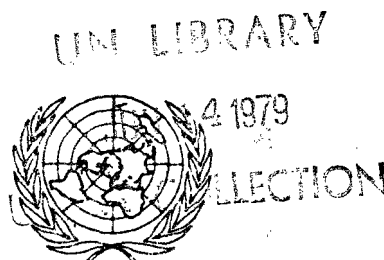


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COMMISSION ON TRANSNATIONAL CORPORATIONS

Fifth session

SUMMARY RECORD OF THE 65th MEETING

Held at Headquarters, New York,
on Wednesday, 23 May 1979. at 11 a.m.

Chairman: Mr. HEININGER (German Democratic Republic)

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Organization of work

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The meeting was called to order at 11.15 a.m.

STUDIES ON THE EFFECTS OF THE OPERATIONS AND PRACTICES OF TRANSNATIONAL CORPORATIONS (continued)

(a) IN-DEPTH STUDY ON THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS IN SOUTHERN AFRICA AND THEIR COLLABORATION WITH THE RACIST MINORITY REGIMES IN THAT AREA (continued) (E/C.10/51);

(b) OTHER STUDIES (continued) (E/C.10/38, 52 and 55)

1. Mrs. ARIGA (Japan) said that, although the Japanese Government had liberalized Japanese investment abroad, South Africa was an exception. Since the early 1970's, no Japanese or foreign firm doing business in Japan, whether it was a large transnational corporation or a medium-sized or small company, had been allowed to invest directly in South Africa, with the result that there was currently no direct Japanese investment in South Africa. Paragraph 46 of document E/C.10/51, listed among the major motor vehicle companies some names which could be mistaken for those of Japanese firms, but they were in fact companies organized with local capital.

2. Furthermore, Japan was enforcing strictly the total arms embargo against South Africa and believed that all countries should do likewise.

3. With regard to a Japanese company's relations with Rössing Uranium Limited, referred to in paragraph 149 of the same document, his Government had learned that the Japanese party to the sales contract had suspended the contract, so that, as matters stood, the imports of uranium envisaged in the contract would not take place. Contrary to what was indicated in paragraph 150 of the document, no Japanese company was engaged in exploration for metals in Namibia.

4. Mr. SULE (Nigeria) endorsed the views expressed by the representatives of Ghana (speaking on behalf of the Group of African States), India and the German Democratic Republic, and those of the numerous other speakers who had spoken in strong terms about the activities of transnational corporations in the industrial, mining and military sectors of South Africa. He also welcomed the illuminating statement made by the representative of Sweden. The revelations on that subject contained in the excellent and detailed report prepared by the Centre (E/C.10/51) had not come as any surprise, but had simply strengthened his delegation's conviction that transnational corporations were collaborating with the racist minority régime of South Africa, in contravention of United Nations resolutions.

5. The report confirmed that, in spite of the world-wide decline in the rate of new investment by transnational corporations, there was evidence that they were making new investments in South Africa. Furthermore, the corporations were

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(Mr. Sule, Nigeria)

developing new tactics to sustain the racist minority régime in South Africa, by entering into partnership with local firms in order to water down world-wide condemnation of their activities. He urged all countries not to be deceived by those tactics and to put a stop to the flow of investment and loans, in whatever form, to the racist minority régimes of southern Africa.

6. South Africa was heavily dependent on foreign technology and capital in the industrial, mining and military sectors. Its almost total self-reliance with regard to most of its industrial needs and its formidable and increasing military strength, were due to the part played by transnational corporations in its economy. His delegation condemned the military build-up of the racist régime in South Africa, especially in the nuclear sector, the flow of investment to that country and the ignoble role played by transnational corporations in furthering those objectives.

7. The recent legislation enacted by the minority racist régime of South Africa to restrict the free flow of information from the subsidiaries of transnational corporations to their parent companies, was extremely disturbing, and his delegation urged all home Governments to put pressure on parent companies to instruct their subsidiaries not to abide by such legislation.

8. Mr. SOSNOWSKI (Poland) endorsed the comments made by previous speakers, especially the representatives of Tunisia, Ghana, the Soviet Union and the German Democratic Republic, and observed that, without the support of transnational corporations, the racist régime of South Africa would cease to exist. Given the importance of that issue, the Centre should make its ongoing research into the subject a permanent feature.

9. Mr. RUBIN (United States of America) said that he had read the Centre's report on the activities of transnational corporations in the industrial, mining and military sectors of southern Africa (E/C.10/51) most attentively and would, at the appropriate moment, transmit its observations on some parts of the report to the Centre. He had also taken note of the statements made by the representative of Ghana, speaking on behalf of the Group of African States, and the representative of Sweden, who had mentioned certain steps and decisions taken by the Governments of the Nordic countries.

10. His Government continued firmly to oppose apartheid and its consequences, although its views as to feasible methods of dealing with that situation differed from those of other States, whose views it of course respected. His delegation had suggested consistently that the Commission should not adopt formal resolutions, believing, that it was preferable to act by consensus, the practice generally adopted for other items on the agenda. Although it might be more difficult, that method achieved better results.

11. His Government and private United States interests had taken many steps in that connexion, including increased support for the principles set out by the Rev. Leon Sullivan. More than 100 companies were supporting those principles,

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(Mr. Rubin, United States)

which had been expanded to include specific mention of labour unions and to require that companies report on their compliance with the Sullivan code. Recent evidence suggested that those principles were beginning to have a positive effect in South Africa which, although far from sufficient, was encouraging.

12. Principle II, on equal and fair employment practices for all employees, stated that "Each signatory of the Statement of Principles will proceed immediately to: implement equal and fair terms and conditions of employment; provide non-discriminatory eligibility for benefit plans; establish an appropriate and comprehensive procedure for handling and resolving individual employee complaints; support the elimination of all industrial racial discriminatory laws which impede the implementation of equal and fair terms on conditions of employment, such as abolition of job reservations, job fragmentation, and apprenticeship restrictions for blacks and other non-whites; support the elimination of discrimination against the rights of blacks to form or belong to government-registered unions, and acknowledge generally the right of black workers to form their own union or be represented by trade unions where unions already exist."

13. The report under consideration was the result of a resolution adopted at the Commission's fourth session. On that occasion, delegates had been encouraged to have consultations with the sponsors of the resolution. As the report of the fourth session (E/1978/52, para. 54) indicated, at least one delegation - that of the United States - had approached the sponsors in good faith to see whether any modifications which might lead to a consensus were possible; the answer had been that no modifications of any sort were acceptable. His delegation respected the right of delegations to reject any change in resolutions which they had submitted, but, in the circumstances, the differences between his delegation's concept of what might be the appropriate content of a resolution and the concepts of the sponsors had led it, very reluctantly, to vote against the resolution.

14. Mr. SVETLIČIĆ (Yugoslavia) reaffirmed his country's well-known opposition to apartheid and endorsed strongly the statements made on behalf of the Group of African States and the Group of 77. The growing collaboration between transnational corporations and the racist régimes, in the face of numerous resolutions adopted in different international forums, once more deserved the strongest condemnation, particularly in view of the fact that 1978 had been proclaimed the International Anti-Apartheid Year.

15. Words of condemnation were simply not sufficient, however; the international community must take concrete action and those who were morally and otherwise responsible for the situation had a special obligation to do so. Unfortunately, economic sanctions had not been effective, and some transnational corporations continued to co-operate with the racist régimes thereby enabling them to increase their power and maintain their inhuman policies. The Centre's excellent report on the subject (E/C.10/51) drew attention to the transnational corporations involvement in South African industry and clarified the part played by those corporations in that country.

(Mr. Svetličić, Yugoslavia)

16. The ever-increasing involvement of transnational corporations in military and even nuclear production was particularly serious and represented a serious threat to world peace. The transnational corporations involved in such activities, and the Governments of their home countries, must realize that collaboration with the racist régimes conflicted not only with the goals and interests of mankind but also with their own interests. The solidarity of the international community with peoples subjected to unscrupulous economic exploitation and the plundering of their natural resources was also of the utmost importance. The cessation of co-operation between transnational corporations and the racist minority régimes was a prerequisite for progress and peace.

17. A decisive historical moment had come in the struggle against racism and apartheid, and all those who were not on the side of justice and progress must be aware of all their responsibilities and all the consequences of their action.

18. Mr. HOUNGAVOU (Benin) said that the report prepared by the Centre on the activities of transnational corporations in the industrial, mining and military sectors of southern Africa (E/C.10/51) contained some very thought-provoking information. Some of it had evoked protest from certain Western countries, whose duplicity with regard to the situation in southern Africa had been repeatedly denounced and condemned by the international community and who were trying to prevent the dissemination of information on the deplorable exploitation and oppression of which their corporations were guilty in southern Africa, in order to keep the international community in ignorance of what was happening there. That policy of covering up the activities of transnational corporations undoubtedly formed part of the colonialist, neo-colonialist and imperialist practices which were being applied throughout the world, and in Africa in particular.

19. The obstacles which were used to try to prevent certain Secretariat staff from properly carrying out their functions were well known, and some of the comments made during the debate in the Commission constituted direct and inadmissible pressure on the staff of the Centre with a view to preventing them from carrying out the work entrusted to them by the Commission.

20. Although his delegation found some parts of the report interesting, it felt that it was superficial in so far as it sought to cover too many complex elements at once. That made it impossible to tackle effectively the decisive information on the political, legal and social consequences of the activities of transnational corporations, especially in the military field. The struggle against economic, political, military and strategic collaboration with the racist régimes of southern Africa required accurate knowledge of the activities of the transnational corporations, which were continuing to play a decisive role in the region.

21. His delegation felt that the Governments of all home countries of transnational corporations, whether they were Members of the United Nations or not, should abide by the decisions of the Organization; those which did not do so could not expect friendly treatment from those countries for which the elimination of

(Mr. Houngavou, Benin)

the hateful and inhuman régimes of southern Africa, which kept power by acting as agents of the transnational corporations, was a vital question and one involving their very survival.

22. The CHAIRMAN announced that the list of speakers on item 8 (a) and (b) was exhausted, and he invited the expert advisers to participate in the debate.

23. Mr. ALI (Expert Adviser) said that the studies prepared by the Centre on transnational corporations had evoked criticisms which could be useful for the future work of the Centre. The adverse reactions of certain corporations could be taken into account or refuted by the Centre, as appropriate.

24. The study on the transnational corporations and the pharmaceutical industry (ST/CTC/9 and E/C.10/53) was based primarily on an appraisal of the corporations of the United States. Although developing countries could benefit from the pharmaceutical industry in certain respects, there was no doubt that host countries should strictly monitor its activities. In Pakistan, for example, sale of any medicine required prior permission, prices were controlled and efforts had been made to replace brand names by generic names.

25. Procedures existed which could enable host countries to control the pharmaceutical industry. They should, above all, have sizable holdings in its activities in order to share not only in the profits but also in know-how and research. The fixing of transfer prices for raw materials and intermediate products should be strictly monitored. Competition among transnational corporations from different home countries should be encouraged, and the pharmaceutical industry of socialist countries should compete with that of market-economy countries, since such competition had been beneficial in other fields, at least in Pakistan.

26. Mr. GOUDSWAARD (Expert Adviser) said that the studies prepared by the Centre for transnational corporations on the pharmaceutical industry and advertising could be discussed from two different viewpoints. As attempts to provide a descriptive account and an uncritical synthesis of the opinions of others, neither of them provided new information. As research projects, they could not be regarded as successful.

27. The study on transnational corporations in advertising stated (E/C.10/54, para. 34) that advertising could persuade consumers to buy products they did not need, and created artificial needs. That statement revealed confusion in the minds of the authors of the study, since only the consumer could determine his own needs and decide which needs were artificial, a fact that had no bearing on the judgement of Governments as to whether the consumption of certain products was provided for in their development plans or not.

(Mr. Goudswaard)

28. It was also stated in the report that advertising could induce consumers to buy products which they did not want. However, no proof was offered and, indeed, the fact that many companies which had tried to influence consumers' choice had gone bankrupt proved that such a result was impossible. Another accusation was that advertising's substantial financial contribution to the mass media enabled it to influence publishers. That, in his view, made the large number of articles critical of transnational corporations inexplicable. Moreover, the study's partiality was manifested by the fact that it did not mention the publishing rules prevailing in many countries under which the administration of the information media was totally separate from editorial policy, strict compliance with which was monitored by professional journalists' associations.

29. With regard to the study on the pharmaceutical industry (E/C.10/53), he cited reports he had received from national pharmaceutical manufacturers associations to the effect that the study was partial, tendentious, confused and incomplete.

30. If developing countries were to derive any benefit from its work, the Centre would have to adopt a different attitude and a more impartial approach. Above all, a major effort to verify data would be required. Since a very substantial part of the material used came from the information system, it would have to be checked for mistakes and the data verified with the collaboration of the transnational corporations, a procedure which would in no way mean subjecting the Centre to monitoring by the transnational corporations.

31. Mr. SANFELICE (Expert Adviser) said that the reports submitted by the Centre were of excellent quality, especially as regards methodology. Omission from them should be judged in the light of the broad scope of the topics, the means available and the quality of the results.

32. In the study on transnational corporations and the pharmaceutical industry (ST/CTC/9 and E/C.10/53), public intervention in research activities had been dealt with primarily from the point of view of the restrictions imposed by the authorities. That was the aspect which the corporations usually emphasized. In his view, however, the magnitude of the contribution of the public sector to the funding of research projects undertaken by the transnational corporations should also be emphasized, especially in view of its high cost. That contribution was particularly important in the case of pharmaceutical research since it never appeared in the company accounts. The use of public hospitals, whose experience was used in the research, was an example of that.

33. In conclusion, he suggested that the Centre might undertake an in-depth study of the problems of scientific research in general and the effects on it of the activities of the transnational corporations in the new international division of labour.

34. Mr. PAUL (Expert Adviser) said that unless the research was supported, the Commission would have to be satisfied with casual observations, on the basis of which the decisions adopted might be even worse than they were. He hoped, therefore, that the Commission and the Centre would accord high priority to the research activities. He pointed out that research frequently involved a systematic analysis of data by methods which might be unknown to the average person and that the accuracy of the research depended on the desired objectives. Conclusions which contributed to improving decisions or policies were useful for the Commission's purposes.

35. As had been stated earlier, there were many errors in the data supplied by the corporations; what was important was to determine whether the nature of those errors invalidated the basic conclusions. For example, no corporation could accurately gauge its share of a given industry market, but that did not significantly change the basic conclusion. Although the errors should certainly be corrected, too much time should not be spent on them as long as they did not change the fundamental conclusions. The verification of all data, moreover, would be so time-consuming as to make it impossible to use the information when adopting decisions or policies.

36. Furthermore, it was a question of adopting, not decisions which required highly refined data, but conclusions of a broader nature. Unlike the situation in which a corporation was trying to determine prices and required extremely accurate information, a few mistakes were permissible in studies of that type. For those reasons, the Commission should focus primarily on the conclusions drawn from the data.

37. The study of the pharmaceutical industry prepared by the Centre was a highly competent one, if judged from the point of view of its objective. It was a descriptive and interpretative study, based largely on secondary sources. Although those sources might have to be verified, the use of primary sources would cost millions of dollars for an international study of that type.

38. With regard to the social and legal issues, the Centre had tried to present only a summary of the subject; and the Commission itself should add or delete certain conclusions.

39. Paragraph 37 of document E/C.10/53 was a typical example of what occurred in a study of the survey type and he agreed with the statement that many developing countries felt that the drugs which were sold to them were not responsive to their real needs. In fact, the draft code of conduct, which requested transnational corporations to respond to the priorities of social and economic objectives, recognized that type of problem.

40. With regard to possible improvements, first of all the desired objective should be clearly defined. Once the Commission indicated what information it needed, the researchers should make a thorough study of the relevant questions, but it was unreasonable to blame them for not having investigated other questions when they had followed the Commission's instructions. In order to improve the situation, the Commission and the Centre should devote more time to carefully determining what was expected from the studies. To that end, it was not enough

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to assign a theme or appoint a team, but on the other hand, the researcher should be free to select their methodology. Some of the methods required technical expertise on which the Governments could not form judgements. One way of reducing problems would be to appoint a group of experts acquainted with the industry to make a careful review of the study in the initial stages, a step that might cut down detailed debate within the Commission.

41. Mr. JONES (Expert Adviser) said that the reports before the Commission were inaccurate and misleading, and therefore lowered the credibility of the Centre. With regard to pharmaceutical products, the essential drug list mentioned the preceding day by the representative of WHO was a good idea, but it had two real dangers. First, there was the possibility that political pressure might be applied to keep a drug off the list in favour of an inferior drug; secondly, the cost would probably permit a drug with 90 per cent effectiveness to appear on the list, but not one with 100 per cent effectiveness.

42. With regard to the comment concerning the dominance of transnational corporations in the pharmaceutical products market, the reasons for that situation should be examined. The quality of the product, the willingness to take risks in the research on and development of new products, the attention given to the development of an effective system of distribution, the heavy emphasis placed on the clinical testing of the product and the sterilization of bottles, caps and packaging could all have played a role. Profits were the result, not the cause, of success. Profits permitted reinvestment in research and development and served as a basis for greater success. Some representatives had said that profits of 18 per cent were outrageous, but risks were low, profits were always low and when risks were high, profits were also high. Risks were very high in the pharmaceutical industry. In the United States, for example, seven to eight years usually elapsed before a product whose molecular structure had been defined could be sold on the market.

43. As far as prices were concerned, the International Medical Service (IMS) in the United States issued a quarterly report for the pharmaceutical industry on quantities and prices of most drugs, by company and countries in which they were sold. Although it had been said that the less competition in a country the higher the price of the product, that statement was at variance with what had been said by the WHO representative. There were at least six developing countries in which the national pharmaceutical company - itself a transnational corporation - had the largest share of the market, and in half of those countries the local transnational corporation charged the highest prices and applied different prices to the same drug sold under different brand names. In many instances, national manufacturers maintained a higher price level than foreign transnational corporations even if the local manufacturer was not a transnational corporation. The national product was often of less constant and lower quality than the foreign product. Despite the fact that the doctor was generally the key to success in the pharmaceutical industry, no mention was made of him in the report, although he was not ignored by the transnational corporations themselves.

(Mr. Jones)

44. He supported the recommendation in the report for promoting national industries for the production of containers, caps and packaging as a means of improving the situation. Attention should also be given to distribution as one of the main factors in the success or failure of the pharmaceutical industry. There should be national legislation to prevent the clandestine sale of drugs before their approval by the country of origin. The report should also have mentioned the fact that some drug companies took advantage of the lack of competition to charge outrageous prices.

45. With regard to South Africa, he associated himself with the United States representative's observations on the conclusions of the Reverend Mr. Sullivan. It was indicated in the report that the automobile industry in South Africa had done much to improve the situation of the black population. Volkswagen, in particular, had made excellent headway in matters of the education, training and living conditions of black workers. The IBM Corporation had gone beyond the principles set forth by the Reverend Mr. Sullivan in granting benefits to black workers in the form of loans and in training and education. Although the electronics industry had been accused of supplying computers to the police, to the military and to atomic energy institutions, IBM had had no part in such supply. No reference was made in the report to Japanese companies, which were playing an important part in that market.

46. Lastly, he said that the rate of change which had taken place since Vorster's resignation was unsatisfactory; restrictions should, in his view be placed on foreign investment. It was to be hoped, however, that no action would be taken that could bring about a holocaust, since that could only result in permanent damage to black society; determined efforts should on the contrary, be made to build up a white minority that was sincerely dedicated to bringing about change in southern Africa.

47. The CHAIRMAN said that only the views expressed by Government representatives, and not those of the Expert Advisers, would be reflected in the Commission's report on its present session.

48. Mr. ZAKI (Expert Adviser), referring to the document on the activities of transnational corporations in the industrial, mining and military sectors of southern Africa (E/C.10/51), said that he wished to draw the Commission's attention to an extremely valuable study by Professor Clyde Ferguson of Harvard University, entitled "South Africa: What is to be done?" and published in Foreign Affairs. The possible approaches set forth in that study were particularly interesting.

49. As to the pharmaceutical industry, he agreed that the document prepared by the Centre was a general and descriptive type of study providing background information. Mention should also be made of specific cases. For example, when reference was made to concentration in the pharmaceutical industry, a detailed study might be presented on the growth of the industry in Japan, which could serve as a model for the developing countries. It would, moreover, be much more useful to have quantified analytical studies of the activities of certain transnational corporations in a few carefully selected countries such as Egypt, Yugoslavia, Romania and India.

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50. The statement in paragraph 37 of document E/C.10/53 was, in his view, extremely general; it should be possible to give examples of specific measures adopted by transnational corporations.

51. Mr. TACKE (Expert Adviser) said that he would submit his comments on document E/C.10/55 in writing.

(c) TOPICS FOR FUTURE RESEARCH (E/C.10/56)

52. Mr. SAHLGREN (Executive Director, United Nations Centre on Transnational Corporations), introducing the report contained in document E/C.10/56, said that it had been prepared in the light of the observations made by the Commission during its consideration at its first session of an initial report on the question, and also in the light of the two major goals established for the research programmes, namely, the formulation of a code of conduct and the strengthening of the negotiating capacity of host countries, particularly developing countries.

53. The research programme of the Centre, which could not cover all issues of interest to home and host countries, was of course open to suggestions by the Commission on the topics which should be accorded the highest priority.

54. The Centre had submitted to the Committee on Development Planning and to the ACC Task Force on Long-term Development Planning a report on transnational corporations and long-term development objectives of the developing countries with a view to defining the role of transnational corporations in the context of the new International Development Strategy and the establishment of a new international economic order. In the report under consideration, it was suggested that further research should be carried out on the subject with a view to preparing a new comprehensive survey on the activities of transnational corporations for submission to the Commission in 1983. It was also suggested that research should be carried out on competition and corporate strategies, on the linkages of transnational corporations in the economies of host countries - a topic on which the Centre's first report would be submitted to the Commission at its next session - and on the social, political and legal impact of the transnational corporations, which had been dealt with in part in sectoral studies and in the reports on the operations of transnational corporations in southern Africa. One of the most important problems in that respect was to distinguish the social and political impact of transnational corporations from the social and political ramifications of the process of modernization in general. Other important topics from the social point of view were those of labour and of consumption patterns associated with the activities of the transnational corporations.

55. Sectoral studies were also suggested on a number of industries of importance to developing countries and on five special policy areas. Work had already begun on questions relating to international financial transfers by transnational corporations, with particular reference to problems faced by Governments in implementing policies for the control or monitoring of capital movements. Ways and means of enhancing the equitable distribution of financial costs and benefits

(Mr. Sahlgren)

between host countries and transnational corporations might also be explored, together with the question of transfer pricing.

56. Lastly, it was proposed that there should be research into alternative arrangements by which developing host countries could acquire the necessary technology from transnational corporations - a question on which the Centre was called upon to advise those countries - into the experience of various countries in co-ordinating and integrating their over-all policies with regard to the activities of transnational corporations, and into the particular problems faced by the least developed countries with respect to those corporations.

57. Mr. KAABACHI (Tunisia), speaking on behalf of the Group of 77, said that he wished to emphasize the importance of the report under consideration but also to point out that, in view of the limited resources available to the Centre, an order of priorities had to be established so as to prevent the preparation of studies which, like that on transnational corporations in advertising, failed to respond to urgent needs. In the view of the Group of 77, the topics which deserved the highest priority were those of the relationship of transnational corporations with the economies of host countries, of certain extractive and manufacturing industries, of transnational corporations and international financial transfers, of the comprehensive survey of transnational corporations and of the social and political impact of transnational corporations.

58. The Centre should also co-ordinate its research work with that of other organs of the United Nations system with a view to preventing duplication and waste of resources. The topic "Alternative arrangements with transnational corporations for the acquisition of technology" appeared to duplicate the related studies carried out by UNCTAD.

59. Lastly, he said that, although the English text of draft resolution E/C.10/L.34 had been received, he could not introduce the draft until the French text was available.

60. Mr. HUSSON (France) urged the Secretariat to ensure that the United Nations rules with regard to working languages were consistently applied.

ORGANIZATION OF WORK

61. Mr. VORONIN (Secretary of the Commission) said that the situation with regard to documentation was extremely serious. Only if the Commission concluded its work on the substantive items during its meeting on the morning of Thursday, 24 May, would it be possible for its draft report - in English only, and probably with half of it reproduced photographically - to be available by Friday, 25 May. If, on the other hand, the discussion on the substantive items of the agenda was not concluded before Thursday afternoon, it would not be possible to distribute the draft report on Friday and the Commission might have to defer its work and resume the session at a later date.

62. The CHAIRMAN said that he wished to emphasize the importance of concluding the discussion on the substantive items at the morning meeting on Thursday, 24 May; he urged members of the Commission to speak as briefly as possible so that a detailed discussion could be held on item 10 (Work related to a definition of transnational corporations).

63. Mr. VORONIN (Secretary of the Commission), replying to a question by Mr. CAMEJO-ARGUDIN (Cuba), explained that the report of the Commission would be translated into the working languages before being submitted to the Economic and Social Council.

The meeting rose at 1 p.m.