

DISCRIMINATION IN TRANSPORT INSURANCE

Note by the Secretary-General

The International Chamber of Commerce (ICC) has submitted the question of "discrimination in transport insurance" to the Economic and Social Council for consideration (documents E/1102 and E/C.3/12). Should the Council deem it necessary to have a further study of the question made before taking action, it may wish to have some information as regards the organs of the United Nations or the specialized agencies within the competence of which this subject falls and which it might decide to consult.

In a parallel instance where the ICC raised the question of barriers to the international transport of goods, the Council, at the suggestion of the Transport and Communications Commission, instructed the Secretary-General to study "the respective competence of the various international bodies concerned with the problem" (Section A of resolution 147 VII adopted by the Council on 28 August 1948). In the latter case, the question of competence was a rather complicated one as obstacles to the international transport of goods fall into different categories. Therefore, the relevant resolution of the Transport and Communications Commission on the basis of which the Council decided to instruct the Secretary-General as mentioned above, stated inter alia that "while this problem undoubtedly has aspects within the purview of the Transport and Communications Commission, it would appear that it is in many respects one in the field of competence of the International Trade Organization." (E/789)

In the present case, however, the fields of competence may be much more easily ascertained on the basis of the information contained in the Note appended by the ICC to its letter. This Note shows clearly that the discrimination which is the subject of the complaint, although it bears on transport insurance, affects directly not transport as such but international trade. The ICC refers to "the liberty, enjoyed so far, as regards the terms of commercial contracts." It points out that the measures complained of have been "adopted by certain States with a view to monopolizing transport insurance in connection with their country's foreign trade." It adds that "they seriously hamper the free expansion

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of international trade at a time when all countries should be endeavouring to promote international trade currents by removing obstacles. . . ."

It appears, therefore, that the problem submitted by the ICC is intrinsically not a transport problem but a trade problem and, as such, would come within the scope of the International Trade Organization (ITO), which might deal with it when constituted.

The ICC itself mentions that the ITO Charter stigmatizes "all business practices, whether private or public which, in matters affecting international trade, restrain competition, restrict access to markets and foster monopolistic controls." In Chapter V (Restrictive Business Practices) of the ITO Charter, article 53 provides "special procedures with respect to services," including specifically insurance.
