

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENTOBSERVATIONS BY THE NORWEGIAN DELEGATION
ON ARTICLE 18 (ART. 15 OF THE NEW YORK TEXT.)

At the final stage of the discussion of Art. 18 (Art. 15 of the New York text), the Norwegian delegation reserved its position. Whilst the Norwegian delegate at that meeting did not elaborate in detail the reasons for this standpoint, he stated that before the end of the Geneva conference, the Norwegian delegation would prepare a document setting out the Norwegian views on this Article in the hope that these views might be of interest to other Governments in their study of the results of the Geneva session. Accordingly, the Norwegian delegation in the present paper will outline some of the considerations which in its opinion ought to be taken into account at the Havana conference when this Article will come up for discussion again. The Norwegian authorities are continuing the studies of the very difficult problems which arise in connection with this Article.

As stated at the discussion of Article 18 at the present session, the Norwegian delegation fully agrees with the principle underlying that Article, namely that internal taxes and internal regulations of a discriminatory character should not be used for the purpose of protecting domestic industries (including agriculture) except within narrow and clearly defined limits. On the other hand the Article should not go beyond that principle or apply that principle so rigidly as to prevent Member countries from carrying out their obligations under the Charter to conduct an economic policy which aims at achieving and maintaining full and productive employment and large and steadily growing demand for goods and services. In particular, two aspects of such an economic policy call for special consideration in relation to Article 18.

1. Experience has shown that it is necessary for most countries to apply a system of price control as a means against inflation. In order to carry out a price control and stabilisation system it will normally be necessary to take measures which would be contrary to Article 18 and Article 20 (Art. 25 of the New York text); the Preparatory Committee therefore agreed to amend Article 37 of the New York text in such a way as to allow measures to be taken as exemptions from Articles 18 and 20 when essential to the control of prices by Members undergoing shortages subsequent to the war (Art. 43, II b). This exemption, however, is meant to cover a transitional period and only the special case referred to (shortages subsequent to the war). On the other hand it has been recognised in the draft Charter as agreed at the Geneva session that a price stabilisation policy may be conducted as a permanent part of economic policy in many countries. Art. 31, § 4 recognizes

one special application of this principle, i.e. in regard to the price policy of import monopolies. Secondly Art. 43, § 1, i, permits export restrictions which are necessary to maintain domestic prices on a product at a lower level than the export prices. Finally the whole Chapter VI, dealing with intergovernmental commodity agreements, are based on the assumption that a reasonable stabilisation of the level of prices of primary commodities is a necessary condition for achieving the main objects of the Charter, namely full and productive employment and economic progress. The Charter itself, however, as so far drafted, does not contain a general provision relating to permanent price regulation.

The Norwegian delegation believes that questions relating to the stabilisation of prices should be considered in principle, so as to make it possible to draft the relevant articles of the Charter in such a way as to enable Members to achieve the main objects of the Charter. The Norwegian delegation has considered, whether it would be right to propose an amendment to Articles 2 and 3 to the effect that Members should undertake to prevent wide fluctuations in the level of prices within their countries. The delegation believes, however, that certain countries might consider it contrary to their policy to maintain a permanent price stabilisation system. On the other hand it seems to the Norwegian delegation that many countries, perhaps most countries, will find it necessary as part of their future economic policy to conduct a permanent price stabilisation policy. Although the Charter should therefore probably not require Members to take measures to prevent wide fluctuations in the level of prices, the Charter at any rate should not prevent those Members which consider a permanent price stabilisation policy as essential, from taking the necessary measures to carry out such a policy. The most effective measures to this end would in certain cases be contrary to Article 18 as now drafted. The Article for example would prevent Members from introducing discriminatory internal taxes, even if those taxes were applied not for protective purposes, but in order to equalize prices over long periods. Whilst the Article as now drafted would permit Members to counteract high prices on imported goods through taxes on domestic goods in order to equalize the price level of imported and domestically produced goods, the Article would prevent Members from applying the same principle in the case of a slump in import prices. In that case it would be contrary to the Article to introduce higher internal taxes on imported goods than on domestic goods, because this would be considered as a discriminatory internal tax. The Norwegian delegation is of opinion that the Article ought to be amended on this point so as to allow the measures mentioned above, when they are applied as part of a permanent price stabilisation system.

2. Apart from the price stabilisation problem, also another aspect of economic policy has to be considered in relation to Article 18, i.e. the policy with regard to internal regulations of production. The Article in this respect has been drafted with a view to preventing that internal regulations be applied as a method of affording protection to domestic industries (including agriculture). As previously stated the Norwegian delegation agrees that discriminatory regulations of a protective character should not be allowed except within narrow and clearly defined limits. But this aspect of the problem relating to internal regulations must not be permitted to prevent the consideration of the other aspect, that such regulations may be the most

effective and appropriate way, in which to attain the progressive development of the industrial and other economic resources of Member countries and to raise standards of productivity. Particularly, the Charter should not prevent Members from applying mixing regulations or other internal regulations of production which aim at a standardisation of products to improve quality, to reduce costs of production or distribution, or in order to achieve the full use of raw materials. Even if such regulations lead to an increase in consumption of goods produced domestically and perhaps a decrease in imports, these measures ought not to be prevented by the Charter.

Article 18 as now drafted permits the maintenance, under certain conditions, of existing regulations of the kind referred to above, whilst it prohibits the introduction of new measures of the same kind. The Norwegian delegation is of opinion that the Charter ought to lay down objective criteria for the use or prevention of internal regulations, and that measures which do not fall within the acknowledged criteria should be brought to an end, if necessary in the course of a reasonably short transitional period. The delegation feels that it is wrong in principle to allow in some countries the existence of certain categories of regulations, which other Members will not be permitted to introduce as part of a future policy.

The Norwegian delegation is the first to admit that the ideas which have been suggested above concerning the internal regulations are merely sketchy, and that it may be very difficult to draw up in a legal text limits within which these regulations should be permitted. It is, however, considered to be of the utmost importance to be able to strike a balance between those regulations which ought to be condemned as being of a protective character, and those measures which ought to be permitted as necessary for the achievement of a full employment policy and the progressive development of the natural resources of Member countries. It will be so much the more difficult to strike this balance as public policy and economic systems vary from one Member country to another. The Norwegian authorities are now urgently studying these problems, and it is hoped that the delegation will be able to make acceptable proposals to the Havana conference on this subject as well as on the price stabilisation subject.

3. Finally, with regard to the question of cinematograph films, the Norwegian delegation considers Article 18 unsatisfactory. Film performances are to be compared with theatrical performances. These performances are not first and foremost goods in a commercial sense, but services of a cultural character. If a country considers it necessary to protect a national film industry, other factors than the purely commercial are taken into account. Therefore, questions relating to the international exchange of films should be considered by other organisation than the International Trade Organisation. There are other bodies of the United Nations, which seem more appropriate for dealing with this problem.

If the ITO Charter should include any rules relating to film performances, these rules should in any case be limited to apply to foreign films.

The Norwegian delegation has no objection to Article 19, which also deals with cinematograph films, but the provisions of that Article do not seem to cover all aspects of the problem.