

GENERAL AGREEMENT ON
TARIFFS AND TRADE

LIMITED E

GATT/CP/98
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ORIGINAL: English/French

COMMUNICATION FROM THE INTERNATIONAL
CHAMBER OF COMMERCE

Note by the Executive Secretary

There is set out below the text of a letter which has been received from the Secretary-General of the International Chamber of Commerce. ICC documents 100/18, 131/16 and 301/37 are being circulated as addenda to this paper. The other documents are available in the Secretariat records and copies will be furnished to contracting parties upon request.

It will be observed that the I.C.C. have submitted these documents "for consideration and, if possible, action by the Contracting Parties". It is therefore proposed to include this paper in the Provisional Agenda of the Sixth Session in order that the Contracting Parties may decide whether the questions referred to by the I.C.C., or any of them, might be included in the Agenda of the Sixth Session and also, in the light of this decision, what reply should be made to the I.C.C. on behalf of the Contracting Parties.

Letter dated 23.1.1951

"I have the honor to communicate to you herewith for consideration and, if possible, action by the Contracting Parties to the General Agreement on Tariffs and Trade, the following documents adopted by the Council of the International Chamber of Commerce at its meeting on January 9th and 10th 1951.

International Trade Organization (Doc.100/18)

This statement is of direct concern to the Contracting Parties, since it deals with the establishment of a permanent organization to replace the present provisional GATT.

Customs Treatment of Samples and Advertising Material (Doc.131/16)

The recommendation contained in this statement is addressed both to the Contracting Parties and to the Economic and Social Council of the United Nations. It is based on the recommendations already put forward in the I.C.C.'s report on Invisible Barriers to Trade and Travel, adopted by the I.C.C.'s Quebec Congress in June 1949. The I.C.C. has already applied to the Economic and Social Council for inclusion of this question in the agenda of the forthcoming session of ECOSOC in Santiago.

Discrimination in the Field of Transport Insurance (Doc.301/37)

The I.C.C. has been endeavouring for some time to secure action on this question by the United Nations. This has so far been held up by the fact that many governments have been of the opinion that the question is one for the future International Trade Organization. The I.C.C. is now pressing once again for inclusion of this question in the agenda of the Transport and Communications Commission of the United Nations, but it remains possible that, whatever the decision taken by that Commission, the Contracting Parties might usefully consider the I.C.C.'s recommendations.

I am also enclosing for your information, a statement and report on Governmental Guaranties to Investors (Docs.111/17 and 18) and a statement on Trade and Employment (Doc.100/19)."

74th SESSION OF THE COUNCIL

(January 9th-10th 1951)

INTERNATIONAL TRADE ORGANIZATION

S t a t e m e n t

adopted by the Council

The International Chamber of Commerce notes that the Havana Charter for an International Trade Organization has not yet entered into force and is unlikely to do so in the near 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, the I.C.C. has always believed and has repeatedly affirmed that an inter-governmental organization for the promotion of world trade on a multilateral 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.

74th SESSION OF THE COUNCIL

(January 9th-10th 1951)

CUSTOMS TREATMENT OF SAMPLES AND ADVERTISING MATERIAL

Resolution

adopted by the Council

The report on "Invisible Trade Barriers" (Brochure 130), approved by the I.C.C.'s Quebec Congress in June 1949, recommended the early conclusion of an intergovernmental agreement on the customs treatment of samples and advertising material, based on the League of Nations' Draft Convention of 1935, for the Purpose of Facilitating Commercial Propaganda. In this limited but important field, where the ground had already been so thoroughly explored by the League of Nations, it was felt that there should be little difficulty in reaching rapid agreement, although it would of course be necessary to bring the League's draft into line with present-day developments, particularly in the field of quantitative restrictions.

As far as the I.C.C. is aware, no action has so far been taken in this direction.

The I.C.C. therefore earnestly requests the Economic and Social Council of the United Nations and the Contracting Parties to the General Agreement on Tariffs and Trade to give this recommendation favourable consideration at the earliest possible moment.

74th SESSION OF THE COUNCIL
(January 9th-10th, 1951)

DISCRIMINATION IN TRANSPORT INSURANCE

Report

adopted by the Council

In February 1949, at the request of the Swedish National Committee, the I.C.C. submitted the question of discrimination in transport insurance to the Economic and Social Council, which could not, however, place this question on the agenda of its 8th Session because it had not been submitted to it within the prescribed period and because the documentation furnished, which may be found in Document No.E/1102 of the United Nations, did not seem to be adequate for such a complex problem.

It was also clearly stated in this document that the I.C.C. would continue its investigations on this question and would keep the United Nations informed of the progress of its work.

The ECOSOC maintained this decision although the Chamber sent it a letter (reproduced in Doc.E.C.3/12) quoting the Resolution (No.12) later adopted at the Quebec Congress, and urging that this question should be studied as soon as possible so as to avoid the harmful effect that these discriminatory measures might have on international trade, at the very time when there was a manifest desire for a return to normal trade methods.

Furthermore the Secretary-General of the Economic and Social Council submitted Note E/1115 which maintains that although the discriminatory measures in question bear on transport insurance, they are referred to by the I.C.C. as affecting not transport as such but international trade. It appears therefore that these problems would come within the scope of the I.T.O. (International Trade Organization) rather than that of the Transport and Communications Commission.

However, since the creation of the I.T.O. has now been postponed indefinitely, this objection no longer holds good.

In any case, the following criticisms may be put forward:

It is clear that most transport questions affect trade. It is therefore a difficult matter to allocate them to either trade or transport organizations, and it seems difficult to solve this problem unless the organization to which it is decided to refer the study of a given problem, can have an opportunity to express its views on the decisions.

Furthermore, the resolution adopted by the ECOSOC on June 21st, 1946, declares that the Transport and Communications Commission must "advise the Council in fields where no permanent international organization yet exists and on problems which concern more than one sphere of transport or communications."

The information we have collected on the last point shows that this tendency towards discrimination is affecting insurance of the various means of transport.

Furthermore, other international organizations have already considered the problem of discrimination in the field of insurance.

This is the case with the I.C.A.O. (Resolution A2-20, 2nd Assembly 1948), the E.C.E. whose Inland Transport Committee is studying an insurance system for the transport of goods by road, the O.E.E.C. whose Sea Transport Committee is dealing with insurance questions.

In all these cases the international organizations fully appear to regard the question of transport insurance as a transport problem.

The documentation furnished by the I.C.C. in support of its request and considered inadequate by the Economic and Social Council, may be supplemented by the following note summarizing information received after our first request had been dispatched.

SUPPLEMENTARY NOTE

1. In ARGENTINE, an Insurance law, under the terms of which a semi-governmental Argentine Institute of Re-insurance is to be set up, was passed by the Chamber of Deputies on May 2nd and by the Senate on June 13th, 1947. This law also enacts that any insurance affecting Argentine must be entered in a contract with an Argentine Insurance Company. Any infraction of this law is punishable with a fine amounting to not more than 25 times the value of the premium (Art. 12). The provisions governing transport insurance are set forth in Article 14 of the law, which stipulates:

"The insurance of all classes of goods entering the country, in any manner whatsoever, must be effected by Argentine insurance companies when the risks are borne by the consignee, and the insurance of all classes of goods leaving the country, in any manner whatsoever, must be effected under the same conditions when the risk of the marine transport is borne by the consignor. The customs formalities include the obligation both to declare on oath that the risk has been covered, and to be in possession of a copy certified by the police authorities. Any infraction of these provisions will be subject to the penalties set forth in Article 12."

2. In IRAN, the government promulgated two decrees, on December 8th, 1946, and May 31st, 1947, of direct application to transport insurance. The following is the text of these two decrees:

Translation of the Decree of 9.III.1326 (May 31st, 1947) of the Iran Council of Ministers:

"The Council of Ministers decrees, at its meeting of 9.III.1326, on the proposal of the Ministry of finance:

1. All goods imported into Iran must be insured with an insurance company registered in Iran. When the credit for the import of the goods is opened, the authorized banks shall demand of the import merchant the insurance policy proving that the goods were insured with a company registered in Iran. After this insurance policy has been submitted, the bank may proceed to the opening of the credit.

2. Are exempted from the provisions of Decree No. 34198, export goods which are sold F.O.B. or which are the property of foreign merchants. In these cases the buyer may insure the goods with the insurance company of his choice. Nevertheless, other export goods must be insured with the IRAN Insurance Company, as laid down in the said decree.

Observation - The F.O.B. sale must be certified by one of the authorized banks.

Translation of the decree of 16.IX.1325 (8.XII.1946) of the Iran Council of Ministers.

"At its meeting of 6.IX.1325, the Council of Ministers on the proposal of the Ministry of Finance, and with the intention of enforcing paragraph 4 of Decree No. 11215 of 26.VII.1316, decrees that the general customs administration shall, for all export goods dispatched by motor-lorry, railway, steamship or aircraft, demand the insurance policy proving that the goods were insured in Iran. The administration may refuse permission to export the goods if such an insurance policy is not submitted to it.

"Trade in frontier regions is exempted from these provisions. The present tasks required of customs administrations are enforceable in the customs areas where the agents of authorized insurance companies agree to insure the goods and where the necessary means for technical inspection by the insurance companies are to be found. These circumstances must be certified by the general customs administration and by the IRAN insurance company."

3. These Argentine and Iranian laws imply a very dangerous interference in the international trade of these countries. Unless there is a protest against these coercive measures, these examples will be followed by other governments, which would monopolize the systems of maritime and transport insurance with the object of obtaining further resources for the State. This danger is emphasized in a letter from Belgium, which points out that, by a decision on the part of the French Government, apparently dictated by the desire to prevent currency from leaving the country, French exporters using the port of Antwerp must insure their consignments in France, and may not, as was the custom, have their marine insurance covered

through the intermediary of their forwarding agents in Antwerp. It may be remarked that here there is no question of a loss of foreign currency since the opening of the credit by the buyer for the French seller provides, under the C.I.F. sale a sum intended to cover insurance. Furthermore, the French insurance companies which will cover these marine risks must in their turn re-insure themselves, and this will then have the effect of bringing about a loss of foreign currency.

This decision would therefore seem to be merely a measure of protection favouring French insurance companies at the expense of the others.

