

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

## Article 28

The Australian Delegation submits the following proposals for amendment of Article 28 -

28. 1(e)

Restrictions in accordance with Article 26 which both (i) provide a Member with additional imports above the maximum total of imports which it could afford in the light of the requirements of paragraph 2 of Article 26, if its restrictions were consistent with Article 27, and (ii) have equivalent effect to exchange restrictions which are permitted to that Member under the Articles of Agreement of the International Monetary Fund or under the terms of any special exchange agreement which may have been made between the Member and the Organisation under Article 29, provided that a Member which is not applying restrictions on payments and transfers for current international transactions, may apply import restrictions under (i) of this sub-paragraph in special circumstances and only with the prior approval of the Organisation in agreement with the International Monetary Fund.

Comment.

As was explained in the Report of the First Session, Part 2, Chapter III, Section C, 3(e) to (j), pages 14 and 15

the purpose in this paragraph was to deal with the problems arising from the existence of inconvertible currencies. However, as was implied in that Report, it is the country carrying on trade with other countries which have inconvertible currencies which needs to exercise discrimination and not necessarily the country which itself has an inconvertible currency.

As the paragraph is at present drafted, it requires a Member who wishes to exercise discrimination either to be already applying discriminatory exchange restrictions or else to get prior permission for the discrimination from both the Organisation and the Monetary Fund. It is suggested that since exchange restrictions and trade restrictions are to some extent alternative methods of dealing with the same problem, a country should not be required to impose both forms of restriction if one is sufficient. Moreover, the present draft makes it easier for a country with an inconvertible currency to exercise discrimination than it is for a country which has accepted the obligations of convertibility. It seems likely that this provision would tend to encourage countries to remain inconvertible which would be a result quite contrary to that desired.

28. 2.

If the Organisation finds, after consultation with the International Monetary Fund on matters within the competence of the Fund, that import restrictions or exchange restrictions on payments and transfers in connection with

imports] are being applied by a Member in a discriminatory manner inconsistent with the exceptions provided under this Article or in a manner which discriminates unnecessarily against the trade of another Member country, the Member shall .....etc.

Comment.

It is suggested that the words enclosed in square brackets should be deleted for the following reasons -

- (a) It gives the Organisation power to disallow exchange restrictions which may have been specifically allowed by the Monetary Fund. Although perhaps unlikely in practice, it would be possible for the Organisation thus to deny a Member the right to take action which it was allowed to do by the Fund which is the body primarily concerned with exchange restrictions.
- (b) The inclusion of these words therefore appears to be inconsistent with the general attitude adopted in this Section of the Charter that the Monetary Fund should be left with final responsibility in the field of exchange regulation. Paragraphs 1, 2 and 6 of Article 26 appear to bear out this general attitude.
- (c) Unless the words in square brackets are deleted from Article 28. 2, the provisions of Article 29. 6 produce the curious result that the Organisation can over-ride the opinion of the Monetary Fund if the Member concerned is also a Member of the Fund but cannot do so if the Member concerned is not a Member of the Fund, but is operating under a special exchange agreement.

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20th June, 1947.