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SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

Non-Governmental Organizations

Summary Record

Meeting of the Consultative Committee with the representatives of the International Chamber of Commerce held on Friday, 4 July, 1947, at 4.30 p.m. in the Palais des Nations, Geneva.

Chairman: Dr. H.C. COOMBS.

Present:

Mr. I.B. Bayer
Mr. G. Bronz
Mr. E. Colban
Mr. J.M.Meade
Mr. J.G.Phillips
M. Royer

Representatives of the International Chamber of Commerce:

Mr. John R. Minter
Dr. M.A.Heilperin

Mr. Minter informed the Committee that the International Chamber of Commerce Delegation had asked again for the opportunity to discuss the question of protecting balance of payments because of the great stress which was placed on this subject at the Chamber's recent Congress at Montreux. He said that although the approval of the Chamber's Report (E/PC/T/44) by the Executive Committee had given the Delegation its original mandate for the presentation of certain views, the Montreux Congress had now confirmed this mandate. Moreover, the Montreux Congress had passed a resolution giving notice that the ICC could continue to study these questions and would again be presenting its views not only at the World Conference but at all appropriate times after the World Conference when revisions of the Charter might be up for discussion.

Protecting Balance of Payments, with specific reference to
Articles 6 and 8 (new draft) and Article 26.

Dr. M.A. HELPERIN explained that the points they wished to raise in this connection were those made in the Report, with the addition of one point which had been stressed particularly at the Montreux Convention.

The Chamber objected to Article 26 as now drafted because

- (a) it introduced the possibility of quantitative restrictions as a long-run feature of international economic relations;
- (b) it did not impose on Members the obligation to obtain prior authorization from the Organization before initiating such restrictions; and
- (c) it would not require Member countries to take steps to correct domestic conditions which might be increasing their balance of payment difficulties more than international circumstances on which individual countries frequently tended to blame such difficulties.

The Chamber's objections to the present draft of Article 26 could be substantially met by the following amendments:

- (i) it should provide for a transitional period after which all quantitative restrictions would have to be lifted;
- (ii) prior approval by the International Trade Organization should be made a requisite for the introduction of measures to protect balances of payments in the form of quantitative restrictions;
- (iii) provision should be made whereby the Organization would advise Member countries on their domestic policies with respect to the position of balance of payments.

One member expressed the view, with respect to the first point made by Dr. Heilperin, that certain countries felt that the right to impose internal restrictions must be available in the event of a world slump since no other measure would operate quickly enough in such a situation. He believed Article 26 must be drafted not only to meet the balance of payments disequilibria of the transitional period but also possible future disequilibria. Therefore, in drafting the Article the emphasis had been put on attempting to see that restrictions were not used more extensively or continued longer than necessary to meet particular difficulties, while nevertheless retaining the right to use restrictions. As for the second point, he regarded the present draft as a compromise arrangement with respect to prior approval. Paragraph 2 (a) laid down conditions for the use of quantitative restrictions; paragraph 3(a) provided for prior consultation with the Organization; paragraph 3(b) made it possible for the Organization to request Members to explain their use of restrictions, and 3(d) made it possible for any affected Member to challenge to Member using such restrictions and for the Organization to pass judgment and apply sanctions. As for the third point, this Member felt that the Organization would not be precluded from mentioning internal policies under the provisions of paragraphs 3(a) and (b). In his view, consultation would be unlimited, except in so far as paragraph 3(e) provided that the Organization could not recommend the withdrawal or general relaxation of restrictions because of a Member's domestic policies. He wondered if this might not meet the Chamber's point.

Dr. Heilperin replied that, in their view, it would be more realistic to recognize in the Charter that a great many balance of payments difficulties were due to internal policies, not to international circumstances. He agreed that prior consultation was an advance on the previous situation. However, the Chamber doubted that Article 26 as now drafted would prevent a widespread growth of quantitative trade restrictions in a situation analagous to that following 1930. If prior approval were required, the Organization would be better able to control the situation and suggest the adoption of alternative measures. The Chamber would like to see this problem of balance of payments disequilibria attacked internationally rather than nationally.

The CHAIRMAN agreed that positive measures would be desirable, whether taken by the Member country or by the appropriate agency, but believed most countries which characteristically faced a balance of payments maladjustment felt that Article 26 as now drafted represented the limit to which they could go in this respect.

Another member pointed out that Article 26 was designed to cover the case of economic difficulties within individual countries, not that of a general slump, as were Articles 6 and 8.

Another member expressed his general agreement with the International Chamber of Commerce approach to this problem. He pointed out, however, that under the International Monetary Fund Agreement exchange restrictions used during the transitional period did not require prior approval but merely prior consultation. He believed that Article 26 contained as good transitional period provisions as did the Fund Agreement and that the consultation provisions of Article 26 approximated closely to prior approval.

Dr. HEILPERIN said that the Chamber would prefer a deadline after which all quantitative restrictions would have to be removed. It might, however, be feasible to insert a special article under which the Organization could allow a Member the use of quantitative restrictions in emergency situations. This latter suggestion was not put forward as a formal Chamber proposal.

Although Dr. HEILPERIN suggested that Article 26, with a few changes, could be made into a transitional period Article, one member felt that if a transitional period were to be provided for, it would have to be along the lines of the similar provisions of the International Monetary Fund Agreement. Dr. Heilperin objected to this suggestion on the grounds that the Charter should avoid duplicating in the trade field the restrictions already permitted under the Fund Agreement with respect to exchange control. What was needed, in his opinion, was a tighter control over the use of quantitative restrictions. Two members of the Committee considered it necessary to provide in the Charter for the use of measures applicable to trade in addition to those already existing in the exchange field.

The CHAIRMAN assured the International Chamber of Commerce representatives that the Chamber's comments on "protecting balance of payments", particularly in relation to Article 26 and the new draft of Articles 6 and 8, would be brought to the attention of the full Preparatory Committee. Articles 31, 32 and 33.

The CHAIRMAN informed the representatives that although these Articles had been discussed generally in the Commission,

very little work had been done on them in the Sub-Committee stage, and that their comments could therefore be taken currently into consideration.

Dr. HEILPERIN referred to the Chamber's comments on state trading in their Report, (E/PC/T/44), both the introductory remarks on Chapter V and the specific comments on these Articles. Article 33.

Dr. HEILPERIN said the Chamber doubted the ability of complete state monopolies to fulfil the broad principles of the Charter. He believed the commitments which such monopolies would be required to make under the present draft of Article 33 were very insufficient in view of the wide powers held by such monopolies and would permit practices on their part contrary to the principles of the Charter. He expressed a further doubt that this subject even needed to be dealt with in the Charter at present and suggested that it would be more appropriate for such countries themselves to devise rules to cover state monopolies. Specifically, he suggested that Article 33 be

- (a) recast and strengthened, or alternatively
- (b) omitted from the Charter until state monopoly countries wishing to join the International Trade Organization formulated appropriate provisions.

Article 31.

Dr. HEILPERIN said that the Chamber's main objection to this Article as now drafted was that it did not recognize sufficiently the essentially discriminatory character of state trading enterprises, and suggested that some other more effective way be devised to protect other countries from the effects of such discrimination than by the application of the most-favoured-nation clause.

Article 32.

Dr. HEILPERIN regarded the machinery established in the present draft as extremely complex and doubted the necessity

to provide in the Charter for machinery of this nature. He suggested alternatively that this Article should be limited to principles, leaving it to the Organization to work out such machinery as the situation required. His main conclusion was that the present provisions of Articles 31 and 32 would not effectively offset the discrimination inherent in state trading.

One member, while agreeing to a considerable extent with the suggestions made by the ICC representatives, felt that some such provision as Article 33 must be included in the Charter for consideration at the World Conference, even though the present draft might not necessarily be the most satisfactory solution of this extremely difficult problem. As for Article 31, too strict rules would penalize the state trading countries, while limiting the Article to general principles would leave it too weak. He considered Dr. Heilperin's point on discrimination an important one and personally favoured embodying in the Article the idea of non-discrimination. However, thus far the Committee had seen fit to retain this Article as it was. This member agreed that the machinery established in Article 32 was very complicated, and that the state trading provisions in general were not too satisfactory as now drafted, but he pointed out that it was extremely difficult to find a more practical solution at the present time.

The CHAIRMAN said he believed all Delegations agreed that these were extremely difficult Articles and that they must be examined with great care. He doubted if anything final would be decided with respect to Article 33 at this Session. However, the points raised by the International Chamber of Commerce would be taken into consideration by the Preparatory Committee in its consideration of these Articles. He regarded it as most useful to have the Chamber's comments at this stage and would see that they were brought to the attention of all Delegations.