to him all my regrets that I could not see him before I left. If Mr. Duret sees any reason for coming into contact with representatives of our Committee, I might suggest that he be received by our Vice-Chairman, Mr. Gonzalez. Has anybody any remarks to make on this subject? If no Delegate wishes to speak, I shall pass to the following item on our agenda, and I will open the discussion on Document E/FC/T/C.III/W.4, which has been circulated this morning. This document contains a few amendments to the text which was discussed by us last Wednesday at our meeting.

This document is the blueprint of the report which we shall transmit to the plenary meetings. In the first part, it contains a summary report of our work to date. The second part contains instructions to the Drafting Committee, and, taking into consideration the nature of the draft we suggested, these instructions ask only that the Drafting Committee include the chapter in hand in the future draft Charter. The third part contains the suggested text of a chapter on restrictive business practices. There is also an appendix, not yet circulated, which will contain certain reservations and remarks which have been made by some Delegations, which those Delegations wanted to include in the report. In the light of those preliminary explanations, I now open the debate on the document.

Mr. Thiltges (Belgium-Luxembourg) (interpretation): As Delegate of Belgium and authorised by the Delegate of Luxembourg to speak in his name also, I should like to thank the authors of this new document. Now that the word "likely" has been changed, those of us who objected to it can now, without reservation, accept the draft.

The Chairman (interpretation): I believe that Mr. McGregor may have a few more precise explanations to offer to us concerning certain changes and additions which have been made at the last minute to the text received this morning. I think it would be best to allow him to speak before we go on with the debate, as his explanations may give us most useful help in the discussion.

Mr. the Rapporteur (Mr. McGregor): You will observe from the document before you that it concludes its report of our proceedings as on Friday, November 8th. The suggestion I have to make is that the whole paragraph which appears on page 3 should be deleted, and the paragraph at the end of page 2 should be continued with these words: "The draft of Chapter V ... was submitted to the Committee in its seventh session on 8th November...." and we would continue with these words which have just been drafted, and drafted on the assumption that at the end of this meeting we shall have complete agreement, with the one exception that it appears we will not be able to have full concurrence in..."and the following redraft was submitted on 11th November, Document C.III/W.4. In the latter meeting" — that is, this meeting — if that is what we decide — "the consensus of the Committee was that this draft represented a satisfactory reconciliation of hitherto divergent views on all points, except that in the opinion of some delegates the provisions should apply to services as well as goods. Certain delegates made observations on other points which they asked to have recorded in the final report, not as formal objections to the draft, but as changes or additions which they would
have preferred to include in the report. Note was taken of these observations, and it was decided to include them in an addendum or appendix to the Committee's report. The draft of such an addendum would be referred to the Committee for consideration at a later meeting."

THE CHAIRMAN (Interpretation): I apologise for interrupting on the subject of the last words which Mr. Mcgregor said. Mr. Mcgregor was foreseeing the possibility in the draft he submitted of a later meeting. Personally, as I told you, I am obliged to leave London, but as Chairman, I would have wished, if it were possible, to be able to transmit in person to Mr. Sustans, who is President of our Conference, the report drafted by our Committee. It seems to me that the points which remain to be discussed are not of such importance that they require on our part any long discussions. Therefore, I hope that we will come to an agreement on the subject in the course of our meeting of today.

The only questions which remain to be discussed are those which might arise in the course of the exchange of views and the contacts which our Vice-Chairman, Mr. Gonzalez, might have with the Chairmen of other Committees, as well as the Delegates who have been designated for the task of liaison, and who were elected to help him. If it appeared as a result of these contacts that it would be necessary for you to come together again, another meeting would take place probably towards the end of this week, but it is not sure that this meeting will be necessary. In any case, unless the Committee sees differently, I insist that we should try, with all the reservations which have been formulated and which are on the third page of our report, to conclude definitely this report today, so that I should be able to transmit it to the President of our Conference.
The last sentence of the text which has been submitted by Mr. McGregor would therefore have to be modified accordingly. I think that Mr. Windham White, who has done us the honour of attending our meeting today, has a communication to make to the Committee.

The Executive Secretary (Mr. Windham White): The question I wanted to bring to the attention of the Committee was the nature of the report under the second part. The plan of the report which has been the subject of discussion by Heads of Delegations does envisage a rather full report in Part II, which would set out in some detail the various points of view expressed in the Committee, and a description of the principles upon which an identity of views was reached, or similar views were expressed, in the Committee upon which would be based the draft clauses for ultimate inclusion in the Charter.

An important aspect of that question is that it is proposed to publish Parts I and II of the report, but not to publish the Appendix. I think that that will be a decision which will not be a particularly popular one, and that we shall have considerable pressure to make the Appendix available. I think that that pressure can be resisted, but that it is extremely difficult to do that if reports are drawn up in a form which reduces Part II of the report to a comparative formality, which is the case in the report we have before us now. We had envisaged Part II, as I say, going into some detail as to the discussions which had taken place, and providing the basis for instructions or suggestions to a Drafting Committee to prepare a clause reflecting the views expressed in the Committee itself. It is true that the Drafting Committee, in carrying out this task, would be basing their work also upon a text which had been discussed and established in a preliminary way in this first meeting of the Preparatory Committee, but their formal basis of action would be the instructions given to the Drafting Committee in Part II of the report. So I do hope that the Committee will consider expanding...
Part II of this report to conform to the plan which has been rather carefully worked out and considered by Heads of Delegations.

THE CHAIRMAN (Interpretation): I thank Mr. Windham White for his explanations concerning the manner in which the Executive Secretariat foresees the drafting of the second part of our report. Before submitting to the deliberation of the Committee the suggestions which have just been made by Mr. Windham White, I would like to clarify the discussion and indicate to the Committee in what form I had myself considered that second part, after having been present, as Chairman of this Committee, at the meeting of the Committee of Heads of Delegations, where it was decided to adopt the division and general plan in conformity with which we have drafted the report we are now discussing.

I thought that the task of the drafting Committee which is going to meet at the end of January was essentially to establish texts as far as these might not have been drafted in this present Conference. I know that the problems which have been submitted to other Committees raise many problems of a technical nature, where it was difficult to draft a text which satisfied all Delegations. Consequently, some questions remained in suspense, as the somewhat divergent points of view had to be defined in order to facilitate the task of the Drafting Committee.

This does not seem to be the case with Committee III. It seemed, after our meeting on Friday, that, in spite of reservations which had to be discussed in the third appendix to the report, and as our report cannot give complete satisfaction to all Delegations here, none of the Delegations, except perhaps the Indian Delegate, felt that it had to refuse the text submitted by our Rapporteur. On the other hand, it is clear that the problem that we have to discuss here is not one of those which, in the present stage of affairs, allows the drafting of a definitive text, with all its practical details.
all agreed that it would be the task of the Organisation itself to set up little by little its own doctrine and its procedures in the light of the experience which it would acquire with time, but for the time being we could only establish a general line of conduct. In these conditions it does not seem that one can go much further in the elaboration of a text than our Rapporteur, with his experts, has done. It seemed to them that the Drafting Committee, as far as the part of the Charter on restrictive commercial practices is concerned, would have to limit itself to the text which we have drafted. This is the impression which I myself deduce from the discussions which we have had and the contacts which I have had with our Rapporteur and the experts who had to assist him.

I would be glad to hear the opinion of the Committee on this subject, and I ask those members of the Committee who agree to following Mr. Windham White's suggestion of having a much more elaborate second part to express their approval; but I fear that if we did follow this path we would find ourselves in a very difficult position and a discussion which would make our task less easy. As I have to leave London, I would not unfortunately be able to participate in the drafting of the second part in the way he suggested.

Mr. Hakim (Lebanon): I suggest that part II should contain a summary of the views contained in the text without any statement as to which Delegations presented those views. The summary would contain these views not in the form of a legal text, or principles put in legal form, but would consist simply of principles in the form of a statement of views on which agreement had been expressed in this Committee. I think that could be done by a small drafting Committee. Part II should not contain any definite views attributed to certain Delegations.

The second part of part III, which is in the form of amendments, additions, deletions and reservations would also be contained in that Part II, but without any reference to the Delegations which made those amendments or reservations. If this suggestion is followed, the work to be done would simply be a summary of the text in the form of a statement, but not in legal form.
THE CHAIRMAN (Interpretation): I would like to thank Mr. Hakim for his
his suggestion. In order to avoid any misunderstanding, I would like
to ask him if he would be a little more precise. My impression is
that, in the light of the discussions that we have had, some of the
Delegates who put forward their points of view at the beginning of
our task, have since modified their points of view, and might not be
willing to see statements set out which no longer correspond to their
present views. On the other hand, I do not see the use of this summary
in a Part of the Report which is supposed to assist the Drafting Com-
mittee in their task. I fear that if we put those various points of
view there, the Drafting Committee might be led to be in all over again
the task with which they are confronted and which, in a way, would
differ from the views which we have adopted. They might not
correspond exactly with the views on which we have obtained the maximum
agreement. If I have understood correctly, this Drafting Committee
would only consist of two or three experts per Delegation, and it is
quite possible that some Delegations might not have experts who would
be informed on restrictive commercial practices. Therefore, it seems
to me that there might be some danger in introducing into the Part
which is destined to act as a directive to the Drafting Committee
some statements of points of view which do not conform to the attitude
which we expect of this Committee.

Mr. HAKIM (Lebanon): I understand that Part II will be published,
whereas the text in Part III will not be published. I think we
should give the public an idea of the main principles of this
chapter on restrictive business practices, and of the agreement
which has been reached on those principles. On the other hand, I
should think that the Drafting Committee will not need the text which
it is proposed to pass on to it. As it is, they will probably make
certain changes in its wording. This general summary setting out the
general principles would correspond with the text of the clauses which
we are passing to the Committee, and only changes of wording will be made by that Drafting Committee and no changes of principle.

The Chairman (Interpretation): I would like to answer Mr. Hakim, firstly, on the second point in his remarks. I have consulted the Committee as a whole on that point. Mr. Hakim suggests the Drafting Committee might be led to bring some changes into the expression of thought of our Committee. It seems to me that there would be a great danger there, for the reasons which I have already indicated, namely that on account of the very small number of experts of each Delegation who would be on the Drafting Committee, there would probably be many Delegations which would not be able to send as members of the Drafting Committee any experts who have been informed of restrictive commercial practices. In those circumstances, I think there would be danger in loading in any way the Drafting Committee to modify the present draft which has been submitted for discussion. If the Committee accepts this point of view, I would like to say that Mr. Hakim's suggestion seems valid to me, but the summary of the points of view which he wants brought into our report should not be in the second Part but in the first. In a way, this first part contains an allusion to various points of view which have been adopted. Perhaps the Committee will think that this first part of the Report does not give sufficient explanation on this point. It is in this way that Mr. Hakim's suggestion might be retained. Nevertheless, having heard his suggestion, I would be glad to know the view of the Committee. To avoid any misunderstanding, I will summarise. Does the Committee consider that it would be useful that the Drafting Committee should receive a directive and that there should be some new amendments to the text which we are discussing now, or does the Committee think that this text should not be amended? The second question is this. Does the Committee think that it would be useful, in the case where our instructions to the Drafting Committee would be not to modify the text, to complete the first part of the Report by including a more complete exposition of the points of view expressed around this table, in so far as the Delegates who have
expressed them have not been led to modify their points of view later in the discussion. I would like to throw open a discussion on these two points.

Mr. LECUYER (France) (Interpretation): I would like to answer and on behalf of the French Delegation, to say that I do not see the point in having any amendment to the present text, and that I think there is no reason for the Drafting Committee to meet again to amend it unless the discussion leads any Delegations to express any different points of view. On the second point, I think there is some real interest in the Report which is to be submitted to the Preparatory Commission mentioning the principal reasons for the text, and why we adopted one or other suggestion. That is necessary not only for the Preparatory Commission but also for the Drafting Committee which will meet later. There is one point, however, to which I think I should draw your attention in order to answer what Mr. Hakim has said, and that is that I think it is necessary that the future Drafting Committee should have in its hands an indication not only of the opinions which have been expressed but also of the Delegations which have expressed them. It might not be necessary or useful that the public should know it, but it seems to me rather serious if the Drafting Committee neglected it.

THE CHAIRMAN (Interpretation): I thank Mr. Lecuyer for his remarks. So far as the last point is concerned, I would like to point out to him that it is in the third Part that it is foreseen that the points of view expressed by the Delegates should be included, with the names of the Delegates. I would like to ask Mr. Wyndham White for clarification of one point which is obscure to me. I have understood, though I am not sure, that the draft of Chapter III would be included in the third Part of the Report, but that means that it would not be published, I think. This point is not clear to me. If the Report is published, a great part of the remarks which have been so ably formulated by Mr. Hakim would be satisfied, in that the public would have the maximum amount of details concerning our
tasks and would have the text which comes at the end of it. I think Mr. Wilcox wanted to speak, but first of all I would like to have Mr. Windham White's opinion.

The Executive Secretary (Mr. Windham White): The view was expressed strongly in the meeting of the heads of Delegations that in the published document there should not be what would appear to be fairly definite texts of what was agreed upon here. The feeling was expressed strongly that some Delegations might be embarrassed if the Report were published which gave the impression that their Governments were in any way committed to a text, and that is the reason why this separation was agreed upon between Part II and Part III; it being the preference of these Delegations that Part II should merely contain a description of the points on which similarity of views has been established and upon which the task of drafting could proceed subsequently.

The Chairman (Interpretation): I would like to answer Mr. Windham White by referring to the fact that, apart from the Indian Delegation, the project under discussion received general agreement. In these circumstances, there is no better way of pointing out the points on which we came to general agreement than to give in the second Part the text of chapter V as it is now proposed. On the other hand, as it is understood that this text will be submitted to a later conference and our Governments will try to reach a final agreement, I hope it is understood that it will be stressed in some part of the Report that the text which we will eventually publish in Part II does not constitute in any way a definitive text. I now call upon Mr. Wilcox.

Mr. Wilcox (U.S.A.): I would like to suggest that the subject which we are discussing is not an appropriate one to be discussed in this Committee. It seems to me that the form of the final Report must be unanimous, and that the decision must therefore be made at the meeting of heads of Delegations. I had understood from our previous discussions in these
meetings that there was general agreement that Part I would be made public. I do not believe, as far as I remember, that any definite decision was made as to the other parts of the Report. As far as I am concerned, I would have little question about making Part III public. The text of the United States Draft Charter has already been made public, and any sort of a full report of proceedings of this Committee would indicate pretty well what ground was covered. However, that, I think, is a decision that should be made, with respect to all the sections of the report, and should probably not be made by this Committee. As to Part II, it was my understanding that it would be the function of Part II definitely to give instructions from this meeting of the Preparatory Committee to the Interim Drafting Committee. As such, it seems to me that with respect to the work of some of the other Committees the content of Part II might be highly detailed and technical, and it might carry a suggestion to the Drafting Committee that it should prepare alternative drafts along different lines. I would suggest that if Part III is not to be made public it would probably be inappropriate to make Part II public, that we would be considerably handicapped in using Part II as definite instructions to an interim Drafting Committee if it were to be made public. I do not see just where we would give the Drafting Committee their instructions if we kept Part III secret and then told them what should be done with that material. My suggestion, therefore, is that the whole scope of what we are all more or less agreed upon should be given to the public, should be included in Part I, and then we should decide at some subsequent time what we should do with Parts II and III and whether we should make them public or not, but the decision should be a unanimous one agreed by all Committees.

THE CHAIRMAN (Interpretation): I have taken note of Mr. Wilcox's intervention, and my opinion is as follows. The question which we are discussing really comes less under the terms of reference of our Committee than either the heads of Delegations Committee or the Plenary Committee. I would suggest that we should not go on with
the discussion in order to find out what should or should not be in Part I, Part II or Part III, or what should or should not be made public. I think it is understood that it will be the duty of the Plenary Committee and the heads of Delegations to agree on this form, and the wording of the general Report and also of the reports of every one of the Committees. I suggest that we might examine this Report as to its substance, leaving to the Secretariat the task of establishing the final form of the Report, in accordance with the directives received from the heads of Delegations or the Plenary Committee. Leaving aside all suggestions arising from Mr. Hakim's remarks, which have been taken note of, are there any other remarks to be made concerning the substance of the Report?

Mr. LEENDERTZ (Netherlands): I understand that it is desired that the discussion should go further about the text of the proposed Charter. First of all, I would like to say that I am agreeably impressed by the alteration brought about by the word "likely", and I also withdraw with pleasure the reservation which I made as to that wording. Also, the Netherlands Delegation made a reservation as to the words "Public commercial enterprises" in Article 34, paragraph 2, because this matter of public commercial enterprise should also be the subject of discussion of the second Committee. At the end of the meeting when I had made the reservation, I learned that the Contact Committee had been set up and I am assured that the Contact Committee will look into this matter. If that is so, I think I am able to withdraw that reservation.

THE CHAIRMAN (Interpretation): So far as the question which has just been raised is concerned, I think it will be the duty of the delegates who were named in the course of our meeting last Friday to enter into contact with the other Committees. It should also be their duty to establish liaison, in particular with Committee No. 2, to see in
what manner the problem mentioned here by Mr. Leendertz might be solved, what decision concerning this problem might be, adopted by Committee 2, and how that decision might influence our draft.
I understood, following the discussions which took place at the beginning of our meetings, that the problem facing Committee II was vastly different from the one we thought we had covered by the draft of Article 34. Nevertheless it is not impossible that there may be some interference between the two Committees such as Dr. Leendertz seems to fear; if that is so, it will be discovered through the contact established with the Chairman of Committee II. It might then be the task of our Committee to take this into account.

MR. LEENDEERTZ (Netherlands): Thank you very much for your explanation. I would like to point out that in our last meeting I made a small reservation as to the matter of Article 35. I do not find that reservation in this paper, and I should be glad if it could be included as a last paragraph. I would also like a reference to a suggestion which I made and which we are making in other Committees to the effect that the Court of International Justice might be a very good authority to which to refer questions which might arise within the Organisation which could not find a satisfactory solution there.

THE CHAIRMAN (Interpretation): Dr. Leendertz has brought to our notice the fact that in the text of the report submitted to us an omission has been made. There are also two points on which he has made suggestions, that is, there is a passage concerning licences and a suggestion about the terms of reference to the Court of International Justice. I will ask the Rapporteur if he will kindly complete the third part of the Report by including those two points. I should also like him to agree his draft concerning those points with Dr. Leendertz directly, as this concerns only the Netherlands Delegation and not the Committee as a whole.

MR. NAUDE (Union of South Africa): There is something to be added to, and I should like something removed from, the second part of Part III. The third paragraph states that the Delegation of South Africa supported
the Indian suggestion as far as shipping is concerned. Perhaps I should explain that at the last meeting I thought I understood the explanation that had been given as to the exclusion of services from our studies here, but at the same time my Government was interested in shipping and what I said certainly did not amount to supporting the view of the Indian Delegation that the Charter would have no meaning if shipping was not included. My remarks amount to this: would the Rapporteur cut out paragraph 3, that is all.

THE CHAIRMAN (Interpretation): I shall ask Mr. McGregor to take note of Mr. Naude's remarks. Are there any other observations?

MR. HOLMES (United Kingdom): A point I should like to make about Part I is a small and perhaps technical one which would probably be ruled out in some general, final polishing committee which it is common, I think, to have in the very closing stages of a conference. My difficulty is this: in Part I, which is definitely for publication, there are some references to documents prepared for this Committee and therefore, I think, all of them restricted. I see such references in the last paragraph but two and the last paragraph but one of Part I. As a general rule it is difficult, in a public document, to mention by name and number documents which have not been, and which are not going to be, published. It is only a matter of drafting, but I would suggest that we ought to remove the reference number at any rate.

THE CHAIRMAN (Interpretation): If the Committee agrees, I will ask the Rapporteur to delete these words from the text.

MR. MONTEIRO DE BARROS (Brazil): I have two reservations to make and one proposal. The first reservation concerns the exclusion of services. It has been mentioned already. The second reservation concerns public enterprises. This is referred to in sub-paragraph (a) of the second part of Article 34, and this second reservation has not been mentioned in the text. Moreover, as far as my proposal is concerned, the idea I expressed has not
been noted with any precision. It has not been given as it was expressed.

I wonder whether, before we prepare the final draft, I might not be given
an opportunity of coming to some agreement with our Rapporteur, so that our
proposal may be precisely and exactly reported?

THE CHAIRMAN (Interpretation): I shall ask the Rapporteur to get in touch with
you so that the two points which have been omitted may be included, along
with the draft of your suggestion about publicity being given to cartels.
It is a point concerning only the Delegate of Brazil and I think it might
well be agreed between you and the Rapporteur. I do not think it will be
necessary to submit them to the whole Committee. Any other remarks?

MR. HINDS (United Kingdom): Before we close the discussion, could we be
quite clear as to what will be the position with regard to this draft report?
As I understand it it is to be left to a decision of a further meeting of
the Committee of Heads of Delegations as to whether a substantial part of
the work of this Committee is to be communicated to the Press or very little.
Do I understand that if the Committee of Heads of Delegations so decides
Part II is to be redrawn, approximately on the lines which have been mentioned
in the course of this meeting by Mr. Wyndham White and others, or are we to
present this report to the Heads of Delegations with a view to their deciding
whether Parts II and III are to be in some way coalesced, or whether the
only public portion should be Part II?

THE CHAIRMAN (Interpretation): I believe that in any case the normal system
of procedure which we ought to follow would be this: we might transmit
the report we are discussing to the Plenary Committee of the Conference.
It will then be incumbent upon the Heads of Delegations represented in that
Committee to decide what form this report shall "take and in what form it
shall be inserted in the report of the whole of the Conference, as well as
which parts of the report are to be made public and which not.

As far as the second part is concerned, that is, suggestions and
directives to be given to the Drafting Committee, I rather feel that some of the Delegates wanted to have the second part developed further, and have suggested that the Drafting Committee might be given a certain amount of initiative in preparing this text. On the other hand other delegations might think, on the contrary, that such procedure would not be without danger. It seems to me that if we reopen again a discussion of this point it will be very difficult for us to get the general agreement of the whole of the Committee. A great deal of time and effort has been given by the Rapporteur to the preparation of this text, and we have got the agreement of the British Delegation on the subject. As to the remarks of Mr. Hakin, I would like to put it to the Committee whether it would be wise to keep the draft of the second part in its present form, that is, instruct the Drafting Committee not to make any changes in the text, or whether, in accordance with the suggestions of Mr. Hakin and Mr. Holmes, we ought to leave a certain amount of latitude and freedom to the Drafting Committee as far as the wording of the text is concerned.

I should not like to call a vote on a question of pure form and procedure, therefore I will ask the Delegates whose opinion it is that we should leave our instructions to the Drafting Committee in their present form to raise their hands, and then I shall ask those who believe the contrary to raise their hands.

Will those who believe that we ought not to leave to the Drafting Committee the freedom to change the text please raise their hands?

I will try it the opposite way: will those who believe that we ought to leave to the Drafting Committee a freedom to change the text please raise their hands?

I see that three Delegates believe that we ought to leave such freedom to the Drafting Committee.
I repeat that this is not a formal vote. I do not believe there is any need to give it any such solemn form, but my conclusion, therefore, is that the opinion of the Committee is that the Drafting Committee should only present their text in its present form.

MR. HOLMES (UK): I ask for the floor merely for this reason. I did not when I spoke last make any suggestion. I was only asking for enlightenment. It was not a proposal of mine. I was not very clear quite how we were dealing with the apparent criticisms of the form of the draft by the Executive Secretary of the Conference. I was not very clear how, if there was any question of this draft being altered, we could very well do without a further meeting of this Committee, because it would be this Committee's draft that would have to go to the President of the Conference. If it is not this draft as it stands, then shall we not have to have at least a formal meeting of the Committee to approve something different? I was only asking for enlightenment.

THE CHAIRMAN (Interpretation): If I understood correctly the remarks made by Mr. Windham White, the Committee of the Heads of Delegations will decide what must be included in the second and what must be included in the third part, and also what must be published and what must not be published. Although the Plenary Committee has plenary powers, I do not think it would be its intentions to modify the substance or form of the text which we forward to it. On the other hand, I suppose you were alluding to the task of the present Conference. It is understood that after the task of the Drafting Committee is finished, another Conference must be called where the Delegations will have all freedom, in the light of whatever may happen, to bring whatever amendments they wish to the text. But that is another conference.

For the time being, our discussion covers only our present tasks, and what the Drafting Committee will have to do. I have no doubt that, with the exception of three Delegates, most of the Committee
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felt that it was better that the Drafting Committee accept the text just as it is. In those conditions, the second part, though it may not be the second part any longer — the second part as it has been presented by our rapporteur — seems to me to be in conformity with the intentions of our Committee as they have been expressed.

MR. MCGREGOR (Canada): Speaking as the Delegate of Canada, our understanding is that parts I and II should be made public. If you include this statement in part I it will be made public, but it would only be a partial statement, and it would deal primarily with the differences of opinion that have been expressed in this meeting, even though we do preface it by some statement that there was general agreement. In any case, I do not see the point of making all these observations to the Drafting Committee, which I presume would be a committee of lawyers meeting in New York, who may have to make certain technical changes. But it should not be for them to change the considered opinion of this Committee. Therefore, I do not see the point of turning over to them all the expressions of differences of opinion when we have arrived at a conclusion here.

MR. WILCOX (US): Whether the statement should be made in part I or in Part II, I believe that it is the opinion of several Delegates that the statement that is made public must be somewhat fuller than what is presented here. Therefore, there is additional drafting to be done, and as I understood it, Mr. Holmes's question merely was whether it would not be necessary to have a drafting group of this Committee at this time to prepare some additional text, and would it not be necessary to have another meeting of the full Committee to pass on that text. I do not believe that that question was answered.

THE CHAIRMAN (Interpretation): The President of the Conference wishes to say something to us, and I am glad to welcome him here.
MR. SUTTENS (President of the Conference) (Interpretation): I apologise for entering this discussion, but I do so in my role as President of the Conference, and especially as it seems to me that there are some divergencies of views concerning the decision which has been adopted in the Committee of Heads of Delegations. I think that the position is very clear. The report of each Committee must consist of three parts. The first part is the historical description of the tasks of the Committee. As far as I am concerned, I have no remarks to make about the way in which this Committee has understood its task concerning the first part. The second part must be a group of instructions for the Drafting Committee, and I was very much surprised to see that a vote was taken as to whether the Drafting Committee is to be bound or not by a text submitted to it. In my opinion it must be absolutely free in this matter. It is clear that if the Drafting Committee had before it a text which had unanimity and was not a compromise, it would not want to change it in any way, but I do not think it should be bound in any way. In any case, I think one must give to this Drafting Committee instructions, and to give these instructions one must in some way give an exposition of the problems submitted to it.

I have had before me two reports, this one and that of Committee I. I do not want to compare them one with the other, but I think that the report of Committee I is more in conformity with the spirit of the decision of the Committee of Heads of Delegations. There is there an exposition of the points of view expressed, with from time to time indications of possible divergencies, and in the last paragraph, it says, in effect, "In conclusion, this is the form which seems most appropriate and which seems to reflect best the general tendency of the Committee."

Since earlier there was hesitation about what were the decisions and the spirit of these decisions of the Committee of Heads of Delegations, I took the liberty of intervening, and I apologise again.

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I hope that I will have brought some light into the debate, and I will add this, that in the meeting of the Heads of Delegations it was decided that the first part and the second part of the report will be public. It is only the third part which will not be public, because this is a project which has to be submitted still to a drafting Committee which must see whether it is in conformity with the decisions which have been taken.

THE CHAIRMAN (Interpretation): I would like to thank you, Mr. Suarez, for your explanations. You have brought to us all the clarity which we needed on the problem we were discussing. If I understood correctly the remarks of Mr. Wilcox, he believes it is desirable, and I see that he expresses the opinions of several Delegates, that one should bring greater explanations and more complete ones in the first part of the report. As far as concerns the second part, when I submitted the matter to the Committee, it was never my intention to deprive the Drafting Committee of its freedom of action, but I had understood, as we were being asked to give instructions to it, that these instructions had to be conceived in one way or another, and to take the two extreme possibilities, we could instruct the Drafting Committee either to do as it wants, or to maintain this text as far as possible in its present form, because it seems in its substance to be the most elaborate form of the problems which we could give in the present state of affairs. There might be intermediate and more subtle ways of expressing it, but I think I am in the spirit of the Committee when I say that this Committee wishes to see as few amendments as possible brought to the draft which we are discussing now.

In these conditions, I do not see very well what we can add, if it is not done for the pleasure of having a fuller page, to the text as it stands. My impression is that in Conferences like ours the reports are generally too long or too brief, and that the brevity
of our second part is due to the fact that the subject we were
discussing was different from what was being discussed in Committee
I, and the instructions which we have to give to the Drafting
Committee do not necessitate any such long development as those given
in Committee I.

May I again ask the Committee if it is their opinion that the
drafting of Part II should be amended, and whether, taking into
account the observations made by Mr. Suetens, in what way it
believes that the second part could be completed, that is to say,
the instructions which have to be given to the Drafting Committee.

MR. SUETENS (President of the Conference) (Interpretation): I would
like to complete what I have said. I was impressed by the remarks of
the Lebanese Delegate, and I think he formulated clearly the
proposal which is needed. Since parts I and II are for the public,
the public must know what we have done. It is not by reading
Part I that it can have any idea of what we think of the problem we
have been discussing. Part II is therefore a group of instructions
given to a Drafting Committee, but it is also an exposition destined
to the public, and it is in this way, I believe, that some
development of the nature of the tasks you have undertaken must be
included, together with the points of view which have been expressed
and the general solution which we give to them.

THE CHAIRMAN (Interpretation): I would like to thank Mr. Suetens again,
and in these conditions I believe it would be necessary to take
into account the remarks which have just been made, and that Mr.
McGregor should redraft the second part of the report. It would also
be necessary for our Committee to meet again to examine this revised
second part. With regard to the French text, this text could not be
drafted in time for this meeting. Therefore, I ask Mr. Lecuyer, the
French expert appointed to help Mr. McGregor in his task, to maintain
contact with him in order to establish as quickly as possible the parts
of the French text which correspond to those which it can be said
we have already agreed.

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So far as concerns the additional sections which Mr. MacGregor is going to write for the second Part, I hope Mr. MacGregor will maintain contact with him.

THE RAPPORTEUR: I would like to suggest that someone else should be asked to undertake the work of drafting.

THE CHAIRMAN (Interpretation): As anyone a proposal to make in order to solve the problem brought about by the temporary absence of our Rapporteur? As no one wishes to speak, I would like to remind the Committee that Mr. McGregor is being assisted in his work by three experts, Mr. Lecuyer for the French draft, Mr. Wilcox and Mr. Holmes. Perhaps in Mr. McGregor's short absence, Mr. Wilcox and Mr. Holmes might be able to prepare a text for the second part which Mr. McGregor might examine on his return. This text might be submitted to a new meeting of our Committee. Are the Committee agreed upon my proposal, or has anyone any other proposal to make? As no one wishes the floor, I consider my suggestion adopted.

THE RAPPORTEUR: I thought we were just on the point of reaching agreement on Part III, which is a vital part in our whole deliberations. What has cropped up here is purely a matter of form as to whether we put it in Part I, II or III. We had proposed to put in Part III an addendum or Appendix which would contain first of all a reference to the general nature of the understandings reached, and also the discussion on the points on which there had been differences. It would be left then to the Preparatory Committee to use that addendum in whatever way they liked - to make it public or not. If you put it in Part I or II it must be made public. If it is put in Parts I or II you make public all the differences of opinion. All the emphasis will be on the differences of opinion, and this whole conference has not been marked by sharp differences of opinion. It has been exceptional for the unanimity which we have secured during the session. It would be most unfortunate if we should publish a document which
emphasises what has not been present during our discussions - namely a considerable degree of difference. There has been a give and take here which I think should be noted with great satisfaction, and I suggest that we should not permit this meeting today to break up because we have not put the matter in the particular form in which the Committee and heads of Delegations have decided it should be. I submit that with all respect to the heads of Delegations.

The Chairman (Interpretation): Has anybody any observation to make concerning the remarks of the Rapporteur?

Mr. Leendertz (Netherlands): I fully subscribe to what Mr. McGregor has said, and I also feel it would be rather a pity if we should make further work because of technical difficulties which, to my mind, would not improve the work before us now. Would it not be possible to add to Part II something like the last part of Part II, which is on the third page? If something like this could be worked out, I think perhaps Part II would have sufficient body to be satisfactory to the other gentlemen who express other views.

Mr. Wilcox (U.S.A.): I ask the Committee's indulgence for prolonging this session which has already been too long, but it seems to me from the course of the discussion that we want to accomplish four different things in our Report. One thing we want to do is to give a history of what the particular Committee has done. Another thing we want to do is to give an exposition of the issues discussed, for the information of the public. A third thing we want to do is to give instructions to the drafting Committee. In the case of this Committee, I do not think that raises any particular problem. I think what we have here in Part II of the Report is quite ample. We can say to the Drafting Committee "We have covered this ground, and this is the way it looks to us" and stop. We do not have any more detailed technical problems for the Drafting Committee to go into. The next thing we want to do is to provide them with the textual material. I think, however, that in the case of a number of other Committees, or
at least in the case of Committee II, we will have to give some pretty explicit detailed technical directions to the interim Drafting Committee of a character that would not be the sort of thing we would want to put forth for the edification of the public. I think this discussion points towards the fact that our Report should be in four parts rather than three, and that what is given as Part II is what you should have in Part III, and that we have not yet written what I would call Part II—an exposition of the issues—and that task still remains to be done. I think that would be the task of the Committee which is to be appointed.

THE CHAIRMAN (Interpretation): I think that Mr. Wilcox has once again expressed most clearly everything that I myself had in mind. However, I do have the impression that the different ideas which have been propounded around this table on a question which is, after all, only a question of procedure, do touch upon the subject of our work. It is our duty to follow the directives which have been given to us. Following the suggestion made by Mr. Hakim at the beginning of the discussion, our Rapporteur and his assistants will have to bring about certain important changes to the work in the form in which you have seen it today. In view of this, I do not think we should be able to put a final touch today to our Report, and I am afraid that I shall not be able, as I would have liked, to submit it myself to the Chairman of the Conference. As our Committee will have to meet again I see no use in prolonging this Debate at the moment. I shall leave to the talents of our Rapporteur the task of taking into account as far as possible all the remarks which have been made here. I shall ask him to take into account particularly the remarks of Mr. Leendetz. It will also be the duty of the Rapporteur, while not to give the impression that our work has been marked by grave discord and disagreement, which have not really existed, at the same time to give the greatest possible precision to his Report. At the next meeting you will be able to see the new text presented by the Rapporteur.
Before closing this meeting and taking leave of you, I would like to call upon Mr. Korican who has a statement to make of a practical nature, in the name of the Secretariat.

THE SECRETARY, COMMITTEE III (Mr. Korican): Parliament is re-assembling tomorrow, and Deans Court entrance to Church House will be closed, so you will have to expect that some streets will probably be blocked and it will take some time to get to the Great Smith Street entrance. For that reason, I suggest that those delegates who have meetings tomorrow will take that fact into account and will try to use the Great Smith Street entrance to Church House, leaving sufficient time for changes in traffic arrangements.

MR WILCOX (U.S.): Before this meeting of the committee adjourns, in view of your departure from London, Mr. Chairman, I would like to express on behalf of my Delegation, and I am sure on behalf of the other Delegations here, our very great appreciation of the skill and fairness with which you have conducted these sessions, and the great contribution that you have made to the successful conclusion of our work.

MR HOLMES (United Kingdom): I would like to associate myself with those remarks.

THE CHAIRMAN (Interpretation): I thank Mr. Wilcox for his very kind words which he has spoken in the name of the American Delegation, and I thank Mr. Holmes for the support which he has given in the name of his Delegation. Before taking leave of you, I would like to make a short statement concerning our work. When you did me the great honour of appointing me as Chairman of this Committee, I thanked you for the honour you were doing me and my country. Now I would like to state with what pleasure I have felt in directing your work. It has been a real pleasure to me, in spite of the very strict rules of international procedure. It has been a pleasure to discover the good will and co-operation and objectivity which have inspired incessantly the Delegates surrounding this table, and I thank the
Delegates from the bottom of my heart. I would like once more to remark upon the work done by our Rapporteur and the experts who assist him. I have no doubt that our Rapporteur and his experts will bring the work to an end, and a good end. At the same time, I would like to thank the Secretariat and Mr. Korican for all the trouble they went to in order to take care of the material side of things, which were very difficult to cope with in view of the short time at our disposal. I regret the necessity of returning to Paris which will prevent me from taking part in the work of our Committee, but I have no doubt that Mr. Gonzalez as Vice-Chairman will take my place with much greater talent than I have been able to furnish. On the subject of our work, I would like to add a few personal remarks. During the all too short moments of leisure we have had, I had occasion to study a book published recently in England by a young professor of Cambridge - a study of the development of capitalism.
We all know - we all knew it before - that the question of restrictive practices is almost as old as the world itself, and that, as I have already said in the course of the press conference, there has been conflict after conflict between a tendency to establish a monopolistic situation and the opposite situation for the maintenance of healthy competition. The merit of the book I have mentioned is that it approaches this subject with the greatest possible amount of documentation. The fight for the maintenance of healthy competition through all the periods of economic history has seen ups and downs. There have been periods when such competition has entirely disappeared. One might say that during the period between the two wars this competition has, in many cases, seen many dangers. It may be that the effort we are accomplishing now, and the effort we have been putting forth for the past eight days, may be no more than just a brief episode in a story which will see no end, but it may also be - and that is what I, personally, hope and what the members of this Committee hope with me - that the work of our Committee represents truly a turning point in this history and the beginning of the solution of a problem which has been facing the world for centuries, a solution which will finally allow us to find better standards of living for all humanity. Also, as is stated in Article 34, the establishment of a real income level as high as possible.

It is with this conviction that I leave you, and this deep conviction makes it easier for me to leave you and diminishes my regrets, as I am sure that the time we have spent together has not been time lost. (Applause)

Gentlemen, the meeting is closed.

The meeting closed at 5:47 p.m.