

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENTDRAFT CHARTERArticle 15.Amendment proposed by the Norwegian Delegation.

The following text to replace the text adopted by the Interim Drafting Committee:

1. The products of any Member country imported into any other Member country shall be exempt from internal taxes and other internal charges of any kind higher than those imposed, directly or indirectly, on like products of national origin.

2. The products of any Member country imported into any other Member country shall be accorded treatment not less favourable than that accorded to like products of national origin in respect of all laws, regulations or requirements affecting their internal sale, purchase, offering for sale, transportation, distribution or use of any kind whatsoever.

3. The provisions of §§ 1 and 2 of this article shall not preclude the regulation of imports permissible under this Charter being made through internal taxes or other arrangements applicable to imported goods only, provided that such taxes or arrangements are no more restrictive of international trade than other measures permissible under the Charter.

4. So long as different prices for like products exist on the world market, the provisions of paragraphs 1 and 2 shall not preclude the establishment on a national market of equal prices for like products, whether of foreign or domestic origin.

5. The provisions of this article do not apply to the procurement by governmental agencies of supplies for governmental use and not for resale nor for use in the production of goods for sale. Nor shall they apply to cinematograph films.

Remarks :

Article 15 represents the consequent application of the principle of the Draft Charter that Members shall, as a rule, protect their national production only through customs duties or subsidies. The Norwegian Delegation fully support this principle. They are, however, of the opinion that the draft of the Interim Drafting Committee is not sufficiently clear, and that it goes further than strictly necessary. Their proposal is drafted with a view to clarifying the text and to introducing certain limitations, whilst at the same time maintaining the principles which the article should express in a relatively concrete form.

In regard to the §§ of the proposed new Article 15, the following remarks are made:

Re § 1.

The US-Delegation have proposed the deletion of § 1 of the New York Draft Charter. The Norwegian Delegation support this proposal, as the § in question merely contains in a general form the rules which have been expressed in a more concrete way in §§ 2 and 3 of the New York Draft Charter, and consequently is considered unnecessary.

The new § 1 is the same as § 2 of the New York Draft Charter.

Re § 2.

§ 2 reproduces the first sentence of § 3 of the New York Charter.

The rest of § 3 of the New York Draft Charter, it is proposed to delete. On the other hand §§ 3 and 4 of the Norwegian proposal to article 15 contain rules which represent an application of the principle which should underly article 15, and which are comparatively concrete in form.

The reasons why the Norwegian Delegation propose the deletion of the two last sentences of § 3 of the New York Draft Charter are the following:

First of all these clauses are vague. It is very difficult to foresee what consequences such rules would have for the future economic policy of Member Governments.

Secondly, however, the rules proposed in the New York Draft Charter would introduce certain limitations on a government's right to regulate and plan the economic activities of their country. The Draft Charter is based on the assumption that the Member Countries shall have the right to adhere to the "laissez-faire" principle, to a completely socialist system or to different shades of a centrally planned or regulated economy. Further, it is obviously assumed in the Draft Charter that the government and people of a particular country shall have the full right gradually to change their economic system in accordance with the decisions of the people of the country concerned.

From this point of view, it seems that the clauses contained in the latter part of § 3 of the New York Draft Charter fall outside the scope of the Charter. The clauses would for example prevent a government from deciding that, in order to further the production of high quality goods, particular products should be made of certain specified raw materials. A deletion of the latter part of § 3, as suggested by the Norwegian Delegation, would not, however, give a government the right to act contrary to their obligations under the two preceding §§. Thus, in the case mentioned above, a government would not have the right to decree that raw materials of national origin should be given preference to like raw materials of foreign origin. The only protection allowed would be the customs or subsidy protection which may be permitted under other articles of the Charter.

Re § 3.

The new § 3 in the Norwegian proposal is intended to reserve to a government the right to apply internal taxes as a means of regulating imports. This method may in certain cases be more practicable, as it is not so restrictive as the application of quantitative regulations permitted under articles 25 - 29. The method proposed is consequently in full conformity with the principles of the Charter.

Re § 4.

The new § 4 is intended to meet the present price situation on the world market. At present there does not really exist a world market price on basic commodities, such as cereals, sugar, coffee or such raw materials as coal or iron and steel. Consequently many countries have found it necessary to introduce a price regulation system which allows for the equalisation of prices on the internal market. This is not a means of protecting domestic industry against foreign competition but merely part of a rational system of price regulation. It is to be hoped that a real world market price on basic commodities will gradually be established, as shortages are overcome, but until that stage is reached a price equalisation on the internal market of a country must be permitted.

Re § 5.

The first sentence of § 5 is identical to § 5 of the New York Draft Charter.

The last sentence of the proposed § 5 takes the place of § 4 of the New York Draft Charter and provides that article 15 shall not apply to cinematograph films.

The Norwegian Delegation are of the opinion that cinematograph films should not be considered as an ordinary commercial commodity, and that the Charter should not apply to products of this kind. Cinematograph films should in the opinion of the Norwegian Delegation be treated as a product of art on the lines of theatrical performances, operas, etc. The cinematograph films exercise an influence on people's interests and ways of life. The cinematograph films should therefore be considered rather from a cultural point of view than from a commercial.

This point of view is of particular importance to smaller countries, the language of which are not generally understood beyond their frontiers. To such countries it is of importance from a cultural point of view to facilitate the production of cinematograph films in the language of the country concerned. This raises several problems. Such films cannot be shown on the world market because of the language limitations. In order to enable such films of national origin to be produced, it is necessary to permit certain facilities towards the national

film industry. To protect such an industry through customs is impracticable. It is impossible to foresee the value of an imported film until it has been proved what income has been earned through its exhibitions in the particular country. A direct subsidy to a nation film industry also has its distinct disadvantages. Such a system would inevitably raise discussions as to the cultural value of a proposed film. The simplest and most practicable method through which a small country could secure the creation of national films would be to permit national films to be charged with a lower tax than foreign films.

For these reasons the Norwegian Delegation are of the opinion that cinematograph films should not come within the scope of the Charter, and that it should be left to the Member Governments to take the steps which they consider necessary to foster a national cinematograph film industry.