

THIRD COMMITTEE: COMMERCIAL POLICY

SUMMARY RECORD OF THE NINETEENTH MEETING (IITb)

Held at the Capitol, Havana, Cuba,
Monday, 29 December 1947 at 4.00 p.m.

Chairman: Mr. L. D. WILGROSS (Canada)

1. ARTICLE 20 - General Elimination of Quantitative Restrictions
(First Reading)

Mr. FORTHOMME (Belgium) agreed with the representative of Australia that the word "temporarily" should be deleted from paragraph 2 (a), but felt that there should be some indication that the measures were not to be of permanent duration.

2. ARTICLE 21 - Restrictions to safeguard the Balance of Payments
(First Reading)

Paragraph 1

(Items 27 and 32) Mr. COREA (Ceylon) said that his amendments to this paragraph were intimately connected with the proposal of his delegation to delete Article 20. The purpose of these amendments was to make the provisions of Articles 20 and 21 positive rather than negative and to create a compromise formula. He thought unjustified the fear of the representative of the United States that chaos would result if quantitative restrictions could be imposed without prior approval. His amendment required no prior approval, but quantitative restrictions could only be imposed by those countries needing them to safeguard their external financial positions and balance of payments or for purposes of development where no other form of protection was available. The provisions of paragraph 2 (b) would, however, continue to apply. The amendment recognized the important fact that Member countries were not equal. This was taken into consideration in Article 1 of the Charter and also in Article 21 paragraph 3 (b); if it was permissible for certain countries to impose quantitative restrictions because of the particular domestic policies they pursued, there could be no objection to the extension of the privilege to the undeveloped countries. The wording of paragraph 3 (b) was, however, ambiguous.

/(Items 28 and 33)

(Items 28 and 33) Mr. PHILLIPS (Australia) said that these amendments were not designed to change the substance of the article, but only to clarify it according to the intention expressed at Geneva; this could best be considered by the drafting Committee.

Paragraph 2

(Item 29) Mr. BRIGNOLI (Argentina) thought the drafting of sub-paragraph (a) (i) should be more precise and should give greater latitude. Threats depended on many circumstances which could not possibly be stated directly. Any qualification here might give rise to doubts concerning the rapidity with which a country could apply restrictions.

(Item 30) Mr. CORIAT (Venezuela) believed that if a country had to wait until a threat was imminent, then in most circumstances it would not have the opportunity to prevent the damage.

(Item 31) Mr. MULLER (Chile) was in agreement with the representatives of Argentina and Venezuela. The drafting of the paragraph was too rigid. He therefore proposed the substitution of the word "positive" for "imminent", and amended the last part of the sentence to read "a serious or persistent decline..."

Mr. LORENTE (Philippines) agreed in principle to the provisions of the Article, but noted that, although the term "special factors" had been defined in Article 20, in Article 21, 2 (a) (ii) no definition had been given. It was important to his country that this term be clarified and the Sub-Committee was asked to take special note of this point.

Paragraph 3 (a)

(Items 34 and 40) Mr. BRIGNOLI (Argentina) said that the object of these amendments was to establish that the Organization should not have powers to adopt decisions binding upon members, but should merely fulfil the functions laid down in Article 69. There were practical reasons which would prevent Members from consulting with the Organization regarding restrictions on imports; measures of that nature, in order to be effective and give results, must be imposed with secrecy and great rapidity.

He might withdraw the Argentine amendment to paragraph 3 (c) (ii) (Item 38), if the procedures there referred to could be satisfactorily explained.

Mr. FORTHOMME (Belgium) said that if the Argentine amendment to paragraph 3 (a) of Article 21 (Item 34) were adopted, the remainder of the paragraph would be superfluous.

Mr. COLÓCOTRONIS (Greece) stated that the Greek delegation felt that Articles 21 and 23 contradicted one another. Article 23 recognized the existence of a widespread disequilibrium and called for the Organization to review this question in 1952; and after 1952 no Member could impose

/discriminatory quantitative

discriminatory quantitative restrictions without determination by the Organization. Paragraphs 3 (a) and 4 (b) of Article 21 also referred to the transition but it was here laid down that the Organization shall review quantitative restrictions still existing after only two years. A redraft should be made to eliminate the contradiction. Further the phrase "the Organization shall, when required to take decisions under this Article or Article 23..." in paragraph 3 (a) was obscure and should be clarified.

Mr. ROYER (France) felt that the contradiction between Articles 21 and 23 was more apparent than real. Article 21 permitted countries to apply quantitative restrictions to safeguard their balance of payments. The question was whether these quantitative restrictions could be discriminatory. Article 23 permitted Member States to carry out discriminatory measures without the prior approval of the Organization until 1 March 1952 or until such time as the Organization might state that the condition of disequilibrium was over. In Article 21 at the end of two years there was to be a review of all quantitative restrictions but there was no idea of introducing prior approval. Article 23 did not provide for action by the ITO. The ITO was to give judgment under Article 23 only if a Member complained under Article 21 paragraph 4 (d).

Paragraph 3 (b)

(Item 35) Mr. SEIDENFADEN (Denmark) stated that if a country had a full employment policy, difficulties in the balance of payments might result because exports might be curtailed owing to a high home demand for products usually exported. His amendment was designed to allow for this case.

Mr. de VRIES (Netherlands) referring to the note in the Geneva draft on paragraph 3 (b) (i) felt that the phrase was unclear and the note did not clarify it. This sub-paragraph was directly related to Articles 3 and 9 but the obligations of Article 5 were equally important; in the Draft Charter, however, this sub-paragraph conflicted with Article 5. If the provisions of paragraph 2 did not apply to paragraph 3 (b) (i), then much of the value of paragraph 2 would be destroyed. The real point of paragraph 2 was that if a country had a reconstruction policy it would want to decide on how best to use its monetary reserves; he agreed with the representative of Chile's remarks on the importance of giving priority to essential imports. Paragraph 3 (b) (ii) would allow this; paragraph 3 (b) (i) could be omitted. He called the attention of the sub-committee to the views of the representative of the International Chamber of Commerce.

/Mr. STUCKI (Switzerland)

Mr. STUCKI (Switzerland) stated that the Swiss delegation was opposed to Article 21 in its entirety because the Swiss export trade was largely with nations which had difficulties in their balance of payments. He endorsed the comments of the representative of the Netherlands that Chapters 2 and 4 were contradictory. Members were bound to aim at full employment but were then kept from accomplishing this goal by paragraph 3 (b) of Article 21.

Mr. FORTHOUME (Belgium) agreed with the views of the representative of the Netherlands and particularly objected to paragraph 3 (b) (i), which opened the door wide for the use of quantitative restrictions.

Mr. AUGENTHALER (Czechoslovakia) said that paragraph 3 (a) was the result of the fact that there were different types of economy in the world. Paragraph 2 (a) dealt with countries having difficulties in their balance of payments. Paragraphs 3 (a) and 3 (b) referred to states which had a planned economy. He supported the text but would not object to the removal of the note to paragraph 3 (b) (i).

Mr. BRIGNOLI (Argentina) disagreed with the statement of the delegate of Belgium that the adoption of his amendment (Item 34) would destroy the logical structure of the paragraph.

Mr. ROYER (France) said that paragraph 3 (b) did not vitiate Article 21. Article 21 was applicable only if a country can prove balance of payments difficulties. It was not correct to say that a country might restrict its imports in order to maintain full employment, but the demand for imports which would result from economic development should not be allowed to rise so rapidly that balance of payments difficulties would ensue. He drew attention to the provisions of paragraph 3 (c).

Mr. NASH (New Zealand) said that New Zealand would be helped to expand its economy and increase its trade under Article 21. New Zealand had a controlled economy and an import selection policy. The government estimated annually the probable earnings from exports and then issued import licenses up to the full amount of available exchange. There was no intention of restricting trade. Article 21 was one of the most important in the Charter.

Mr. LLORENTE (Philippines) shared the view of the representative of New Zealand as to the merits of paragraph 3 (b) (i). Chapter IV was the mechanism for implementing the principles of Chapters II and III, with which the Philippine delegation was in full accord; paragraph 3 of Article 21 gave opportunity for the smaller countries to discriminate in favour of essential imports, directing, not retarding, the flow of world trade. The Philippines wished to reduce controls, but the elimination of Article 21 from the Charter would require instead their extension.

/Mr. STUCKI (Switzerland),

Mr. STUCKI (Switzerland), replying to the representative of New Zealand, stated that his country, where different circumstances obtained, considered Article 21 harmful to its economy; although he had proposed no amendments, he would have liked to have seen it deleted.

Mr. THOMPSON-McCAUSLAND (United Kingdom) said that world trade had once been regulated by the gold standard, which was the link between internal and external purchasing power. Imports and exports were in fact restrained under the Gold Standard by powerful impersonal forces. The conditions appropriate to the workings of such a mechanism had, however, been destroyed by the two world wars and Article 21 attempted to find a substitute arrangement.

The protection provided by Article 21 for those not in balance of payments difficulties should not be overlooked. Paragraph 2 (a) did not allow the application of universal restrictions, but only "...to the extent necessary...."; paragraph 2 (c) provided for their withdrawal. The countries resorting to the restrictions allowed were also obligated to restore equilibrium in their balance of payments. Further, paragraph 3 stated that restrictions should be imposed in such a way as to avoid unnecessary damage to another member, and paragraph 4 provided the procedure for appeal to the Organization by an injured Member.

The crucial point in the Charter was the seeming contradiction between the aims of economic development and full employment and the aim of freeing trade by eliminating restrictions; it was vital to avoid overstatements on either side of the case.

Paragraph 4

Mr. LA ROSA (Italy) said that the amendment to paragraph 4 (b) (Item 41) was submitted to eliminate the necessity of prior approval. Prior consultation would delay the application of emergency measures and make the necessary secrecy difficult to maintain. Abandonment of restrictions should not be harmful to the state applying them; the provisions of paragraph 4 were insufficient and the amendment to paragraph 4 (c) (Item 48) set forth further criteria to direct the Organization in its decisions.

Mr. CORIAT (Venezuela) explained that the amendment to paragraph 4 (b) (Item 44) would change the date to 1 March 1952 to coincide with the fifth anniversary of the International Monetary Fund. The amendment to sub-paragraph (c) (Item 46) was the result of the amendment to sub-paragraph (a). He was not opposed to the use of the word "extent" in the English text of this amendment.

/Mr. GONZALEZ (Uruguay)

Mr. GONZALEZ (Uruguay) stated that his amendment (Item 42), similar in substance to those proposed by Argentina and Italy, would substitute the obligation to consult by the simpler act of informing the Organization. Paragraph 4 (a) differentiated between restrictions in force when the Charter became effective and those which would be imposed in the future, by creating the obligation to consult with the Organization concerning the latter. Paragraph 4 (b) further accentuated the complexity of the Article: his amendment (Item 43) proposed the deletion of the provision for prior consultation. The proposed deletion of paragraph 4 (c) (Item 45) would eliminate another complex procedure.

Mr. ROYER (France) felt that the several amendments to paragraph 4 had been submitted because of its water-tight construction. Sub-paragraph (a) provided not for prior approval but for prior consultation, in order that the Organization might render assistance to prevent or remedy foreseeable balance of payments difficulties; emergency situations were provided for in line 5. Secondly, since such consultations would deal with principles, the matter of secrecy was not of so great an importance; moreover, the experience at Geneva had proved that consultations could be carried out under conditions of secrecy.

The right of the Organization to intervene (paragraph 4 (b)), carried with it no power to impose sanctions and would expedite the elimination of unnecessary restrictions. Sub-paragraph (c) set forth an option, not an obligation: a state could continue its programme without hindrance by obtaining prior approval. Sub-paragraph (d) provided an appeal procedure; in trying to set up more specific criteria for judgment, the delegate of Italy had arrived at conclusions not easily upheld. It was of vital importance for the Organization to have the right to intervene to the extent of determining that restrictions were in accordance with the Charter and of asking that harmful restrictions should be abandoned.

Mr. FORTHOMME (Belgium) asked whether the Venezuelan amendment proposed that the date of 1-March 1952 should apply to restrictions in force on the effective date of the Charter, or also on subsequent ones. The existing procedure achieved a proper balance between the two classes. The Article on general trade agreements provided that all should be reviewed at the end of two years.

Mr. WOLD (Norway) supported the statement of the representative of France. Article 21 was a realistic solution to the problem of restricting imports due to balance of payments difficulties and exchange controls.

/Norway would have

Norway would have to apply the provisions of Article 21 for the next few years, but it was reasonable to expect that any country feeling itself damaged should resort to the procedure of paragraph 4 (d).

The CHAIRMAN said that the discussion of Article 21 would be continued at the next meeting, on Tuesday, 30 December at 4.15 p.m., which would follow a brief meeting of Committee III a.

The meeting rose at 7.00 p.m.
