

RESOLUTIONS

adopted by the

XIIIth CONGRESS

of the

INTERNATIONAL CHAMBER OF COMMERCE

LISBON, 11th—16th JUNE 1951

INTERNATIONAL CHAMBER OF COMMERCE

International Headquarters

38, Cours Albert 1^{er} - Paris 8^e

THE INTERNATIONAL CHAMBER OF COMMERCE



Founded in 1919, the International Chamber of Commerce is a world federation of business organizations (chambers of commerce; trade and industrial, banking and financial, transport and communications, and other associations, federations and unions), as well as of companies, corporations, business firms and businessmen. Today, its membership extends to 53 countries. The I.C.C. is in no way controlled or subsidized by governments. Its activities are exclusively financed by the subscriptions of its members.

The action of the I.C.C. is twofold.

In the first place, it acts as spokesman of the business community in the international field and presents the business point of view to governments and to world public opinion. Having been granted the highest consultative status—category "A"—with the Economic and Social Council of the United Nations, the I.C.C. is frequently called upon to advise on matters of vital concern to businessmen. Its National Committees, which are fully representative, undertake appropriate action as regards their own governments. It may be added that the I.C.C. represents its members not only at United Nations, governmental and non-governmental meetings, but also at all international gatherings of importance dealing with matters within the scope of its activities.

Secondly, the I.C.C. helps to ease the mechanism of world trade by attempting to remove the various technical obstacles which hamper the free flow of goods and services. Its Working Commissions and Committees, composed of qualified business leaders and experts look for practical solutions to a series of problems under the following headings: 1. Economic Policy; 2. Production and Distribution; 3. Transport and Communications; 4. Law and Commercial Practice.

The I.C.C. also provides its members with practical services. For that purpose, it has, among other things, established permanent bodies, such as its Court of International Commercial Arbitration—with a speedy and economical method of settling international commercial disputes, either through conciliation or arbitration—its International Council on Advertising Practice as well as the International Information Bureau of Chambers of Commerce.

Publications and reports on various questions and a monthly journal "WORLD TRADE", keep I.C.C. members fully informed on the Chamber's action in all important spheres of international economic relations.

A National Committee of the International Chamber of Commerce has been organized in many countries. These Committees are listed at the end of this publication.

TABLE OF CONTENTS

	<i>Pages</i>
A BUSY MAN'S GUIDE (Introduction).....	5
I — ECONOMIC POLICY AND REARMAMENT :	
1. Economic Cooperation in a Rearming World.....	19
2. Distribution of Consumer Goods in a Rearming World.	28
3. Profits Taxes and Depreciation of Money.....	30
II — ECONOMIC DEVELOPMENT AND FOREIGN INVEST- MENTS :	
4. Financing Economic Development	33
5. Governmental Guaranties to Investors.	36
6. Unilateral Relief from Double Taxation	38
III — PROBLEMS OF COMMERCIAL POLICY :	
7. International Trade Organization.....	45
8. Trade and Employment	46
9. International Trade and Governmental Regulations...	47
10. Future Action in the Field of International Customs Cooperation	49
IV — DISTRIBUTION AND ADVERTISING :	
11. Distribution of Consumer Goods in a Rearming World.	53
12. Distribution Statistics.	53
13. The Development of Education in Distribution and Advertising.....	55
14. Advertising Media Research.	55
15. The Social Responsibility of Advertising.....	56
V — TRANSPORT AND COMMUNICATIONS :	
16. General Transport Problems :	
A. Council of Europe's Plan for Transport Integration.	59
B. Freedom of Transport for Own Account.	59
C. Definition of Transport for Own Account.	61
D. Taxation and Coordination of Transport	61
E. Organisation of Carriers	62
F. International Transport of Perishable Foodstuffs..	62
G. Discrimination in Transport Insurance	62

17. Air Transport :	
A. Suppression of Barriers to International Air Transport	64
B. Revision of the Warsaw Convention	64
C. Agreement on Commercial Rights in International Air Transport	65
D. Air Transport of Passengers	66
E. Air Transport of Goods.	66
18. Sea Transport :	
A. Maritime Trade Barriers	68
B. Contractual Freedom of the Parties with regard to Conditions of Sale	69
C. Delay of Shipping in Ports	69
19. Road Transport :	
A. Development of Road Transport	70
B. Legal Status of Road Transport.	72
20. Railway Transport	72
21. International Postal Service.	72

VI — LAW AND COMMERCIAL PRACTICE :

22. International Commercial Arbitration and Freedom of Contract	75
23. International Protection of Industrial Property :	
A. The Need for Basic Amendments to the Existing System of Protection	77
B. Trade Marks.	78
C. Means for Promoting the Granting of Patent Licences on the International Plane.	79
D. German Trade Marks Registered Abroad.	80
24. Commercial Documentary Credits :	
A. Revision of the Uniform Customs and Practice for Commercial Documentary Credits	81
B. Standard Forms for the Opening of Documentary Credits	81

A Busy Man's Guide

to the

Lisbon Congress Resolutions

by **Richard BARTON**
Director of Technical Services of the I.C.C.

THE central theme of the XIIIth Congress of the I.C.C. was "Economic Development in a Period of Rearmament". Inevitably, in fact, the minds of the businessmen assembled in Lisbon in June 1951 were full of the economic consequences of the Korean crisis. By no means all the delegates were from countries participating in the North-Atlantic rearmament program, but all were keenly aware that a prolonged rearmament effort by the leading Powers was bound to alter the course of economic life everywhere and that both governments and business would have to shape their policies anew to meet the changed conditions. It was therefore only natural that, in framing its conclusions, the Congress should start with a detailed survey of the rearmament problem and its economic implications and that two other resolutions should be devoted to more particular aspects of the same subject.

But this preoccupation with the central issue of the hour did not prevent the Congress from carrying on the permanent technical work on which the I.C.C. Commissions and National Committees are continuously engaged. Out of the twenty-four resolutions finally issued by the Congress, twenty-one consist of detailed recommendations on subjects outside the general theme of the Congress. They cover a great variety of topics ranging from investment policy and taxation, to the technical details of distribution and advertising, transportation, and legal problems of commercial practice.

This brief survey of the Lisbon resolutions is not a summary ; still less is it intended as a substitute for the resolutions themselves. These should be read in full by all those interested in the particular subjects dealt with, for they are no more nor less than a compendium of what the business community of the world is thinking on the big economic issues of the day. As its name implies, this introduction is simply a guide for those who wish to see the Congress as a whole before turning to the resolutions themselves, which alone bear the seal of the I.C.C.'s authority.

Economic Policy and Rearmament (Resolution 1*)

Underlying the whole of this opening statement of the Congress is the deep conviction of businessmen that in the halfway-house between all-out war and all-out peace, it is as vital to protect the economic fabric from disruption and disorder as to build up strength militarily. In formulating its statement, therefore, one of the I.C.C.'s principal objectives was to search for ways and means of preserving the valuable economic advances made in the past few years and also of keeping the momentum towards a freer, and thereby more productive, system of trade and payments.

But the I.C.C.'s approach goes a step further. It has also a more positive side. The rearmament program, the I.C.C. urges, can and should be used as a means for strengthening economic cooperation. On this, in fact, largely depends its success. The possibility of armed conflict between the rearming nations themselves being ruled out from the outset, they are faced with a new venture in international cooperation which can be used to forge closer links on the economic plane not only between the participating nations but between all the free nations of the world.

Another deep-seated preoccupation reflected in the resolution is how to forestall the almost inevitable distortions which production and trade for rearmament purposes will make in the normal peace-time trends of economic development. The need to devise policies here and now for the transition to the post-rearmament period is therefore stressed. This is a field, moreover, where the I.C.C. is particularly well-fitted to make a substantial contribution.

No summary can do justice to the resolution itself. It is a report rather than a resolution, and a report in which the detail often matters more than the broad principle. The following selection of twenty points is therefore designed simply as a handy method of giving the busy reader an overall view of the structure and contents of the original.

Production

1. A substantial increase in production and productivity is the only means of raising output of military equipment with the least possible adverse effect on civilian standards of living.

2. Allocations in defence production as between countries should as far as possible be guided by the efficiency of industries to which they are assigned, independently of any decisions that may be taken concerning the financial share of each country.

3. Major emphasis should be placed on increasing the efficiency of existing industries rather than on large investments in setting up new industries.

Raw Materials

4. When governments adopt raw materials allocations, they should not engage in actual transactions but should use normal trade channels.

(*) Also published as Brochure 155.

5. There is need for a long-range policy of stockpiling worked through concerted and coordinated international action.

6. The development of new raw materials supplies is one of the most important aspects of rearmament, calling for increased foreign investments selectively directed towards countries capable of developing supplies of required materials if they have the necessary capital.

7. Raw material producing countries must receive reassurances that they will be able to acquire during rearmament adequate supplies of manufactured goods.

Mobility of Labour

8. Labour in Western Europe must have great freedom of movement both within each country and between countries.

Monetary Problems and Inflation

9. The practical solution for the problem of how to settle balances arising out of defence transactions would seem to be a single clearing system with book-keeping arrangements so designed as to keep track of the various types of transaction.

10. The most important international move to combat inflation is an effective stabilization of prices of raw materials.

11. All "non-essential" public expenditures should be cut down, keeping in mind that the term "essential" has an entirely new sense in the half-way house of a defence economy.

12. National tax reforms to broaden the tax base and make the tax system of each country as equitable as possible are recommended.

13. Sound central bank policies should prevent an excessive expansion of the supply of money and be so designed as to curtail consumer spending and less essential private investments while encouraging the savings of the public.

14. If through fear of deflation, the fight against inflation is conducted too timidly, there will be both inflation and afterwards a more drastic deflation.

Multilateral Trade under Rearmament

15. The Western world can find no better way of taking full advantage of its great potential resources than through freer multilateral trade. Liberalization of trade and payments must therefore be pursued relentlessly even under rearmament.

16. Import quotas and exchange controls should disappear rapidly from the economic scene ; where this cannot be done for the time being, controls should be made progressively less stringent.

17. Although the European Payments Union would no longer be necessary if there were no exchange controls, in the meantime its geographical scope might usefully be extended to, for instance, the Latin American countries.

Post-Rearmament Problems

18. Plans must be made here and now for future orderly adjustments in international commodity markets and for safeguarding the interests of the raw materials producing areas which may be adversely affected by a post-rearmament decline in the demand for their products.

19. Post-rearmament problems will be easier to solve if they are approached in terms of an expanding dynamic economy rather than in a spirit of restriction.

20. Private initiative and enterprise and the growth of private investments both at home and abroad will provide incentives for economic growth which will smooth the transition to the post-rearmament period.

Distribution of Consumer Goods under Rearmament (Resolution 2)

In the second resolution of the Lisbon Congress the I.C.C. singles out for separate treatment an aspect of the rearmament problem which is of particular importance to the small and medium-sized industrialists and traders. In war-time, consumer goods are the "Cinderella" of economic life. How should they be treated in the so-called "cold-war"? The resolution is essentially a warning against the easy way out. Governments are inevitably tempted by memories of the immediate past to take down from the shelves and dust off the recently discarded apparatus of war-time rationing, allocations and controls. Any excesses or over-haste in this direction can only result, the businessman knows from experience, in waste and frustration and will in the long run undermine the type of society it is sought to defend. Governments should keep constantly in mind, the resolution urges, the fact that the most efficient way of getting goods to the consumer is through the operation of the free market and under conditions of free competition. Only if the free market is obviously strained to breaking point by, for instance, an acute shortage, should the government resort to allocating consumption goods through decrees and regulations. The resolution concludes with a reminder that the so-called "gap" between production prices and prices to the consumer may often be caused by excessive taxation, import tariffs and increased charges for public services. This gap often leads to economic and social disturbances owing to a misunderstanding of the real underlying causes.

Profits Taxes and Depreciation of Money (Resolution 3)

The I.C.C. resolution on "Profits Taxes and Depreciation of Money" fits loosely but appropriately into the context of the discussions turning around rearmament. The problem of how profits should be defined when money is falling in value is no new one, and exists whenever overt or disguised inflation is at work. But many circles in the I.C.C. felt that rearmament would inevitably give an added fillip to inflationary pressures in many important areas of the world and that now was the time for governments to turn their attention to the problem if they really wanted increased production on a sound basis.

The Congress did not give unanimous support to this resolution. All agreed that the problem existed and that it was an urgent one, demanding early consideration by governments. But the United States Council and the Argentine National Committee held that the I.C.C. was being somewhat precipitate in issuing any resolution or report before it could itself unanimously agree upon the nature of the problem and on a practical way of solving it. The resolution, however, is primarily a demand for further study and investigation. The I.C.C. will therefore continue its efforts to arrive at full agreement on a detailed set of recommendations.

(READ ALSO BROCHURE 148)

Economic Development and Foreign Investments (Resolutions 4 and 5)

The two I.C.C. statements on "Financing Economic Development" and "Governmental Guaranties to Investors" are part of a much wider campaign the I.C.C. has been conducting since 1946 to promote economic development through the expansion of private foreign investments. The core of this campaign lies in the I.C.C.'s proposed Code of Fair Treatment which sets out in the form of an international treaty the main points upon which action must be taken to increase the flow of capital from one country to another. But after the Code was issued and in governmental discussions turning round the Code, a number of new problems were raised and it is these which the I.C.C. faces in its two most recent resolutions and reports.

Resolution No. 4 begins by emphasizing two fundamental points in the I.C.C. approach to the foreign investments problem. First, whilst the non-transferability of currencies is today the major economic obstacle to the growth of foreign investments, it is also true that an ample flow of capital internationally would itself ease the way to transferability. The attack must therefore be on both fronts simultaneously. Every opportunity must be taken to restore transferability particularly on current account and at the same time the growth of private foreign investments must be fostered through the adoption of the type of action advocated by the I.C.C. Secondly, the main responsibility for encouraging private capital movements must inevitably rest on the shoulders of the capital importing countries. As the resolution states, "it is simply common sense that if a country needs private capital, it is for it to remove obstacles and make the conditions attractive...". The resolution then goes on to examine on the basis of the I.C.C. Commission's report the problem of capital formation both in the capital importing and capital exporting countries, the relative merits of private and government-sponsored projects, and the role of technical assistance programs.

With regard to governmental guaranties to investors in the capital-exporting countries, the I.C.C. recognizes that these may be useful in present circumstances. Two conditions should, however, be observed. First, such guaranties should only be granted to investments in countries which treat foreign investments fairly, along the general lines of the I.C.C. Code. Secondly, capital exporting countries should not take guaranties as a pretext for introducing governmental control and supervision of the

investments. The resolution concludes with a series of recommendations on the types of risk to be covered, discrimination between new and already existing investments, the payment of premiums, differential rates of premium, and finally the scope of the guaranties to be offered.

(READ ALSO BROCHURES 129, 142, 145)

Removing Double Taxation (Resolution 6)

For many years now the I.C.C. has been in the vanguard of the struggle against double taxation. Some valuable progress has been made both in pre-war and post-war years through the conclusion of bilateral treaties, but this is inevitably a slow and laborious process and double taxation still remains a dead weight on the expansion of trade and investments. At its last Congress in Quebec the I.C.C. therefore attacked the problem from a new and, it hoped, more fruitful angle. It urged governments not to confine their action to bilateral treaty negotiations, but also to take immediate steps to remove double taxation by unilateral relief.

The Lisbon Congress now goes a step further and sets out and proposes to governments a detailed scheme of unilateral action based on two alternative systems, exemption or tax credits. It is the conviction of the I.C.C. that the scheme is a workable one and that its adoption by governments would be one of the most valuable contributions they could make to the growth of foreign investments and trade.

(READ ALSO BROCHURE 146)

Trade and Employment (Resolution 8)

In this brief resolution the I.C.C. simply records its opposition to the views put forward by the United Nations Experts in their report on "National and International Measures for Full Employment". The problem had lost much of its urgency since the report came before governments and the I.C.C., but the I.C.C. felt that as a consultant of the United Nations it could not let the report pass without comment. The I.C.C. therefore confines itself to two major points on which it finds itself in conflict with both the report of the Experts and the Economic and Social Council resolution arising out of it. First, the I.C.C. says, the maintenance of full and productive employment is not a job for governments alone, but should be sought through cooperation between all economic forces including business, agriculture and labour. Secondly, the search for full employment should not and need not entail an isolationist approach or measures disruptive of international economic relations.

International Trade Organization (Resolution 7)

Here the I.C.C. makes a practical suggestion for filling the gap left by the non-ratification of the Havana Charter for an International Trade Organization. Whatever differences of opinion there may have been on

the merits of the Charter itself, the I.C.C. has always believed that it would be valuable to have an international governmental organization to deal with world trade problems. Its recommendation is, therefore, that the machinery of consultation that has grown up around the operation of the General Agreement on Tariffs and Trade (GATT) be rendered permanent, with a permanent secretariat. The resolution concludes with a plea that the new organization should concentrate particularly upon bringing about a rapid and far-reaching simplification of administrative procedure and formalities in international trade.

International Trade and Governmental Regulations (Resolutions 9 and 10)

Simplification of administrative formalities is in fact one of the fields where the I.C.C. is best able to achieve practical and tangible results for the business firms it represents. For one thing the government official is far more ready and freer to listen to representations from business when they are concerned with concrete details with which the man actually engaged in trade is alone fully familiar than when they involve broad issues of high government policy. Often, too, business firms find that the worst obstacles they have to face do not result from the intentions of the legislator but from the unnecessarily complex and arbitrary nature of the administrative apparatus created to give them effect. For the last four or five years the I.C.C. has therefore been pressing governments within each country and in their international conferences to scrutinize existing administrative procedure and formalities and bring about the many drastic reforms needed. It is still a long cry from the day when in 1923 the I.C.C. was itself a signatory with governments of the "International Convention for the Simplification of Customs Formalities". But its campaign is gradually bearing fruit, and I.C.C. membership has every reason to find encouragement in the many signs of growing interest in the I.C.C. recommendations shown by the Contracting Parties to GATT and the Brussels Study Group for European Customs Union as well as by the Economic and Social Council itself.

The volume of resolutions contains only two statements on this subject. But the first on "International Trade and Governmental Regulations" is simply the introduction to a whole series of detailed proposals for administrative reforms, approved by the Lisbon Congress and published in Brochure 153. It deals with the method of achieving the reforms rather than with their content. It proposes the creation in each country of an independent committee, composed of businessmen as well as government officials, to overhaul the administrative machinery, and the creation of a similar committee, internationally, to start work on standardization. The prime responsibility is placed squarely on the shoulders of the Contracting Parties to GATT, who have signed a definite undertaking to proceed rapidly with reforms of administrative procedure. The other resolution welcomes the setting up of a Customs Cooperative Council in Europe and hopes that there will be the closest possible cooperation between it and the I.C.C.

(READ ALSO BROCHURE 153)

Distribution and Advertising (Resolutions 11* to 15)

Accurate information is the first condition of success in any business enterprise, and particularly in the distributive trades. Unless a businessman knows his prospective market inside out and the best and most up-to-date methods of penetrating that market, he cannot run his business with maximum efficiency and give full service to the community. But, however well-organized his firm may be, he cannot hope to acquire the information he needs, if certain basic data are not available to him. It is for that reason that in all its work in the field of distribution the I.C.C. has constantly laid such great emphasis on the need for distribution censuses and the collection of statistical and other data and that it has itself set up a centre for the exchange of information and promoted the publication of a series of handbooks on consumer goods markets in specific countries.

Since its pre-war studies made patent the almost universal lack of reliable information, the I.C.C., after listing the statistics required by trade and industry in Brochure 131 presented at the Quebec Congress, launched in 1949 an inquiry into the methods adopted by the more advanced countries for the collection of such data. The results of this inquiry embodied in Brochure 154 constitute the foundation of Resolution No. 12 "Distribution Statistics", which points to the value of sample surveys of the various sectors of trade and of special distribution censuses. This latter type of investigation should, in the views of the I.C.C., be conducted by governments in close cooperation with the business community and as far as possible on a comparable basis internationally.

If censuses, distribution statistics and market research are the tools of the businessman seeking to know the needs of the consumer, good advertising is the modern method of telling the consumer, reliably and efficiently, where he can go to satisfy those needs. It is therefore a most potent instrument of fostering demand in an expanding economy. Accordingly, the I.C.C. has devoted a great deal of attention to improving the standards and efficiency of advertising. In this connection, it has emphasized the need for ensuring adequate professional training of those engaged in advertising, and accordingly Resolution 13 recommends that educational institutions in all countries provide special courses devoted to advertising and marketing. It has also stressed the importance of developing advertising research so as to ensure that advertisers and their consultants be provided with the information on which to base their choice of the media best suited to their purposes; and here Resolution 14 advocates both quantitative and qualitative investigation into the circulation of media. Lastly, Resolution 15 brings out the vital necessity of a sense of social responsibility in advertising and suggests that this requirement can best be met through the adoption by those concerned of rules of conduct such as those laid down in the I.C.C. Code of Standards of Advertising Practice.

(READ ALSO BROCHURES 144, 154)

(*) See Resolution N° 2 above.

Transport and Communications (Resolutions 16 to 21)

Out of the twenty-four Lisbon Congress resolutions, six are devoted to the special problems of transportation and international communications and these six resolutions have more than twenty sub-divisions on separate subjects. This is a reflection of the keen interest taken by business circles everywhere in the development of transportation which, whether it be operated by the professional carrier or by business for its own account, is an essential tool of the industrialist and trader.

Transportation methods are constantly and rapidly changing. New techniques are arising and the old techniques are growing, shrinking or adjusting themselves to the changed conditions. Faced with this rapid evolution, the governments of many countries and — witness the Council of Europe's plan for the integration of intra-European air transport — intergovernmental organizations are tending increasingly to intervene in order to regulate or coordinate the transport services.

Here the business community has a most important role to play through the International Chamber of Commerce. If the businessman does not see to it that the governments are constantly in touch with the practical realities he is meeting every day, solutions will be devised harmful to the growth of industry and trade. Similarly, the development of transportation will tend to be lopsided, unless the carriers and their clients, the users of transport, have a common forum where they can meet to discuss their problems. The I.C.C. supplies both these needs. By sending delegations to international conferences and through the work of its commissions and committees, it is continuously pressing the views of business on the intergovernmental bodies, while within the I.C.C. itself, permanent machinery exists for consultation between users and carriers.

The picture would be overloaded with detail if any attempt were made even to give a bird's-eye-view of the contents of the Lisbon resolutions on transport problems. But, two points of great general interest to the business community, on which the I.C.C. has taken a particularly strong stand, may perhaps be selected for special mention.

Transport for Own Account

In defending the carrier for own account the I.C.C. is rendering a signal service to the business community as a whole. In industry and the distributive trades practically every business concern uses its own vehicles as well as the services of the professional carrier. In so doing, it is not acting as a carrier, but simply using one of the normal tools of the particular industry or trade. Under schemes of transport coordination and in general under all governmental regulations, business concerns should therefore be free to use their own vehicles as they see fit. To regulate transport for own account is in fact to intervene directly in the internal organization of a business firm. These are some of the points strongly emphasized in resolutions 16 B) and 16 C). The I.C.C. is continuing its efforts to safeguard the freedom of business to use its own transport equipment.

Discrimination in Transport Insurance

As part of its general campaign against all forms of governmental discrimination in transport matters — flag discrimination (Resolution 18 A), discrimination between modes of transport (Resolution 17 A), etc. — in Resolution 16 G the I.C.C. reacts vigorously against a recent trend to compel the trader to insure his goods with companies of a particular nation. Such measures cut right across normal trade practice. As the resolution states, “in many cases the merchant will not feel satisfactorily covered by the compulsory insurance in question. He can no doubt protect himself adequately by taking out further insurance..., but this will obviously considerably increase costs”. Compulsory insurance in particular markets may also render impossible the sale of a cargo afloat under a CIF contract. The I.C.C. rightly warns against the danger of these practices spreading either through imitation or through retaliation.

In Resolution 18 B) the I.C.C. deals with a closely related problem — the growth of restrictions placed on the freedom of traders to conclude their contracts on the terms they see fit to choose. They may be obliged for instance to contract for export on a CIF basis and for import on a FOB basis. This also implies in practice determining the country where the insurance will be taken out and constitutes a disguised form of flag discrimination.

As we said two years ago of the Quebec Congress Resolutions on transport and communications, the recommendations of the I.C.C. in this field, even read and digested by those familiar with the problem treated, inevitably do scant justice to the reality of the progress made. Each resolution represents, but only dimly reflects, a series of acts : the gradual assembling of data from a wide variety of sources, negotiation at international conferences and meetings, contact between business and government experts, the final decision to work together in an agreed direction. That is what counts. And only those who take a direct part in the current technical work of the I.C.C. can fully realize the amount of concrete effort and achievement hidden between the lines of each highly condensed statement.

(READ ALSO BROCHURES 147, 149, 150, 156)

Law and Commercial Practice (Resolutions 22 to 24)

The resolutions under this heading are particularly striking examples of the two different levels at which the I.C.C. works for the business community. Where, as in the great majority of cases, the ultimate decision rests with governments, the task of the I.C.C. is to build up a strong united body of business opinion and bring it to bear upon governments both nationally and internationally. This type of action is well illustrated by the resolution on Industrial Property which is concerned with the entry into force and revision of an intergovernmental agreement. But there is another field, more limited in scope, but of great practical importance, where the businessman is master in his own house and the I.C.C. can take final decisions which business organizations throughout the world can put into effect without waiting for the governments to act. Typical of this are the agreements on documentary credits referred to in Resolution 24.

International Commercial Arbitration

At first sight commercial arbitration would seem to belong to the second category. The will of the parties is sovereign in any contract and if they sign an undertaking to settle their differences through, say, the Court of Arbitration of the I.C.C., the resulting award should be automatically enforceable by law in any country. Unfortunately, however, this is by no means the case universally. In spite of the existence of a League of Nations' Convention on arbitral awards and in spite of the fact that in most cases the losing party himself complies voluntarily with the decision of the arbitrators, a great deal still remains to be done before the procedure of private arbitration receives the full recognition it deserves. The I.C.C. is therefore working, either through a revision of the League's Convention or through a new agreement, to secure the automatic enforceability of private arbitral awards. At the same time, and pending the much needed unification of national legislation on arbitration, the I.C.C. is also striving to establish internationally accepted standards of arbitral practice.

Protection of Industrial Property

Resolution No. 23 on Industrial Property points to two weaknesses in the present system established by international agreement for the protection of patent, design, and trade mark rights. The first is that the latest text of the International Convention on which this protection is based still lacks ratification by a number of countries. Secondly, even this revised text now requires a number of fundamental alterations to bring it into line with the many important changes that have since taken place in the structure of international commercial relations. The I.C.C. therefore presses both for the immediate ratification of the 1934 Revision and for the early calling of a diplomatic conference of revision. The resolution then goes on to list the main points where a new agreement is most urgently needed.

Commercial Documentary Credits

The final acceptance in Lisbon of an up-to-date revised version of the I.C.C.'s Uniform Customs and Practice of Commercial Documentary Credits is one of the outstanding achievements of the Lisbon Congress. Since 1934 the bankers of many countries have been conducting their documentary credit transactions on the basis of the I.C.C. rules drawn up at that time. But the great growth of transactions of this kind in recent years as well as of new practices on which no definite ruling had been given, compelled the I.C.C. to review the earlier text and bring out a new set of rules more closely in line with modern practice. After some three years of investigation and discussion, the revised text has now been issued and the Lisbon Congress calls on all banking associations to put them into force on 1st January, 1952.

The Lisbon Congress at the same time takes a first tentative step towards creating uniformity in the terminology and forms used for opening commercial documentary credits. In Resolution 24 B the Congress approves a set of standard forms for postal and telegraph correspondence between banks, worked out in cooperation with the International Organization for Standardization.

(READ ALSO BROCHURES 151, 159, 160)

I
**ECONOMIC POLICY
AND
REARMAMENT**

1. Economic Cooperation in a Rearming World ^(*)

GENERAL FRAMEWORK OF ECONOMIC COOPERATION

POST-WAR economic reconstruction was still incomplete when international developments arose leading to rearmament. The productive capacity of Western Europe was in great part restored, trade barriers were gradually being removed, private international capital movements were beginning to revive, in most countries inflationary forces had lost a great deal of their momentum and monetary reconstruction was under way. Private enterprise was regaining in many countries much of its former vigour and initiative ; and, following the gradual liquidation of most of the controls inherited from the second World War, free market forces had greater scope. There had even been a certain relaxation in the administration of exchange controls. There was, however, another side to the picture. The multilateral pattern of world trade was still far from being fully re-established. Exchange controls remained the dominant feature of economic relations, and economic nationalism was still hampering the creation, in many of the under-developed areas of the world, of conditions favourable to the resumption of large and sustained international movements of investment funds. In a word, considerable progress had been made, but the final goal was still out of reach. Now that many important areas of the world, for reasons which are outside the scope of the present statement are engaged in an extensive rearmament program, it is therefore particularly important that as little damage as possible should be done to the economic gains of the past five years so that, when the political scene brightens again, the world economy can be quickly re-built.

Rearmament before the first and second World Wars was undertaken on a national basis, and it was not until after the war had actually broken out that cooperation in the production of armaments and the provision of finance took shape. It is characteristic of the present and coming period of

*) The Indian Delegation reserved its position on certain points of principle in this statement.

rearmament that the possibility of conflict between a number of countries is ruled out from the outset. Rearmament problems are therefore being approached in an international rather than a national spirit, and efforts are being made in advance to ensure the most advantageous use of international physical and financial resources. These efforts are finding expression in the various international organizations which have been set up to consider the purchase and allocation of raw materials, the planning of defence production and the settlement of international accounts arising from defence requirements.

It follows that rearmament must be regarded not as a reason for abandoning efforts of international cooperation but rather as a new field in which — temporarily it is hoped — such efforts can continue to play their full part. Once this is accepted, several consequences follow. In the first place, the objectives of trade liberalization and of the restoration of free international payments must not be discarded, since not only might it be possible even in a rearming world to achieve progress in these directions but also the common defence effort would otherwise be weakened on another front. Secondly, the greatest possible scope must be left to private initiative and enterprise, inventiveness must be stimulated and the growth of productivity encouraged. Thirdly, everything must be done to minimize the rigidities that always result from rearmament; instead, the economic system must be made as flexible as possible and free market processes fully utilized. Finally, thought should be given, even at this early date, to the maladjustments which are inevitably brought about by an economy of military preparedness and which will have to be corrected as soon as the international situation allows a return to normal peace-time relations.

SPECIFIC AREAS OF COOPERATION

Production

A substantial increase in production and productivity is the only means of raising the output of military equipment with the least possible adverse effect on civilian standards of living. It is unfortunately the case that a period of rearmament is subjected to influences which are inimical to efficiency; for instance the exploitation of low-grade mineral resources, the use of obsolete plant and the employment of ill-trained labour. High taxation also tends to reduce incentives to greater effort. The following suggestions may be helpful in developing both production and productivity:

- a) Allocations of defence production as between countries should, as far as possible, be guided by the efficiency of the industries to which they are assigned, independently of any decisions that may be taken concerning the financial share of each country in the budget of common defence. The O.E.E.C. properly adapted to the new circumstances has here a task to perform which would be helpful both to the rearmament effort and to the future prosperity of the various countries.

- b) It would be best from the point of view both of speed in the expansion of production in the short run and of preserving the international structure of production that the major emphasis be placed on increasing the efficiency of existing industries, while retooling them for the required kind of output, rather than on large investments in the setting up of new industries. To the extent to which this suggestion can be followed in practice, the maintenance of long-term equilibrium in the balances of payments of the various countries will be facilitated when it comes to reconversion to peacetime production.

Raw Materials

Under any scheme for the control of raw materials in short supply every effort should be made to utilize the normal trade channels. Governments, when they adopt controls, should refrain as far as possible from engaging in actual transactions. This applies not only to raw materials but to food and other necessities as well. Although it is sometimes necessary for governments, under conditions of a war economy, to engage in bulk trading on behalf of their respective countries, such State trading, in a period of peacetime rearmament, should in no case extend to products other than those required for actual defence purposes and should be kept down to a minimum.

Although there has been in fact stockpiling of strategic materials, there has been no long-range policy of stockpiling. Yet, it seems important to distinguish between stockpiling policies adopted in respect of goods in over-supply and those which apply to goods of which there exists a relative shortage. The former may tend to stabilize prices, whereas the latter, if not accompanied by some international procurement and allocation scheme, would tend to drive them up. It may also be worth considering whether some price increase may not be necessary in order to expand the supply of scarce materials, while keeping that price increase within reasonable bounds. The raw material supply problem is a matter requiring the highest degree of international cooperation, since all countries, producers and consumers of raw materials alike, have a stake in the orderliness and stability of commodity markets. It might be added that stockpiling can yield its best results when it is the outcome of concerted and coordinated international action.

The development of new raw material supplies is one of the most important aspects of rearmament. This calls for increased foreign investments selectively directed towards the countries which can develop supplies of required materials provided capital is made available to them. For the raw materials producing countries themselves, this affords an opportunity for stepping up their own economic growth, and it must be hoped that they will adopt attitudes favourable to the influx of foreign capital. Great caution should, however, be exercised in developing productive capacity beyond normal world requirements in peacetime (*see page 27*). When speaking of capital investment in this connection, reference is made, of course, not only to financial resources but also to capital goods, machinery and equipment, and to technical know-how, all of which are needed.

It is important, therefore, that the production of capital goods for export should be given high priority when its object is to promote the production of essential raw materials or food stuffs.

Besides being supplied with capital, the raw material producing countries will need some reassurances as to their ability to secure, during the rearmament period, reasonably adequate supplies of manufactured consumer goods. The economic expansion due to increased production of raw materials would undoubtedly help to raise standards of living in the countries concerned and thus lead to a growing demand for manufactured goods. Countries that play a particularly important industrial part in the rearmament process should at the same time make every effort to satisfy through exports the rising demand in raw material producing countries.

Mobility of Labour

In order to maximize production in Western Europe, and thereby reduce to a minimum the adverse effects of rearmament upon living standards, it is necessary to permit existing man-power resources to achieve their fullest effectiveness. There is still unemployment in certain areas of Western Europe, while there exists a manpower shortage in others. It is therefore necessary to give greater freedom of movement to labour in Western Europe both within each country and between countries. This would call for the closest possible cooperation between labour, management and government.

Obstacles to labour mobility may fall under one of two headings : some are due to government policies and regulations and others to material conditions such as lack of housing. It is essential that the former obstacles be reduced through international agreements. The latter require special economic measures, such as the construction of additional housing and the increase of facilities for the re-training of workers.

Monetary Arrangements

The comments that follow are based on the assumption that appropriate intergovernmental arrangements will be made for the apportionment of the estimated financial burden of rearmament, in such a way as to forestall major disequilibria in the payments position of the countries concerned and prevent financial considerations from interfering with the best utilization of existing industrial resources.

The international approach to rearmament, about which more has been said above, has important monetary implications. If the production of military equipment is allocated to the industries of various countries by a central board and if individual countries manufacture particular items not only for their national needs but for export to other NATO countries as well, there obviously arises a need for the clearing of balances due to such transactions. Appropriate machinery must thus be designed and special attention must be paid to the problem of settling the net balances which will arise out of the defence transactions.

Under such a system some countries would inevitably be net recipients of military equipment, while other countries would be net exporters. The former would thus have a debit element in their clearing balance due to the common defence program, while the others would have a credit element. (The I.C.C. is not concerned in this context with military equipment that might be shipped to Europe from across the Atlantic).

Not all countries with credit balances would be in a position to lend-lease their excess exports of military goods to countries with a debit balance. They would expect payment ; indeed, this would be an incentive to the expansion of their arms production. The debit balances on armament account proper might, of course, be paid off to a certain extent by the credit balances the same countries might have in connection either with their defence exports other than armament or with any other elements in their balance of payments.

An important question to settle is whether NATO should establish a separate clearing agency of its own or use the facilities supplied by EPU and its fiscal agent, the Bank for International Settlements. Each of these alternative solutions has advantages as well as drawbacks. If EPU were to be used, it would be necessary to revise the size of the members' *quotas*, i.e., the credit lines they are granting to other members of the Union. Now, countries anticipating a net export of armaments might be reluctant to increase their credit lines, while countries anticipating new imports of armaments might not be willing to face the obligation of paying off in gold or dollars an increasing part of their indebtedness to the Union. By including defence transactions within the scope of EPU one might be minimizing the incentives for the production of an expanding volume of armaments in Europe. A separate clearing arrangement for defence transactions might, on the other hand, maximize these incentives, especially if dollars were to be made available from the U.S. Military Assistance Program for the settlement of the net balances. This is the case for a separate clearing agency for defence transactions.

On the other side of the picture, we must note the drawbacks of having separate clearing arrangements for defence transactions and for normal peace-time transactions. The line between the two is often very hard to draw. What happens, for instance, when a country's automobile industry instead of producing private cars for export now produces, also for export, military trucks ? Should such transactions be taken out of the scope of EPU and placed under the scope of a new agency, and how would that affect the country's accounts with EPU ? Again, as concerns raw materials imports, how far can one draw the line between raw materials used for the production of military equipment (including uniforms, for example) and raw materials used for the manufacture of civilian goods (e.g. civilian clothing) ? A distinction between the two areas of transaction is often artificial and it might be impossible to carry it into full effect without major complications. Also, as has already been indicated, a country may run a deficit on rearmament account and a surplus on civilian account and it would be useful to set off the former against the latter, as far as that can be done.

It seems likely that the solution adopted in practice will follow the line of a single clearing system with book-keeping arrangements so designed as to keep track of the various types of transaction.

POLICIES AGAINST INFLATION

It is a matter of common experience that rearmament engenders inflationary pressures, especially when production and employment levels are already relatively high. At the present time the economies of most countries are operating at high levels of production and employment and are, therefore, particularly sensitive to inflationary forces. But even in countries in which there exists unemployment and which have unused productive resources, inflationary tendencies may develop and interfere with balanced economic expansion. It is in the interest of the defence effort that the inflationary forces should be kept at a minimum. This is also in the interest of the longer-run economic stability of the countries concerned, as well as of international economic relations in general. Inflation proceeding at an uneven pace in a number of countries usually brings in its wake balance of payments difficulties and thereby contributes to the growth of restrictive controls upon trade and payments.

The most important international move to combat inflation is an effective stabilization of prices of raw materials. This gives special importance to the future operations of the raw materials controls, about which more has been said in the earlier part of this statement. In addition, the various countries should adopt individually effective policies to combat inflation at home. The measures individual countries should adopt depend of course upon internal conditions, but the following three principles would seem to have general validity :

- a) It is vital to cut down all non-essential public expenditure. The notion of what is "essential" and what is not differs of course in peace-time and in war, and is still something else in a defence economy. What might be called "the scale of social priorities" varies according to circumstances and it is quite different now from what it was in the early post-war years. There may be conditions in which national security is, in fact, the primary social requirement. Since it is impossible to satisfy all the legitimate social requirements *and* all the essential defence requirements at the same time without incurring the danger of inflation, "priorities" must be fixed within each country and expenditures on what now appear to be non-essential items must be reduced or eliminated.
- b) Many countries may find it advisable to carry out tax reforms with two objectives in mind : to broaden to the largest possible extent the tax base, i.e. the part of the national income which is actually subject to taxation, taking account of tax exemptions, tax evasion, etc., and to make the tax system as equitable as possible, thereby achieving even in the period of rearmament a certain amount of social improvement in the countries in which there is scope for such reforms.

- c) The above two points relate to the expenditure and revenue side of national budgets ; but the fight against inflation must also be conducted on the monetary front proper. This is where central banking policies come into the picture. Several of the Continental countries have recent and encouraging experience of success by central banking policies in stemming the tide of inflation. One could not emphasize enough the need for sound central banking policies in the years that are ahead. These policies should prevent an excessive expansion of the supply of money and be so designed as to curtail consumer spending and less essential private investments while encouraging the savings of the public. Direct methods of control may be applicable in certain fields, such as instalment consumer credit, but for general purposes an increase in interest rates would be more appropriate. The vital thing is to avoid spreading purchasing power through the intervention of the central bank in open-market operations in order to keep interest rates unduly low.

An excessive fear of deflation is also dangerous. There were times in the past twenty years when such a fear was fully justified — now, however, and for the immediately foreseeable future the great danger is inflation. Should we be too timid in our fight against inflation because of the fear of deflation, we are likely to have inflation first and deflation afterwards. For, as is too often forgotten nowadays in spite of past experience, nothing leads to a more disastrous deflation than an inflationary movement that gets out of control.

MULTILATERAL TRADE UNDER REARMAMENT

Emphasis has been placed in the opening paragraphs of this statement upon the fact that the Western world is approaching the problem of rearmament in a spirit of international cooperation and not of national self-sufficiency. It is not unreasonable to hope, therefore, that the movement towards the reduction of trade and payments restrictions and the restoration of multilateral trade, which got under way in recent years, will not be reversed during the period of rearmament. Such a reversal would not only be damaging to long range prosperity and to the future of international cooperation, but it would interfere with the defence effort itself. The Western world must so organize itself as to take full advantage of the resources that it possesses. Now, there is no better way to do this than through multilateral trade. By further liberalizing the trade they do with each other, the countries of the Western world will make themselves stronger in defence and more prosperous in peace, and will forge even closer links among themselves for the years to come. Thus, the liberalization of trade and payments are objectives which must be pursued relentlessly even under rearmament.

The effect of rearmament upon the balances of payments of the various countries will vary from case to case. Some may find themselves in a worse position than before owing to the fall of exports coupled with an increase of domestic requirements for imported raw materials and owing to the relatively greater increase of raw materials prices than of prices of

exportable manufactured goods. Other countries may find that their balance of payments improves as a result of greatly expanded raw materials or food exports or because they are able to expand considerably their aggregate production, thereby increasing their exports of manufactured goods, whether civilian or military.

Since the influence of rearmament upon the balance of payments position — and the monetary reserves — of the various countries will differ from case to case, no uniform rules can be laid down for the further liberalization of trade and payments. All that can be said — and the I.C.C. wishes to say it with the greatest possible emphasis, — is that full advantage should be taken of every opportunity to liberalize trade and payments, and that the O.E.E.C. and EPU should keep a careful watch over the changing situation of their members.

The I.C.C. remains convinced that as soon as possible all import quotas and exchange controls should disappear from the economic scene, so that multilateral trade may grow unhampered to the great advantage of living standards throughout the world. While maintaining its long-run objectives, the I.C.C. realizes, however, that in present-day conditions these results cannot be obtained immediately. The I.C.C. nevertheless believes that in so far as quantitative restrictions have to be maintained, they should and could be made less stringent and be administered in an increasingly liberal spirit.

Thus, in particular, it should be possible, even now, to attenuate exchange controls in certain countries, to expand the area of transferable sterling accounts, to facilitate the re-entry of a country's bank notes into its territory, and to facilitate foreign payments arising out of legitimate business transactions.

Another step to be taken in conjunction with trade liberalization might consist in extending the geographical scope of the European Payments Union. Already now the Union includes both the overseas possessions of member countries and, through the United Kingdom, the sterling area. Should Latin American countries, for example, be also brought within the scope of the Union, an important step might thereby be taken towards the spread of liberalization policies and the furtherance of multilateral trade. What makes such special arrangements as EPU useful at the present time is the prevalence of exchange controls. There would be no need for them if international payments were entirely free. So long as exchange controls exist, however, multilateral clearings should be broadened to include the widest possible area, so as to pave the way for the expansion of multilateral trade on a world-wide basis.

With regard to multilateral trade, it is worth noting that the triangular pattern involving Continental Western Europe, Latin America, and North America may be promoted under the impact of rearmament. Latin American countries will be earning a growing amount of dollars from North America on account of their raw materials exports. It is quite likely that a part of these dollars will be spent in Europe for the purchase of manufactured goods. Should this happen, Continental European countries might be earning a part of their dollars not in the United States but in Latin America, an essential feature of the triangular trade pattern.

POST-REARMAMENT PROBLEMS

It is inevitable that future maladjustments should be bred during a period of rearmament. In the first place, once military requirements give way to civilian demand, many changes in national economies may become necessary. (That is why the I.C.C. suggested earlier in this statement that the policies of defence production should be so designed as to cause as little distortion as possible in the structure of the various national economies.) In the second place, rearmament tends to result in scarcities of raw materials and, therefore, accelerates the development of the raw materials resources of the world. This means that once rearmament is completed, there may remain a relative over-supply of many raw materials coupled with a drastic fall in their prices.

Even while rearmament is in progress, plans must therefore be made for future orderly adjustments in international commodity markets. These adjustments should be carried out in a way that would eliminate rather than perpetuate disequilibria, while avoiding major market upheavals. There should also be plans well in advance for the safeguarding of the legitimate interests of the populations in the raw material producing areas which might be adversely affected by the post-rearmament decline in the demand for their products.

In order to cope with these difficult future problems, it will be necessary to provide the various national economies, as well as the world economy as a whole, with the most powerful incentives for economic growth and development. Private initiative and enterprise and the growth of private investments, both at home and abroad, are of crucial importance in this connection.

The question of economic development will have to be carefully reconsidered and a favourable "climate" for private foreign investments established over the widest possible areas. The I.C.C. has advocated such an approach for a long time and its recommendations acquire even greater urgency in the light of post-rearmament problems.

Finally, it cannot be stressed too often that the quicker trade and payments restrictions are removed and the sooner international payments become entirely free, the greater will be the release of dynamic forces inherent in world trade and foreign investments. A program of post-rearmament policies will have to devote, therefore, much attention to the re-establishment as quickly as possible of the conditions which will enable restrictions that tend to cripple the world economy to be eliminated.

(Original)

2. Distribution of Consumer Goods in a Rearming World

AT the time of its XIIth Congress held in Quebec in June 1949, the International Chamber of Commerce, while recognizing the survival of too many obstacles to the free movement of goods and the persistence of measures of authoritarian control in a number of countries, was able to point to progress achieved since the end of the war in the field of the free organization of trade and to express the hope that, with the return of a free supply of raw materials, an increasingly large place would be found for the competitive system, which would enable consumer goods to be more abundantly distributed and would promote the lowering of prices.

Since the Quebec Congress, a definite decline in governmental intervention in distribution has in fact been noticeable in most countries not living in a closed economy : in important sectors prices have been freed, controls have been relaxed, international trade has been partly liberalized, and movements of capital facilitated. No doubt, the Western world has not recovered full freedom of domestic and foreign trade in so short a period ; but, taking into account the substantial inheritance of controls left by the war years, it must be acknowledged that the efforts made to restore the prerogatives of free enterprise have not only checked the trend towards intervention, but have also gained ground at many important points.

To-day, there is a danger that the position will again be reversed. Under the pressure of international political events and the requirements of an immense rearmament program, the recent abundance is tending, in certain sectors, to give way to a relative shortage, while the upward trend of prices on the principal markets leads to regulations and controls and the mobilization of the economy is more or less rapidly, according to the country, in danger of affecting the distribution system.

The main issue in 1951 is no longer, therefore, to find ways and means of broadening the scope of commercial freedom, but of endeavouring to limit restrictions on that freedom as far as may be compatible with the general interest of the countries working together in accordance with the same policy.

* * *

Taking these new developments into account, the International Chamber of Commerce submits the following recommendations :

1. Freedom of trade cannot be generally reduced without harmfully upsetting the system of distribution, which has barely recovered from the effects of war. Limitations on that freedom should be envisaged only in cases of absolute necessity, for instance where there is a manifest shortage in a given sector.

2. Free enterprise and private initiative should remain the general rule in the field of distribution because the surest guarantee of a satisfactory supply lies in keeping the commercial system alive.
3. The competitive system should continue to have preference over any system of compulsion in all sectors where the market is adequately supplied ; it tends to lead to the application of the latest techniques of research, selling and management and, as a consequence, to the reduction of distribution costs, much more surely than measures of price control or of quantitative interference with the machinery of distribution.
4. The attention of public authorities should be drawn to the grave drawbacks of any undue extension of the practice of allocating consumption goods by means of regulation. So often such a system has led to the growth of parallel markets where prices finally exceed the legal prices with their consequently demoralizing results.
5. It is necessary to emphasize once more that trade margins are extremely sensitive to the incidence of all fiscal charges, tariff increases and higher charges for public services, and that these factors of increase, against which distributors are powerless, are to a large extent responsible for the "gap" between production prices and prices to the consumer, which is so often criticised.

Consequently, in the interests of consumers and of public harmony, the International Chamber of Commerce recommends that the authorities constantly bear in mind the cumulative effects of fiscal, tariff or social measures upon the costs of distribution, whose upward trends are responsible for many economic and social troubles.

(Translation)

3. Profits Taxes and Depreciation of Money ^(*)

UNDER the impact of rearmament, inflationary pressures are becoming acute in many parts of the world. As a result, business concerns are going to show apparent but fictitious profits due to monetary depreciation. There is, on the other hand, more than ever a pressing need to preserve the productive capacity of business in view of the present additional demands on production. It is therefore essential, in the opinion of the International Chamber of Commerce, that governments should give early consideration to the problem of how profits should be defined for taxation purposes when the buying power of money falls, in order to prevent taxation from bringing about a constant decline in the productive forces of the various countries.

In view of the particular urgency of the problem, the I.C.C. is glad to note that investigations have already begun in certain government circles and that the Fiscal Commission of the United Nations examined the subject at its last session in May 1951. The I.C.C. believes that the first report drawn up by its Commission on Taxation may usefully serve as an introduction to the discussion of this problem among governments and their experts.

(Original)

^(*) The Argentine Delegation and the United States Delegation voted against the adoption of this resolution.

II

**ECONOMIC DEVELOPMENT
AND
FOREIGN INVESTMENTS**

4. Financing Economic Development ^(*)

IN its reports of 1947 and 1949 (Brochures 107 and 129), the International Chamber of Commerce gave its views in some detail on the type of policy that should be followed to promote the expansion of private international investments, and it put forward as a basis of discussion and negotiation by governments the draft of an International Code of Fair Treatment for Foreign Investments. Later discussions within the United Nations and elsewhere make it clear, however, that there are points of I.C.C. policy that need to be further expanded or clarified, and questions have been raised on which the I.C.C. has not so far expressed an opinion. A supplementary statement may therefore be helpful at this juncture.

There can be no expansion of international investments on the scale required today unless currencies are made freely exchangeable and transferable. That is the first point the I.C.C. must again emphasize from its earlier statements. On the economic plane, the non-transferability of currencies is at present undoubtedly the major obstacle to foreign investments. But, although it is true that a substantial increase in capital movements is inconceivable without transferability, it is equally true that transferability would itself be made easier were there an ample flow of funds from one country to another and particularly from creditor to debtor areas. There must therefore be action on both planes simultaneously. While every effort is made to bring about as rapidly as possible world-wide transferability of currencies, there must at the same time be a policy of active encouragement to international investments. This two-fold policy calls for a liberal interpretation of the definition of "current transactions" contained in the Bretton Woods Agreements. Should this definition nevertheless prove to be too narrow for foreign investment purposes, it may be necessary at an appropriate moment to consider revising the actual terms of the Bretton Woods Agreements.

Secondly, in present-day conditions the prime responsibility for encouraging private capital movements must rest on the capital importing countries. Even with free transferability of currencies, private capital will

(*) The Indian Delegation abstained from voting.

still refuse to venture abroad unless it can be sure of fair treatment along the lines of the I.C.C.'s proposed Code. Whatever may have been the case in the past, to-day it is the exporter of capital who needs protection and reassurance against arbitrary and discriminatory policies ; the capital importing countries are fully armed to defend their interests against abuses by the investor or his government. This does not mean that the I.C.C. in any way minimizes the rights of the investee country or the grave social responsibility resting on the foreign investor, particularly in the under-developed areas. The I.C.C. represents the importer as well as the exporter of capital. Investing abroad is a matter of give-and-take, but it is simply commonsense that if a country needs private capital for its development, it is for it to remove obstacles and make the conditions attractive in much the same spirit as a country adopts a policy of attracting, and not repelling, the foreign tourist.

These two points are basic to the I.C.C.'s whole approach to the problem of economic development through international investment. There can be no sound solution, except against the background of a general system of multilateral trade and payments. And equally, there can be no sound solution until government policy creates the climate of confidence private capital and private enterprise need if they are to make their full contribution to economic development.

In a report published in Brochure 142, the I.C.C.'s Commission on Foreign Investments and Economic Development studies a number of important subsidiary issues which have come to the fore since the earlier reports were drawn up. The I.C.C. recommends this report to the attention of the Economic and Social Council of the United Nations and of individual governments, and strongly endorses its conclusions which may be briefly summarized as follows :

- a) If a country wishes to develop its economy faster than domestic savings would normally allow, it should first of all endeavour to stimulate the formation of savings at home through educational campaigns and institutional arrangements as well as through appropriate fiscal policies. Excessive reliance on domestic financing, however, can only lead either to failure or to the building-up of an artificial economic structure based on State control and autarky. Attention is moreover directed too exclusively to projects sponsored by governments. These are necessary, but they are not the whole of the picture. At best they can supply the basic framework for the real economic expansion which can take place only through innumerable individual ventures based on private initiative, inventiveness and risk-taking. It is therefore essential also to hold out inducements to private capital and enterprise from abroad.
- b) Insufficient attention has hitherto been paid to the problem of capital formation from the point of view of the export of capital. Unless domestic policies are adopted to stimulate the formation of new capital, not enough capital will be available for export, and economic development throughout the world will be slower than it need otherwise be. The type of policy required will vary from one country to another, but in almost every case measures will have to be taken to correct excesses and anomalies in the field of taxation as well as to eliminate double taxation.

- c) Technical assistance programs not requiring capital investment are valuable but necessarily limited in their scope. They can help to increase productivity, but they cannot of themselves give a new impetus to economic growth or bring about a radical change in a country's economic situation. Technical assistance programs, including "Point Four", must be regarded mostly as a challenge. The challenge is to create conditions favourable to a revival of international movements of private capital. If really significant results are to be obtained, technical assistance programs will usually require the support of sizeable capital investments, whether private or public. New investments, in turn, whether domestic or from abroad, would profit greatly from the availability of technical assistance. It is worth noting in this connection that "direct" investment by private enterprise, a form of investment to which the I.C.C. attaches the greatest importance, almost invariably carries with it its own schemes for technical assistance.

(Original)

5. Governmental Guaranties to Investors

SINCE the publication of its June 1950 statement and report on "Financing Economic Development" (Brochure 142), the International Chamber of Commerce has made a careful study of the question of governmental guaranties to investors in the capital exporting countries. After considering the arguments for and against, the I.C.C. believes that there are circumstances in which such guaranties may undoubtedly serve a useful purpose. It is for each country to decide this in the light of prevailing conditions and of the economic policy it is pursuing. In any case, the system of governmental guaranties to private investments is more or less in the nature of an experiment and should be treated as such. Its continued application should depend upon the results achieved in the earlier stages.

There are two questions of principle, however, which must be emphasized at the outset.

First, guaranties should be given to the investors by the capital exporting countries only in the case of investments in countries which treat foreign investments fairly, along the general lines of the I.C.C.'s Code of Fair Treatment for Foreign Investments (Brochure 129). To do otherwise would be to place a premium on unfair practice and to relieve the investee country of its responsibilities at the expense of the taxpayer in the investor country.

Secondly, the granting of guaranties should not involve supervision and control of the investment by the guaranteeing government in the capital exporting country. Legislation should be so drafted as to ensure this, and investors should refrain from making use of the guaranties if they carry with them governmental control over the investment.

Where governments of investor countries decide to introduce guaranties covering investments made abroad by their nationals, the following rules should be observed :

1. The types of risk to be covered are mainly the risks of transfer arising out of the prevailing non-convertibility of currencies and the risks of expropriation. No attempt should be made to cover the usual business risks an investor must inevitably face when venturing his capital abroad, and in the case of war risks special arrangements may be necessary.
2. Guaranties should be extended to new investments only, including additional investments in existing enterprises. Old investments were made without any expectation of a guaranty. There should, however, be no discrimination between new and already existing investments in the policies of capital importing countries.

3. Guaranties should be made available only against the payment of an appropriate premium.
4. The government agencies entrusted with the administration of investment guaranties should be empowered to charge different rates of premium according to the area or country in which the investment is made. If the purpose of the guaranteeing government is to develop resources important for defence, it might also be advisable to differentiate as between industries. Such differentiation in the rates of premium should not be considered as discriminatory or as an undue interference with private enterprise.
5. In order to be effective, any guaranty that is extended should cover both the principal of a foreign investment and the current income earned by it.

The I.C.C. submits these recommendations, which are explained in detail in the report of its Commission on Foreign Investments and Economic Development (Brochure 145), to the earnest attention of individual governments as well as of the Economic and Social Council of the United Nations and other interested inter-governmental organizations.

(Original)

6. Unilateral Relief from Double Taxation

IN spite of progress slowly and laboriously made in recent years through bilateral treaties, double taxation remains a dead-weight on the expansion of international trade and investment. Taking the 52 nations who participated in the negotiations for the Havana Charter as being representative of the main bulk of international trade, there are 1,326 possible bilateral treaties, and out of that number only 26 covering income generally have been concluded. At the present rate of progress it will take some twenty years to cover the major part of international investment and some parts will probably never be covered. It is clear, therefore, that speedier action is imperative.

Whilst continuing to urge the vital importance of the rapid conclusion of as many bilateral agreements as possible, the International Chamber of Commerce further proposes that each country should forthwith take unilateral action for the relief of double taxation. That is to say, the tax law should be designed to relieve residents of the home tax, or part of it, on income which has been taxed abroad, and to relieve non-residents of the home tax on certain sources of income arising within the country. Such action would remove by far the greater part of the impediment double taxation places in the way of international private investment. It would leave the negotiation of treaties to the narrower field of completing the relief in particular instances arising out of a foreign tax system.

It is sometimes argued that by granting unilateral relief a government would weaken its bargaining position when negotiating bilateral treaties. This is equivalent to saying that the government should continue to discourage investment of capital by its residents in the other country and to hamper the expansion of trade until the other country is prepared to make the necessary concessions. The argument ignores the damage at present being suffered by existing investments, which cannot escape double taxation.

It is noted that the United States, which is actively negotiating bilateral treaties, has already provided in its law some thirty years ago for unilateral relief to its citizens in respect of foreign taxes.

The United Kingdom which has completed some forty bilateral treaties and has others in negotiation, has recently extended the existing unilateral relief from one-half to three-quarters of the home tax for Commonwealth taxes and granted a new relief of one-half of the home tax in respect of foreign taxes.

The broad purpose of the legislation contemplated should be to assure that as far as may be practical income should bear one tax and one tax only, either in the country where the income arises or in the country where the income is received. The final objective need not necessarily be reached

at one advance. In accordance with the particular circumstances of each country, progress can be made by steps. These steps can either select certain types of income for prior relief or they can relieve an increasing proportion of the home tax for all types of income.

To achieve this purpose each country should consider two aspects of its law on the taxation of income, viz : (a) that part of the law by which income is taxed because the income is deemed to originate in the country to the benefit of a non-resident, and (b) that part of the law by which income is taxed because the person who is entitled to the income is a resident in the country. The principles on which both parts of the law should be designed are as follows :

A. As a Country of Origin

As a country of origin the country should define the income which is taxable, the extent to which it is taxable, and the rate at which it is taxable in accordance with these rules :

1. Royalties, fees, and capital sums payable to a non-resident for the use of any copyright, patent, design, secret process or formula, trade mark or other like property, or for instruction in the use of such property, are exempt.
2. Interest paid to a non-resident is exempt reciprocally if the country of the non-resident similarly exempts interest payable by its residents to residents of the country of origin.
3. Remuneration of servants of a foreign government for their services to their government is exempt. Pensions and other compensation in respect of past services of that nature are exempt.
4. Foreign income of temporary visitors is exempt, whether such income is remuneration for services rendered on behalf of a non-resident employer or income from foreign investments. A temporary visitor is a person whose main abode is abroad and who is present in the country for less than 183 days in the fiscal year.
5. No profit should be attributed to the mere purchase of goods within the country for export from the country by a non-resident.
6. No profit should be attributed to any business or professional activity within the country unless the non-resident has a permanent establishment within the country, or is present within the country for 183 days or more in the fiscal year without having a permanent establishment.
7. Business and professional profits earned by a permanent establishment within the country should be deemed to arise within the country to the extent shown by the accounts of the permanent establishment drawn up on the basis of independent accounting. That is to say, the accounts should show, and if need be, should be modified for tax purposes to show the profit, or loss, which would have been realized by an independent enterprise of a similar character.

8. A permanent establishment should be defined to include a branch, management, factory, or other fixed place of business, but to exclude an agent or employee unless he has and habitually exercises a general authority to negotiate and conclude contracts on behalf of a non-resident or is in possession of a stock of merchandise for the purpose of fulfilling orders and not solely for the purpose of display or sampling. It should exclude the mere conduct of business dealings through an independent commission agent, broker, or custodian acting in the ordinary course of his business. It should exclude a place of business used exclusively for the purchase of goods.
9. A resident person should be defined, in the case of a corporate body, as one whose real centre of management is situated in the country, and in the case of an individual, one whose main place of abode is situated in the country.
10. In so far as income or profits arising within the country to a non-resident person are not exempt under the above rules, these should be taxed at a flat rate of tax which does not take into account any other income arising outside the country. This rate might be the proportion of the income which is adopted as a "standard" rate, or as the rate for a "real" tax on income, or as the rate adopted for corporate bodies, as may be appropriate to the system of taxation in force in the country. Where such rates do not exist, a special rate should be created which is about half-way between the highest and lowest rates in the progressive scale. The non-resident person might, however, be given the option to render a return of his income arising from all sources within the country and be taxed at the same rate and receive the same allowances as a resident person in receipt of that amount of income.

B. As a Country of Residence

As a country of residence the country should define the income which is taxable and define the method of taxing the income in such a way that the income arising in a foreign country bears one tax only, either the foreign tax or the home tax. The question whether an income has arisen in a foreign country should be answered according to the country's own legislation as under A above.

In so doing, the country of residence can choose one of two alternatives. It may exempt the foreign income from tax and have regard to the foreign income only for the purpose of fixing the rate of the tax on the home income. Alternatively, it may tax the foreign income but give a credit against the home tax in respect of the foreign tax. Though in several countries the adoption of the tax credit system would be an improvement, it should be stated that the exemption system is far more advisable.

I. THE EXEMPTION SYSTEM

If the country of residence elected to exempt income accruing to its residents from foreign sources, it should define income from foreign sources in accordance with the same principles as it would adopt in defining the

income arising within itself to a non-resident ; these principles are enumerated above in Section A. That is to say, it would tax that kind and amount of income arising to its residents from abroad which it exempted when such income arose within itself in favour of a non-resident. It would exempt that kind and amount of income arising to its residents from abroad which it taxed when such income arose within itself in favour of a non-resident. The distinction between home and foreign income, called the tax frontier, would be the same whether the country acts as a country of residence or whether it acts as a country of origin.

The country of residence would levy tax on its resident at the proportion of the total tax which would be payable on his total income from home and foreign sources, if income from foreign sources were not exempt, which the income from home sources bears to his total income.

2. THE TAX CREDIT SYSTEM

If the country of residence elects to tax income accruing to its residents from foreign sources, it would give a credit against the total of the home taxes levied on that income equal to the total of the foreign taxes levied on that income, limited to the total of the home taxes.

The taxable amount of the foreign income for the purpose of the home tax would be the net amount of the foreign income after payment of all the foreign taxes plus a sum equal to the foreign tax credit to be made against the home tax.

The amount of the foreign taxes to be considered for the foreign tax credit would be the sum of the foreign taxes levied on the income from the moment it first arose, including taxes on the earning of the income, on its retention from distribution, and on its distribution. Taxes paid to a foreign subordinate government should be added to the taxes paid to the central government on the income. Annual taxes calculated by reference to capital which are normally paid out of income should be added to the taxes which are levied on the income itself.

The limit to the foreign tax credit would be the sum of the home taxes chargeable on the foreign income on the person who first receives the income or for whose benefit it accrues. Annual taxes on capital which are payable out of income should be regarded as income taxes for this purpose.

C. Intermediate Country

A country may also be an intermediate country, that is to say, a country to a resident of which income accrues from a foreign country, but the income subsequently passes to a resident of a third country as a beneficiary of a trust or as a member of a corporate body, or as a party to an agreement for the disposal of the income.

In that case, when it received the income, its conduct would be governed by the principles applicable to a country of residence. Thereafter no

further tax would be levied by it on the re-distribution of the income to the resident of the third country.

* * *

The International Chamber of Commerce submits this proposed scheme of unilateral action for the relief of double taxation to the earnest consideration of the Fiscal Commission of the United Nations and of the individual governments. A detailed analysis is contained in the report of its Commission on Taxation (Brochure 146).

(Original)

III

**PROBLEMS OF COMMERCIAL
POLICY**

7. International Trade Organization

THE International Chamber of Commerce notes that the Havana Charter for an International Trade Organization has not entered into force and is unlikely to do so in the future.

Although in the course of the negotiations leading up to the signature of the Havana Charter the I.C.C. submitted a number of suggestions for amending the Charter both on questions of principle and on points of detail it has always believed and has repeatedly affirmed that an inter-governmental organization for the promotion of world trade on a multi-lateral basis would be of great value.

The I.C.C. therefore recommends :

1. that, in the place of the General Agreement on Tariffs and Trade (GATT), which is now a provisional agreement, machinery be set up for continuous consultation among governments on matters affecting international trade, and that a permanent secretariat be established for that purpose ;
2. that, in establishing the organization, full account be taken of the recommendations made by the I.C.C. in its Brochure 124 on the Charter for an International Trade Organization ;
3. that the organization thus created give particular attention to bringing about as rapidly as possible a far-reaching simplification of administrative procedure and formalities in international trade ;
4. that, except in relation to the detailed negotiation of tariff rates, a system of continuous consultation be established between the new organization and international commercial and industrial organizations, particularly the I.C.C.

(Original)

8. Trade and Employment ^(*)

THE International Chamber of Commerce has given consideration to the United Nations Experts' Report on "National and International Measures for Full Employment" as well as to the Resolution arising out of it adopted by the Economic and Social Council.

The I.C.C. cannot accept the recommendations of the Experts. The Resolution of the Economic and Social Council admittedly does not accept all the views and recommendations they put forward, but it does not reject them and some of its recommendations reflect the same general approach.

At the present stage of its investigations and studies, the I.C.C. wishes, without entering into the many theoretical aspects of this many-sided problem, simply to emphasize two important points where its views enter into conflict with those expressed in the Experts' Report and in the ECOSOC Resolution.

First, governments alone cannot achieve and maintain full and productive employment in an expanding world economy. The goal can only be reached (to the extent to which this is possible) through the cordial and continuous cooperation of all economic forces : government, business, agriculture and labour.

Secondly, granted that the maintenance of prosperous and reasonably stable conditions throughout the world is indispensable if world trade is to flourish, measures taken to promote employment should be such as not to interfere with the flow of international commerce. There are many ways in which one can approach the problem of full employment ; the I.C.C. considers it essential that the methods chosen should not be disruptive of international economic relations. It follows, that these policies should be designed not in a spirit of nationalism and "insulation", but through a process of international cooperation. There is no conflict between high levels of production and employment in the various countries of the world and the freedom of international economic relations. On the contrary, where conflict arises, this is by the adoption of an excessively nationalistic approach to the problem of business cycles.

(Original)

(*) The Indian Delegation entered a reservation on the last paragraph of this Statement.

9. International Trade and Governmental Regulations

THE views and recommendations of the International Chamber of Commerce on the simplification and standardization of administrative formalities and regulations connected with international trade and transport have already been stated in some detail in the I.C.C.'s 1947 and 1949 reports. The first, entitled "Barriers to the International Transport of Goods" (Brochure 121) dealt primarily with frontier formalities, whereas the second, "Invisible Barriers to Trade and Travel" (Brochure 130), covered a wider field although including the earlier recommendations in a revised and condensed form.

Since the publication of these reports, the I.C.C. is glad to note that the problem has been receiving increasing attention in government circles throughout the world. The I.C.C.'s recommendations have been the subject of investigation and discussion by governments under the auspices of the Economic and Social Council of the United Nations. The Contracting Parties to the General Agreement on Tariffs and Trade have issued Standard Practices for the Administration of Import and Export Restrictions and Exchange Controls. In the field of air transport, governments are gradually putting into effect the Standards and Recommended Practices for the Facilitation of International Air Transport annexed to the Chicago Convention on International Civil Aviation. Important work is being done by the Economic Commission for Europe of the United Nations in the direction of simplifying frontier formalities for international railway and road transport. The European Customs Union Study Group of Brussels has been actively promoting simplification and standardization of customs regulations among its member countries particularly in the field of customs nomenclatures, valuation and the definition of weights and tares.

Valuable as these initiatives are — and they are warmly welcomed by the trading community — they are only a beginning and an immense amount of work remains to be done. There is still insufficient recognition of the seriousness of the problem not only for the trader but also for the consumer and economic life in general and of the need for really far-reaching and drastic reforms if trade is to run smoothly.

Nor has there been in many cases sufficient consultation with those actually engaged in trade. If new nomenclatures, definitions or regulations are to be really efficient in the interests of trade, they must be worked out in close collaboration with the importers, exporters, shippers and carriers to whose transactions they apply.

In order to obtain rapid results, the I.C.C. recommended in 1947 the calling of an international conference for the simplification of frontier

formalities. No action was taken on this recommendation, and at its Quebec Congress in 1949 the I.C.C. therefore suggested a different approach. It proposed that in each country an independent committee of experts be set up, composed not only of government officials but also of representatives of business interested in the import and export trades, to review and improve the existing administrative machinery. It also proposed that concurrently, on the international plane, a similar independent committee of experts be appointed either under the auspices of the I.T.O. or of GATT to start work on the elaboration of internationally standardized rules. In spite of the objections made by certain governments, the I.C.C. still believes that this combined national and international approach would be effective, but its main concern is not with methods but with results. It would welcome any effective and rapid procedure for bringing about a thoroughgoing simplification of present practice.

Now that it appears certain that the Havana Charter will not be ratified, the I.C.C. suggests that the primary responsibility for taking action in this field should rest upon the Contracting Parties to the General Agreement on Tariffs and Trade who have definitely committed themselves in Article VIII of the Agreement to go forward rapidly with the simplification of import and export formalities.

The I.C.C. therefore submits the resolutions contained in Brochure 153 ^(*), which are designed to amplify, complete and clarify its earlier recommendations, for consideration and action to the Contracting Parties to GATT as well as to the Economic and Social Council and its regional and functional Commissions, and to all the other international governmental bodies, regional or otherwise, which are already active in this field. Particular attention is drawn to the two opening recommendations on Valuation and Nationality. The lack of simple internationally accepted definitions and rules on these two points is a root-cause of many of the other ills the I.C.C. is seeking to remedy.

(Original)

(*) The I.C.C.'s detailed recommendations in Brochure 153 cover the following subjects : I. Valuation of Goods for Customs Purposes ; II. Nationality of Manufactured Goods ; III. Documentary Requirements ; IV. Consular Formalities ; V. Formalities connected with Quantitative Restrictions ; VI. Customs Treatment of Samples and Advertising Material.

10. Future Action in the Field of International Customs Cooperation

THE International Chamber of Commerce has taken note of the Convention establishing an International Customs Cooperation Council, which has already been signed at Brussels by thirteen European countries. The Convention makes clear its intention to further the interests of international trade by improving and making uniform customs techniques and legislation ; and to this end it provides for consultation and cooperation between the Council and interested non-governmental organizations.

The I.C.C. welcomes this new technical specialized agency and suggests that liaison between it and the Chamber should be established as soon as possible.

In particular, the I.C.C. suggests that the Council, in carrying out its responsibility for control of the Brussels Valuation Convention, should arrange for preliminary studies to be undertaken in consultation with the I.C.C. and along the lines which the I.C.C. has suggested.

(Original)

IV

**DISTRIBUTION
AND
ADVERTISING**

11. Distribution of Consumer Goods in a Rearming World

See Resolution No. 2

12. Distribution Statistics

THE International Chamber of Commerce again draws attention to the need for statistical research which will provide the necessary facts about the structure and operation of distribution. A fuller knowledge of these facts should make a substantial contribution towards improving efficiency in the distributive trades.

The International Chamber of Commerce notes with satisfaction the interest shown by the United Nations in its work on distribution censuses and statistics. It reaffirms its intention to continue its efforts in this field in collaboration with the United Nations, so that all those concerned and, in particular, traders and producers can obtain the necessary statistical information on distribution. This information should be sought by means of surveys and sample studies of the various sectors of distribution as well as by censuses.

The I.C.C. draws the attention of Governments and specialized bodies to the study which it has made of distribution censuses in a number of countries (Brochure 154) and particularly to the following conclusions drawn from that study :

1. There is still a substantial number of countries where little or no census material is available.
2. In those countries which have conducted censuses, a body of very useful experience about methods of collecting data and means of using the facts provided has been built up. Countries contemplating new censuses could, with profit, study the experience of others.
3. There is a need for a higher degree of international comparability of census results, in order to permit greater use and more accurate interpretation of these results on the international plane.
4. Governments planning distribution censuses should pay particular attention to the necessity of securing the good-will and support of the business community whose cooperation is needed to make censuses of the greatest practical value. It is particularly important to bring to the notice of all concerned the aims and uses of the census and it is also desirable that some indication should be given of an early date of publication of results.

(Original)

13. The Development of Education in Distribution and Advertising

THE International Chamber of Commerce draws the attention of governments, of the Economic and Social Council of the United Nations and of specialised bodies — national and international — to the importance of education in Distribution and Advertising.

The International Chamber of Commerce asks its National Committees and their associated organizations to cooperate fully in this field, and to :

- Encourage within each country the introduction in the programs of colleges, universities, technical schools and other institutions of learning of courses of instruction in the field of distribution and advertising, such courses to cover marketing, advertising, marketing research, selling, and allied subjects.
- Seek to promote and, if possible, develop between countries plans for the exchange of students specializing in marketing, advertising and allied subjects.

(Original)

14. Advertising Media Research

TAKING into account the growing importance of advertising in the present-day economy, the International Chamber of Commerce again draws attention to the importance of promoting in the various countries the development of research into advertising media. Such research can alone provide advertisers and their advisers with the data they require in order to make an adequate choice of the media suited to their purpose, thereby raising the practical efficiency of advertising and throwing light on its value to the business community.

Consequently, the International Chamber of Commerce recommends that :

1. Audit Bureaus of Circulation financed and operated as independent and impartial bodies, by advertisers, agents and publishers, be set up in all countries where they do not already exist, with a view to checking the net paid circulation figures of all publications and providing breakdowns of such figures.
2. In all countries audience surveys be conducted with a view to providing advertisers with figures and characteristics not only of the circulation but of the readers of individual publications (number of readers by age, sex, geographic, social, economic and other groupings). In order to ensure the scientific validity of their findings, these surveys should be carried out by independent and central bodies, financed and operated by the representatives of all advertising interests, or if conducted by the publications themselves, at least supervised and endorsed by an independent body of experts.

(Original)

15. The Social Responsibility of Advertising

THE International Chamber of Commerce is of the opinion that :

- a) The main function of advertising is to create a demand for goods and services by prospective purchasers in all countries. In doing this honestly and efficiently it helps to raise the standard of living, to encourage progress in industry, and to maintain the spirit of free enterprise and competition — the basis of our economic life.
- b) Good advertising is, therefore, beneficial to the community. To be good advertising, it must be conducted with a proper sense of social responsibility, be in keeping with the economic, cultural and ethical trends of the time, and contribute to reducing production and distribution costs.
- c) Codes of standards of practice contribute towards a high level of conduct in advertising. To this end the International Chamber of Commerce has devised a Code which it hopes will command general acceptance.

(Original)

v

**TRANSPORT
AND
COMMUNICATIONS**

16. General Transport Problems

- A -

Council of Europe's Plan for Transport Integration ^(*)

THE International Chamber of Commerce
— having taken note of the Council of Europe's plans to set up a European Transport Authority ;
— being aware of the anxiety to which this has given rise among users and carriers, particularly in the field of civil aviation
— understanding that the Council of Europe would like to know the opinion of the International Chamber of Commerce with regard to the existing plans ; and
— being of the opinion that these plans are of far-reaching importance for all branches of transport, users as much as carriers,
requests the Council of Europe :

1. to furnish full information regarding the plans which it is studying with a view to the establishment of a European Transport Authority ;
2. not to take any further steps before the I.C.C. and any other interested parties have had an opportunity of studying the plans and expressing an opinion on them.

(Original)

- B -

Freedom of Transport for Own Account

THE freedom of transport for own account, particularly road transport, or the freedom for the trader or industrialist, to use his own vehicles for his own transport requirements, in preference to the professional transport services, has become the subject of increased questioning. Con-

(*) The Indian Delegation declared itself unable to take up a position before having studied the problem thoroughly.

sequently, the I.C.C. has decided to conduct a far-reaching inquiry among business circles, in order to establish a precise definition of transport for own account and to ascertain the views of trade and industry with regard to its free use.

This inquiry confirms that most private enterprises use the appliance of transport in exactly the same way as they use any other machine, and they should therefore, be free to choose the appliance best adapted to their needs and to use it as those needs demand, in exactly the same way as they choose and use any one of their machines without any outside person or body attempting to direct or restrict their choice.

This inquiry shows that among the means of transport used for own account, road transport is of great relative importance — and to much the same extent — in practically every country. Its economic importance is thus evident.

It should also be noted that the advantages offered by transport for own account are more substantial in the field of road transport, the road vehicle being a more flexible instrument and involving less capital outlay ; in this field, dangers of restriction are particularly acute.

Consideration of the advantages of transport for own account has shown that it develops especially wherever manufacturers or traders find it necessary to make direct contact with their suppliers or consumers.

As one of the services of any given undertaking, it offers all the advantages involved in the actual organization of the undertaking ; specialization of services, close supervision of distribution, more satisfactory liaison between producer and consumer, and readier availability of the vehicles.

As the I.C.C. has the fundamental task of protecting the interests of trade and industry, it ought to point out the advantages unrestricted transport for own account offers to all economic activities, from the producer to the consumer.

The problem of the coordination of transport is about to be dealt with in most countries. It is of the utmost importance that, while declaring that the freedom of transport for own account will not be tampered with, this freedom shall not in practice be restricted or abolished by the application of a system of charges or any discriminatory measures whatsoever liable to place transport for own account in an unfavourable position.

Therefore, in the general interest, the I.C.C. requests governments to maintain all the advantages which transport for own account offers to agriculture, industry and trade, the most important of which is the freedom it has hitherto enjoyed. It considers it essential that users in general and the representatives of transport for own account in particular should be consulted at all intergovernmental meetings where the coordination of transport is to be discussed.

(Translation)

- C -

Definition of Transport for Own Account ^(*)

AT a time when solutions to the problem of coordination are being canvassed in many quarters, which while recognizing that transport for own account is free, may contest the inclusion of certain forms of transport in that class and jeopardize this freedom by indirect measures (tariff and fiscal), a complete and indisputable definition of transport for own account is essential.

While reserving a statement on the definition of the transport of persons till a later occasion, the International Chamber of Commerce recommends the following definition for the transport of goods :

Transport of goods is called "transport for own account", when it is operated by an individual or a corporate body

1. — for his own requirements ;
2. — in vehicles either belonging to him
or placed exclusively at his disposal under the conditions laid down by national laws and regulations regarding transport ;
3. — to move goods :
 - either belonging to him,
 - or connected with his trade, industry, activity or equipment, and which have been the subject of a transaction in the course of his professional activity, other than conveyance as such.

The expression 'own requirements' refers to all forms of transport used for the working requirements of the undertaking concerned, i.e. :

- a) transport of the undertaking's supplies of goods and materials of all kinds which may be necessary for its activities ;
- b) transport serving as a link with customers, i.e. transport for the delivery of goods which are part of the trade, industry or operation of the undertaking, irrespective of the form of delivery.

(Translation)

- D -

Taxation and Coordination of Transport

IN the face of the threats to road transport, arising out of the measures at present contemplated for coordination purposes in a number of countries, the I.C.C. recalls one of its former declarations ^(**) that "coordination measures should avoid distorting the general policy of transport, by means of subsidies, special taxation . . ."

(*) The Indian Delegation reserves its position on this resolution, since it believes that the definition should be limited to road transport. The Portuguese Delegation likewise entered a reservation.

(**) Brochure 156, page 6.

The I.C.C. again urges governments to bear in mind that, whatever the means of transport involved, no system of taxation can be considered as a system of coordination.

(Translation)

- E -

Organization of Carriers

THE International Chamber of Commerce is of the opinion that, if the various means of transport are to make a really effective contribution to the discussions on the coordination of transport, they should entrust the defence of their interests to fully representative international organizations. It therefore recommends that active steps be taken to promote the organization of professional road transport and decides to follow this question closely.

(Translation)

- F -

International Transport of Perishable Foodstuffs

THE International Chamber of Commerce expresses its appreciation to the Economic Commission for Europe of the United Nations

- for all the facilities given I.C.C. representatives to express the views of the Chamber,
- for calling upon the I.C.C. to act as the spokesman of transport users during the study of the transport of perishable foodstuffs.

The I.C.C. urges that international studies on the transport of perishable foodstuffs should take into account the services rendered by every technique employed in this field (sea, inland waterways, air, as well as rail and road) and that in any decisions that may be taken due consideration be given not only to the present state of development of these techniques, but also to probable future developments.

The I.C.C. emphasizes the vital importance attached by the users to any projects for the organization of the transport of perishable foodstuffs.

(Translation)

- G -

Discrimination in Transport Insurance (*)

1. **T**HE attention of the International Chamber of Commerce has been drawn to the recent tendency in transport insurance to restrict drastically the freedom of private contract which has hitherto existed in that field.

2. In recent years, measures have been adopted by certain states with a view to monopolizing on behalf of their nationals transport insurance in connexion with their foreign trade. Such measures have been taken by indirect, as well as by direct means.

(*) The Indian Delegation voted against this Resolution.

The national authorities of certain countries have, for instance, made the granting of the licence or allotment of foreign currency required for a commercial transaction, practically dependent on the insurance of the consignment in question being taken out in their own country.

3. In the opinion of the I.C.C., such action is contrary to the position officially taken up by the United Nations in favour of the extension of economic co-operation and all possible steps to reduce barriers to the free movement of goods and condemning all practices, whether private or public which, in matters affecting international trade, restrain competition, restrict access to markets and foster monopolistic controls.

4. The measures referred to are certainly not in keeping with these principles and, furthermore, they seriously hamper the development of economic relations.

Until recently, merchants all over the world had the right to decide, without public or private interference, where marine insurance should be covered. Thus, the party who under the terms of the contract was responsible for covering maritime risks, was free to do so wherever the terms appeared to him to be most advantageous.

Serious consequences may follow if a merchant is obliged to insure in a market other than the one in which he has regular connections. In many cases the merchant will not feel satisfactorily covered by the compulsory insurance in question. He can no doubt protect himself adequately by taking out further insurance in the market where he regularly covers his risks, but this will obviously considerably increase costs.

Moreover, foreign exchange control will, especially in scarce currency areas, considerably hamper compliance with regulations requiring that the merchant transact his insurance business through definitely specified foreign insurance companies.

It must also be pointed out that if, as is stipulated in some of the laws referred to, a C.I.F. shipment must always be covered in the national market of the buyer, there will be no possibility for the sale of a cargo afloat. This kind of transaction has always been one of the essential elements of international trade and should such laws be imposed, great difficulties and delays will ensue.

If such laws are maintained by the countries that have introduced them, it seems reasonable to assume that other countries doing business with them will try to protect their interests by imposing similar laws, and a situation might arise where a transaction between two countries would be rendered impossible without a breach of the laws of one of them. Should such a breach be liable to a penalty, it would amount to the levying of an additional duty by one country or the other, with a consequent increase in transport costs.

5. At a time when all countries should endeavour to promote international commerce by removing hindrances, it seems particularly regrettable that attempts should be made in the field of insurance, to impose conditions constituting serious obstacles for merchants and carriers.

(Translation)

17. Air Transport

- A -

Suppression of Barriers to International Air Transport

TAKING into account the unanimous views expressed by users, air carriers and airport representatives, the International Chamber of Commerce recognizes the vital importance of the problems involved in the facilitation of air transport. It notes that the effects of the great technical advances made are being held up by the multiplicity of administrative formalities.

It is the duty of all concerned, and especially of the governments, to contribute without delay to the solution of these problems, which are essential factors in the transport of both goods and passengers.

The I.C.C. holds the present discrimination between the treatment imposed on air transport and the treatment accorded to surface transport to be completely inadmissible.

It urges governments and local administrations to take the initiative in removing administrative barriers as soon as possible.

If, contrary to all expectations, administrations consider it necessary to adopt additional formalities affecting international air transport, it is essential that the proposals be submitted to the International Civil Aviation Organization (I.C.A.O.), and that the latter consult the main international organizations concerned.

When problems peculiar to certain routes in a given continent can be solved more rapidly or more completely, a clear distinction should be drawn between them and problems affecting the world as a whole.

With a view to bringing about standardization of national regulations, the I.C.C. renews the recommendation, formulated at the Quebec Congress, that Annex 9 to the Convention on International Civil Aviation entitled "Facilitation of International Air Transport" be implemented by all countries at the earliest practicable date.

(Translation)

- B -

Revision of the Warsaw Convention

WITHOUT going back on the decisions of the Montreux Congress, the International Chamber of Commerce is of the opinion that the revision of the Warsaw Convention will certainly be necessary one day, and it decides that inquiries and studies will be undertaken without

delay so as to establish the points which this revision should cover and to make proposals on the most useful modifications.

These studies will be begun by consulting insurers and carriers as well as users.

(Translation)

- C -

Agreement on Commercial Rights in International Air Transport ^(*)

INTERNATIONAL civil aviation already renders essential services to relations between the peoples of the world, and in the near future, technical development will permit these services to be extended even more and distances to be therefore considerably shortened.

An immense amount of capital has already and will still be invested in air industry, its equipment and infrastructure. A stable basis for the industry is therefore essential not only for the industry itself but also for users of air transport.

The great achievements rendered possible by technical development cannot be fully realized within the limited scope of its present international status.

While satisfactory international regulations regarding air technique and tariffs already exist, a world agreement concerning the exchange of commercial rights in the sphere of scheduled international aviation has not yet been concluded.

The I.C.C. therefore recommends :

1. that in the interest of air transport users, both actual and potential, as well as of the air transport industry, all governments should immediately open negotiations with the object of reaching world agreement — or regional agreements capable of being broadened into world agreement — covering commercial rights in air transport in conditions at least as advantageous as those accorded to surface transport.

They should recognize the fact that at present political expediency is more often an obstacle than economic necessity. The relevant Chapter XVI of the Chicago Convention should also be taken into account and honoured to the utmost.

2. that pending acceptance of the above recommendations, the States concerned grant each other by bilateral agreement the widest application in commercial aviation of the five freedoms ^(**) to all air transport concerns without distinction. These freedoms should also be applied under agreements already signed.

(Translation)

(*) The Portuguese Delegation voted against this resolution.

(**) Referred to in Appendix IV (International Air Transport Agreement) of the Final Act of the Chicago Conference — 1944.

- D -

Air Transport of Passengers

BUSINESS men who travel by air to save time are more concerned with the speed and comfort of the plane — factors enabling them to reach their destination without undue fatigue — than with the cost of this form of transport.

On the other hand, many potential users are deterred from travelling by plane solely because air transport rates are still beyond their financial means.

The I.C.C. therefore urges the International Air Transport Association (I.A.T.A.) and other competent authorities to consider the possibility of undertaking further experiments of multi-class air services, as already carried out in a number of countries and of introducing new tariff facilities.

(Translation)

- E -

Air Transport of Goods

SINCE the war, individual air transport companies as well as organizations like the International Air Transport Association (I.A.T.A.) have energetically endeavoured to increase the volume of goods forwarded by air. The International Chamber of Commerce notes with satisfaction that in the course of this campaign many improvements have been effected. Better technical equipment of airports and bigger and faster planes tend to make flying safer and quicker.

On behalf of air transport companies as well as their clients, the I.C.C. wishes to draw attention to some still unfulfilled wishes, of transport users, and suggests the following amendments :

1. Air Waybill :

The shipper would like to have proof that his goods have in fact been dispatched. His copy of the air waybill should, therefore, also show the flight number and the date of shipment of the goods.

The waybill should, furthermore, be adapted to make it possible to follow the course of the transport, i.e. it should bear the dates and times of arrival and, in the case of combined transport, the dates and times of transshipment.

Finally, there is at present insufficient space set aside on the waybill for the description of the cargo ; this should be given space either on a loading list in an appendix, or on the reverse side of the waybill.

2. Air-Sea Transport :

In the case of distant destinations, it may be difficult or unnecessary to have recourse to air transport from point of departure to final destination.

It would be desirable in these cases to grant combined transport facilities so that air transport could be supplemented by sea transport. For this purpose it would be essential :

- to shorten the transit time ;
- to provide through rates for combined transport or at least moderate transit rates which the user would be permitted to pay either in the country of dispatch or in the country of destination.

3. Payment of Freight for Air Shipments :

The user should be free to pay for the transport either in the country of destination or in the country of dispatch.

To avoid any extra risk to the carriers, the consigner could guarantee full payment of freight in case of refusal of the shipment by the consignee.

The I.C.C. therefore urges governments to abolish regulations interfering with the free choice of the place of payment.

4. Saving on Packing Expenses :

In order to save on packing expenses which should be one of the advantages of air transport, it would be essential to provide :

- more careful handling at airports ;
- specially equipped transport to the airports.

5. Tariff System :

In order to reduce air tariffs to a more accessible level, a sliding scale system should be introduced relating freight rates to the total freight charges paid by a user over a certain period.

(Translation)

18. Sea Transport

- A -

Maritime Trade Barriers ^(*)

THE International Chamber of Commerce recalling :
— the terms of the 1923 Maritime Ports Convention of the League of Nations in the acceptance of which the I.C.C. played a decisive role ;
— and its vigorous and continuous opposition to flag discrimination, which results from its appreciation of the disastrous effects of such discrimination on international trade and commerce and on consumers in *all* countries,

observes that :

1. there has been an alarming recrudescence of flag discrimination since the end of the second world war ;
2. this discrimination is of two types, the first seeking to secure its object through the granting of preferential treatment in port facilities and in the levying of port dues and charges, and the second (and more serious) through the direct restriction of cargoes to specific flags ;
3. the Maritime Ports Convention, which by 1938 had been ratified by 23 countries, was framed to combat the first type of discrimination ;
4. one of the main functions assigned to the Intergovernmental Maritime Organization provided for by the United Nations Maritime Convention of 1948 is to encourage the removal of discriminatory action and unnecessary restrictions by Governments affecting shipping engaged in international trade so as to promote the availability of shipping services to the commerce of the world without discrimination ;
5. determined efforts are being made by the Organization for European Economic Cooperation to ensure the liberalization of trade and shipping by the removal of discriminations and restrictions on the free use of shipping.

The I.C.C. therefore urges that, as a matter of high policy :

- a) all maritime countries affirm their belief in the principles embodied in the Maritime Ports Convention of 1923 by giving to the terms of that Convention full and immediate practical effect ;
- b) Governments abstain from all acts of discrimination and unnecessary restriction, including in particular currency restrictions in relation to passengers or cargoes, which limit the availability of shipping services to the travelling public or the commerce of the world.

(Original)

(*) Notes 1) This resolution does not apply to E.C.A. (Economic Cooperation Administration) cargoes.
2) The Indian Delegation voted against this resolution.

Contractual Freedom of the Parties with regard to Conditions of Sale (*)

THE International Chamber of Commerce has already brought to the attention of governments the grave dangers of discriminatory measures by governments designed to reserve the insurance of export and import cargoes to the insurance companies of their own countries (**). It is glad to note that the question is under consideration both by the Transport and Communications Commission of ECOSOC and by the Contracting Parties to the General Agreement on Tariffs and Trade (GATT).

It believes, however, that the same danger appears in the form of the restrictions placed by certain governments on the freedom of traders to conclude their contracts as they see fit. These restrictions take the form of an obligation to conclude contracts for export on a C.I.F. or C. & F. basis and for import on a F.O.B. basis. The result of these measures is first to limit the insurance to the companies of a particular country, and secondly to attempt to reserve export and import shipments to the national flag.

It is not possible to achieve full freedom for marine insurance or for international shipping services if the sellers and buyers are not guaranteed full freedom as regards terms of delivery.

The I.C.C. therefore strongly urges that terms of delivery be free from all governmental regulations and restrictions, and requests the ECOSOC and the Contracting Parties to GATT, as well as all other intergovernmental bodies concerned, to consider the possibility of issuing a recommendation to governments to this effect.

(Original)

Delay of Shipping in Ports

AT its previous Congresses, the I.C.C. has drawn attention to the waste of shipping caused by the delays which vessels are compelled to suffer in a number of countries.

The turn-round of shipping is thus slowed down and transport costs are increased at the expense first of sea transport users and, finally, of the consumers of goods carried by sea.

Therefore, in full agreement with the International Chamber of Shipping, the I.C.C. wishes to impress on consumers and the general public that it is they who ultimately suffer as a result of these delays, and urges them to take action accordingly.

It is thus in the general interest that the Chamber calls upon governments and all interests concerned both private or public, to review this question actively. Some progress has been made, but in many countries shipping is still delayed to the detriment of international trade as a whole.

The I.C.C. therefore continues to emphasize that this state of affairs calls for urgent remedies in the countries concerned.

(Translation)

(*) The Indian Delegation voted against this resolution.

(**) See resolution 16 G.

19. Road Transport

- A -

Development of Road Transport

MOTOR transport plays an ever increasing part in modern life from the economic as well as the social point of view.

The number of industrial motor vehicles has nearly doubled in most countries over the last ten years. This trend was clearly noticeable before the war and has been still further accentuated by the exceptional circumstances arising out of the war. The motor vehicle, which suddenly became more widely used, revealed qualities of flexibility, convenience and economy which the user no longer wishes to lose. It has, undoubtedly, contributed largely to the economic expansion of recent years.

This has led to the parallel growth of a large number of industrial and commercial activities, providing motor traffic with the necessary services and equipment and employing an increasing amount of labour.

As a general rule, this increase in road traffic has not taken place at the expense of other forms of traffic, which have also increased in recent years.

The fact is that road traffic is developing and the general framework in which this development takes place must be flexible rather than impose a rigid structure upon it.

I

On behalf of international trade, the I.C.C. emphasizes the importance of enabling road traffic to be truly international, and urges governments to avoid any measure likely to impede the free flow of international road traffic.

II

In order that roads should be adapted to the development of road transport, the I.C.C. recommends that :

- national highways be modernized as rapidly as possible, particularly as regards traversing towns which are at present bottlenecks in the whole highway network ;
- international road networks be supplied with suitably equipped service stations and parking spaces ; this raises problems of town planning which should be examined by public authorities ;
- the funds allocated for the roads should correspond more closely to the revenue derived from taxes levied on road traffic.

III

The I.C.C. recommends that, in order to continue improving the services offered to the public, all those engaged in road transport combine to

- publicize widely the services they offer to national or international business ;
- establish rules they must observe ;
- defend themselves against criticism.

No rational organization of road transport on the international plane is conceivable without the closest possible cooperation between all those engaged in professional or private transport, both nationally and internationally.

The I.C.C. recommends that the government departments concerned with road transport be placed on an equal footing with those concerned with any other kinds of transport.

IV

In new countries whose development primarily depends on the creation of a transport system, there is an exceptional opportunity of building up a transport system under conditions untrammelled by an already existing structure imposed by past conditions when technical resources were different.

Therefore, the I.C.C. urges government authorities to ensure that the economy should not be deprived of the services which road transport can render, particularly in such countries and that the representatives of this mode of transport should be given every opportunity of participating in such studies.

V

The I.C.C. urges all those engaged in motor transport to ensure, in their own interest, that commercial motor transport should avoid arousing the hostility of other road users or of the general public, particularly on roads not yet suited to the size or power of motor trucks. They should strictly observe the regulations so as not to provoke further restrictions on this activity which is in the general interest.

In particular :

- the "road behaviour" of commercial vehicles should be supervised ;
- the use of systems whereby a commercial vehicle can perceive and signal to another vehicle wishing to overtake it should be made compulsory ;
- engines should be properly adjusted so as to avoid heavy exhaust fumes ;
- arrangements should be made to ensure that neither traffic nor visibility are hampered during stops.

(Translation)

Legal Status of Road Transport

As international road transport develops, its legal status should be defined; should there be any lack of precision in drawing up the principles and limits of its liability, there would soon follow serious disputes between users and carriers in cases of delay, loss or damage to goods in transport.

The I.C.C., anxious to defend the interests of business, whether as user or carrier, urges the carriers not to seek unreasonably to limit their liability on the basis of certain technical characteristics inherent in road transport, otherwise the advantages of this form of transport would not fully counter-balance its risks and the user would tend to take his business elsewhere.

Accordingly, the I.C.C. urges all concerned to deal with this problem in a spirit of mutual understanding that will further the development of road transport.

(Translation)

20. Railway Transport

See Brochure No. 150 "International Railway Transport".

21. International Postal Service

See Brochure No. 147 "International Postal Service".

VI

LAW AND COMMERCIAL PRACTICE

22. International Commercial Arbitration and Freedom of Contract

I

IT is essential that business men with international dealings should have a means of settling their differences, which is cheap, quick and final. The Court of Arbitration of the I.C.C. is designed to fulfil this need in cases where the parties prefer not to leave the matter to be dealt with in accordance with the rules as to conflict of laws as applied by the courts of the relevant countries or to submit the matter to arbitration within the jurisdiction of and in accordance with the law of the country of either party.

The I.C.C. is glad to note that in the majority of cases arbitration awards are carried out voluntarily by the parties. However, difficulties and uncertainties continue to exist, notwithstanding the Geneva Convention of September 1927, as to the enforceability of arbitral awards and this circumstance reduces the usefulness of international arbitration.

The I.C.C. welcomes a continuation of studies for the unification of arbitration laws in all countries, on the basis of the draft proposed by the International Institute for the Unification of Private Law, but recognizes the complexities and difficulties of the subject. The I.C.C. considers that pending completion of these studies an immediate effort should be made (whether by amendment of the Geneva Convention of 1927 or by a new Convention) to remove the main defect which militates against the effectiveness of international arbitration and to permit the immediate enforcement of international arbitral awards. The I.C.C. calls on all governments concerned to cooperate towards that end.

(Original)

II

The full development of international commercial arbitration depends primarily on the standardization of arbitral practice throughout the world.

The surest way to achieve this aim is to unify existing arbitration laws in different countries ; however, experience has shown that this is a long term project.

The International Chamber of Commerce takes the view that governmental action may nevertheless be considerably accelerated by coordinating, at the private level, existing national and international arbitration systems, through the establishment of standards of arbitral practice.

Therefore, while noting with satisfaction the results so far obtained in this field by the Working Committee set up in New York after the Paris Conference on International Commercial Arbitration (1946), the I.C.C. hopes that the Working Committee will continue its efforts, in close collaboration with the national and international organizations concerned, taking into account the suggestions set out in Brochure 160, with a view to drafting, in the near future, a set of standards likely to be universally accepted.

(Translation)

23. International Protection of Industrial Property

- A -

The Need for Basic Amendments to the Existing System of Protection

I

THE growth of international trade is dependent upon the effective protection in all countries of industrial property rights, such as patent, design and trade mark rights, and upon the provision in all countries of legislation affording protection against acts of unfair competition and the use of false indications of origin.

These objectives can only be secured through the International Conventions on Industrial Property and in particular the Paris Convention of 1883, as revised at the periodical Diplomatic Conferences, and most recently at the Conference held in London in 1934.

Since that date important changes have taken place in the structure of international commercial relations, which call for fundamental alterations in the existing Conventions as so far revised, and the next Diplomatic Conference to be held in Lisbon provides an opportunity for this fundamental revision.

The failure of a number of countries to ratify the current text of the Conventions as revised in London is bound to deprive the Lisbon Conference of much of its usefulness and may even indefinitely postpone it.

The International Chamber of Commerce therefore strongly urges upon the governments of all Union countries to take the necessary steps forthwith to ratify the London text of the Conventions.

II

The International Chamber of Commerce believes that in the meantime the work of revision for the Lisbon Diplomatic Conference should, independently of questions of detail, be concentrated upon the fundamental questions of principle which urgently require solution.

The International Chamber of Commerce has already expressed its views on certain of these questions, in particular the

- System of revocation of patents
- Use of trade marks by persons other than the registered owners
- Restoration of patents
- Basic registration of trade marks in the country of origin
- Assignment of trade marks
- Translation of trade marks
- Trade marks registered dishonestly.

Among other fundamental questions the I.C.C. would like to see studied are the following :

- Protection of horticultural and agricultural inventions
- Compulsory licensing of patents
- Definition of trade marks
- Well-known trade marks
- International registration of trade marks
- Geographical indications of origin
- Unfair competition.

(Original)

- B -

Trade Marks

WHILE confirming its earlier recommendations (Brochure 158), the International Chamber of Commerce submits to the Governments concerned and to the Berne International Bureau the following proposals for the amendments to the Paris Union Convention which, insofar as the treatment of Trade Marks is concerned, it hopes to see adopted by the forthcoming Diplomatic Conference at Lisbon.

I

Limiting of Reasons for Refusing Trade Mark Protection

Add to paragraph B of Article 6 which deals with such marks as may be refused or cancelled, a sub-paragraph 4, worded as follows :

“Marks registered in circumstances which constitute an act of “unfair competition within the meaning of Article 10 *bis* herein-“below.”

II

Spare Parts

Declare that it shall be unlawful to designate spare parts by the trade mark (or name) of a third party, except in such cases where this use is normally necessary to indicate the destination of the product and that there can be no possible confusion regarding the origin of the product.

III

Invalidation Period

Extend to five years as a minimum the time-limit mentioned in Article 6 *bis* of the Union Convention, for claiming the invalidation of registered trade marks which reproduce or imitate other marks in a manner likely to cause confusion.

IV

Trade Marks Registered in Name of Agent

Insert in the Union Convention a new article 6 *quinquies* stipulating that :

- a) if in a Union Country, the agent or representative of the owner of a trade mark applies for its registration in his own name, although the owner had not given or had validly withdrawn the authorization to do so, the owner shall be entitled to oppose the registration applied for, or at any time to demand its cancellation or, if the law of the country permits to do so, the transfer to his own name of this registration ;
- b) the representative of the owner of the trade mark may not validly make use of the trade mark against the will of the owner.

V

International Classification

The I.C.C. recognizes that international classification of trade marks is of considerable importance to international trade. It recommends therefore that the Technical Committee, set up by the Berne International Bureau in 1926, be reconstituted, with the task of ensuring that new products be placed in the same class of the international classification in all Union countries, or, at any rate, that uniform advice be given as to the classification of new products.

(Translation)

- C -

**Means for Promoting the Granting of Patent Licences
on the International Plane (*)**

THE International Chamber of Commerce considers that the granting of patents licences from country to country should be encouraged in the interests of international trade and of the greatest possible development of technical resources.

It is of the opinion that the acceptance of the following principles would facilitate the achievement of this object :

- a) Parties to a licence contract should have the greatest possible freedom to decide on their mutual obligations.
- b) The patentee should have the assurance that the clauses of the contract can and will be respected by the licensee.
- c) Some States limit the freedom of the parties in respect to the licensing of patents. This has a discouraging effect upon the issuance of licences and the exchange of inventions and technical skill. The limitation of freedom of licensing should be kept to the minimum consistent with the public interest.

(*) The United States Delegation abstained from voting on § d) of the resolution.

- d) No State should hamper the exchange of licences by means of autonomous measures, such as prohibiting territorial limitations or levying discriminatory taxes on royalties for revenue purposes.
- e) Every State should authorize the transfer of royalties and all other charges by treating the transfer of royalties or charges arising out of industrial property rights in the same way as the transfer of sums arising from the exchange of goods.
- f) International conventions should not contain any provision likely to cause the patentee to fear that the licensee will be unable to perform his obligation in full.
- g) The policy of liberalizing the exchange of goods which is gaining ground internationally should be applied to licence contracts.

(Translation)

- D -

German Trade Marks Registered Abroad (*)

THE International Chamber of Commerce is more than ever convinced of the need to return as soon as possible to normal conditions for the international protection of industrial property and therefore proposes for the consideration of the governments concerned the following recommendation with respect to German-owned trade marks registered abroad :

All trade marks registered by Germans outside Germany should be forthwith returned to their owners, at their request, subject to compliance with the conditions provided for by the law of each country and subject to safeguarding rights acquired by third parties.

(Translation)

(*) The German Delegation abstained from voting.

24. Commercial Documentary Credits

- A -

Revision of the Uniform Customs and Practice for Commercial Documentary Credits (*)

THE Uniform Customs and Practice for Commercial Documentary Credits were codified in 1933 by the Seventh Congress of the International Chamber of Commerce (Brochure No. 82) and received formal acceptance by many countries.

During the intervening years, however, there have been many new developments, and some practices, either new or variations of the old, have appeared.

The International Chamber of Commerce has therefore prepared a revised text (Brochure No. 151).

The purpose of this revision of the Uniform Customs and Practice is to codify the customs and practice as they now exist.

The International Chamber of Commerce submits this revised text for adoption to the Banking Associations in the various countries and recommends that it should as far as possible be put into force by the Banks uniformly on 1st January, 1952.

(Original)

- B -

Standard Forms for the Opening of Documentary Credits (*)

- I**N order to establish a uniform terminology and forms of a uniform tenor for the opening of commercial documentary credits, with a view to obtaining greater accuracy and clearness in the mail and telegraphic correspondence between the banks, and also to save work and expense, the International Chamber of Commerce recommends the Banking Associations in the various countries to accept and to promote the use, as soon as possible, of the standard forms worked out in cooperation with the International Organization for Standardization (Brochure No. 159).

(*) The British Delegation abstained from voting.

2. While the International Chamber of Commerce would welcome unification of the commercial letter of credit instrument sent to the beneficiaries by the issuing banks, it is of the opinion that for the time being it should confine itself to standardizing inter-bank correspondence for the opening of documentary credits.
3. It is obviously impossible to visualize and standardize all cases that may occur. The International Chamber of Commerce feels, however, that the telegraphic and letter forms reproduced in Brochure No. 159 should cover the large majority of cases occurring in actual practice.

(Original)

SELECTION OF I.C.C. PUBLICATIONS

INCOTERMS 1936

International rules for the interpretation of trade terms (F.O.B., C.I.F., etc.).

Trilingual Brochure : English, French, German.

Br. I.C.C. 92 D.E.F. 1947.

Price : Fr. Fr. 200.

TRADE TERMS

A digest giving the accepted definitions of the more important trade abbreviations (F.O.B., C.I.F., etc.) in 35 countries.

Br. I.C.C. 68 D.E.F.

3rd. impression to be issued.

UNIFORM CUSTOMS AND PRACTICE FOR COMMERCIAL DOCUMENTARY CREDITS

Rules for the unification of banking practice in respect of commercial documentary credits. This publication is of the greatest interest to all concerned in these transactions (also available in German, Italian and Spanish).

Br. I.C.C. 82 E. 1938.

Price : Fr. Fr. 200.

Revised edition, approved by the Lisbon Congress of the I.C.C. (June 1951).

Br. I.C.C. 151 E. F. 1951.

Price : Fr. Fr. 200.

STANDARD FORMS FOR THE OPENING OF DOCUMENTARY CREDITS

Set of forms adopted by the Lisbon Congress of the I.C.C. (June 1951) to serve as a complement to Brochure 151 "Uniform Customs and Practice for Commercial Documentary Credits" (see above).

Br. I.C.C. 159 E. F. 1951.

Price : Fr. Fr. 100.

INTERNATIONAL CODE OF FAIR TREATMENT FOR FOREIGN INVESTMENTS

Adopted by the Quebec Congress (1949) of the I.C.C. and presented for consideration and action to governments and to the Economic and Social Council of U.N.

Br. I.C.C. 129 E. 1949.

Price : Fr. Fr. 100.

CODE OF STANDARDS OF ADVERTISING PRACTICE

Recommendations with a view to the suppression of unfair methods in advertising, in the interest of the advertising profession, of industrialists and traders, and of the public.

Br. I.C.C. 144 E. F. 1950.

Price : Fr. Fr. 100.

SPECIAL DISTRIBUTION ADVERTISING VOCABULARY

A series of dictionaries giving for each term or expression currently used in Distribution and Advertising, the equivalent in two other languages.

Already issued :

English-French-German (Doc. 6).

Price : Swiss Fr. 14.

German-Italian-Spanish (Doc. 7).

Price : Swiss Fr. 14.

English-Spanish-Portuguese (Doc. 8).

Price : Swiss Fr. 14.

English-French-Swedish (Doc. 10).

Price : Swiss Fr. 14.

In preparation : Revised edition, giving the translation of the main Distribution and Advertising terms in eight languages : (English, Dutch, French, German, Italian, Portuguese, Spanish, Swedish).

COMMERCIAL ARBITRATION AND THE LAW THROUGHOUT THE WORLD

Summary of the rules concerning arbitration agreements, procedure, arbitral awards, enforcement of awards, means of recourse.

Doc. I.C.C. N° 11, E. F. 1949.

Price : Swiss Fr. 55

(Special price for members : Swiss Fr. 33.)

RULES OF CONCILIATION AND ARBITRATION

Rules of the Court of International Commercial Arbitration of the I.C.C. in force as from July 1st, 1947.

Br. I.C.C. bt E. 1947.

Price : Fr. Fr. 100

PRACTICAL HINTS ON COMMERCIAL ARBITRATION

A brochure, explaining briefly and in practical manner, the arbitration procedure of the I.C.C. for the settlement of international commercial disputes.

Br. I.C.C. bu E. 1947.

Free of charge on request

