

**United Nations  
CONFERENCE  
ON  
TRADE AND EMPLOYMENT**

**Nations Unies  
CONFERENCE  
DU  
COMMERCE ET DE L'EMPLOI**

**UNRESTRICTED  
E/CONF.2/C.3/SR.22  
31 December 1947  
ORIGINAL: ENGLISH**

**THIRD COMMITTEE: COMMERCIAL POLICY**

**SUMMARY RECORD OF THE TWENTY-SECOND MEETING (III b)**

Held at the Capitol, Havana, Cuba,  
on Tuesday, 31 December 1947, at 4.30 p.m.

Chairman: Mr. L. D. WILGRESS (Canada)  
(Reference: E/CONF.2/C.3/7)

**1. Article 23 - Exceptions to the Rule of Non-Discrimination - (first reading)**

Upon the proposal of Mr. AUGENTHALER (Czechoslovakia) and Mr. BLUSZTAJN (Poland) it was agreed to consider first the amendments to Article 23 submitted by the delegations of France (item 74), Argentina (item 75), Czechoslovakia (item 76) and Belgium and Chile (item 77).

**ITEM 74**

Mr. ROYER (France) stated that the text of the French proposal was to be found in Article 14, paragraph 6 of the General Agreement, and should be incorporated into the Charter so as to avoid any disparity in the two texts. The purpose was to provide a general exemption from the provisions of Article 22 until 1 January 1949 with the possibility of extension throughout the transition period.

There were certain clauses in Article 23 which might lead to legal misconstruction; the French delegation therefore reserved the right to submit certain drafting amendments in sub-committee.

Mr. THOMPSON-MCCAUSLAND (United Kingdom) supported the French proposal, but suggested that the question of the date be considered by the sub-committee.

**ITEM 75**

Mr. THOMPSON-MCCAUSLAND (United Kingdom) considered that the statement by the representative of Argentina at the previous meeting in support of his amendment warranted careful attention. However, the terms of the amendment which would allow the transition period of Article 22 to extend until all members of the ITC became members of the International Monetary Fund, were unacceptable to his delegation, since it would award to a single member a power over all.

Mr. GUERRA (Cuba) opposed the Argentine amendment.

/ITEM 76

ITEM 76

Mr. AUGENTHALER (Czechoslovakia) stated that in Geneva his delegation had reserved its position on Article 23, because in their opinion it departed from reality. A disequilibrium would always exist in the sense that some countries would be rich and others poor and even widespread equilibrium would not help a country a substantial part of whose trade was with countries in balance of payments difficulties. Article 23 assumed incorrectly that goods sold in one market could readily be sold in another; it ignored the inevitable consequences of weak currencies.

Economic policy was nowadays largely concerned with maintaining the level of general economic activity. Since a full employment policy would be frustrated by wide fluctuations in the volume of international trade, it was inevitable that countries should seek to stabilize the volume of their imports by means of long-term bilateral agreements.

Article 23 should be closely related to the provisions of the Articles of Agreement of the International Monetary Fund, particularly with regard to Article XIV of the Fund Agreement which dealt with the transitional period. The New York text of Article 28 was preferable to Article 23 of the Draft Charter but even that should be simplified.

Mr. FORTHOMME (Belgium) said that the general reservation made by Belgium in Geneva to Article 23 was a corollary to the reservation to Article 21. The statements by the representatives of France and Czechoslovakia emphasized the error of laying down detailed rules and exceptions applicable to this difficult problem. The Belgian delegation would have preferred to see Articles 23 and 24 deleted, as well as Article 21, whose wide exceptions could be corrected only by supporting the Netherlands amendment.

The levels of prices mentioned in sub-paragraph (i) were impossible criteria to apply and both this sub-paragraph and sub-paragraph (ii) should be deleted.

Mr. BRONZ (United States of America) said that Article 23 might not be ideally drafted but exceptions should be carefully framed in order to eliminate discrimination at an early date. The considerations presented by the representative of Belgium should be studied by the sub-committee. As to the question of hard and soft currencies mentioned by the representative of Czechoslovakia, it was to be hoped that the Fund would realize the goal of general convertibility, which would help to remove the causes of the imposition of quantitative restrictions. The clauses of paragraph 2 (b) (i) and (ii) were devised to prevent bilateralism from becoming self-perpetuating.

Mr. de VRIES (Netherlands) supported the statements by the representative of Czechoslovakia and Belgium though he too hoped for an eventual return to multilateralism.

multilateralism. Article 23 had not yet had sufficient consideration; paragraph 1 (c) was particularly obscure; the sub-committee should provide a better and clearer draft.

Mr. BLUSZTAJN (Poland) said that it should be openly recognized that the currencies of the majority of countries were not convertible and that as long as there were difficulties in balance of payments, the rules of Article 22 were impossible of application. The concept of disequilibrium was nebulous and vague. A return to multilateralism at the present time would only result in a further depletion of reserves already low. Paragraph 1 should state that as long as the Fund could not ensure stable convertibility, members should be allowed to use certain practices not permitted by Article 22. The criterion of Article 23 should be that a country should be allowed to discriminate if by so doing it could maintain a higher level of imports than would otherwise be possible.

He agreed with the representative of Belgium concerning sub-paragraphs (i) and (ii). Without multilateralism the criterion of price alone was not sufficient: payment considerations, for example, were also important. It was not always true that goods moved freely to countries with strong currency. Paragraph 3 was not useful since dates chosen arbitrarily could not be adhered to. Attention should be concentrated on redrafting paragraphs 1 and 2.

Mr. NASH (New Zealand) said that there were sufficient resources in the world to satisfy the world demand for goods but that the problem of production had not yet been solved. The maintenance of full employment would assist in eliminating discrimination by sustaining demand. Some countries discriminated against hard currency areas for non-economic reasons but the Charter should make provision for non-discrimination as a long-term aim. Inasmuch, however, as disequilibrium would prevail for some time the value of prior contracts for long-range planning should not be underestimated. Those who spoke scathingly about planned economies should remember that the Charter itself was a plan to bring some order into the economic world.

The symptoms of the disequilibrium were the surpluses and shortages which existed in different parts of the world. The countries with surpluses for export would run into serious difficulties unless they were willing either to make investments on a sufficient scale or to take the goods of others when they were available, in order that the countries with shortages might pay for their imports. Orders for goods should go where the money was available to pay for them.

Mr. STUCKI (Switzerland) did not agree with the representative of New Zealand who wanted to apply on an international scale the political philosophy of national planning which had had such good results in his own country. The ideal was to have multilateral international trade, subject to

/international

international control, but the Charter recognized that this was impossible at the present time. Articles 21, 22, 23 and 24 attempted to set forth certain principles and also certain exceptions. In them discrimination was condemned, but it was also recognized that it might be justified in certain cases; the whole structure gave cause for misgiving. Article 21 might be necessary but it was too much to ask a country to accept this article when fatal consequences might result.

With reference to Article 22, he said it was unreasonable to expect a Member not to give a larger quota to a country more of whose currency was at the Member's disposal than to that country whose currency the Member possessed to a lesser extent. The currencies of both the United States and Switzerland were at the moment in short supply. It was impossible to erect a satisfactory barrier against discrimination. Exporters in countries possessing a strong currency such as the Swiss franc would be faced with serious dangers, and the methods proposed to counteract them were not satisfactory. Switzerland had therefore safeguarded her exports by the only means she could visualize - with bilateral agreements. He did not share the views of the delegates of Czechoslovakia and Belgium but admitted the compelling force of their arguments.

PARAGRAPH 1 (a)

(Item 62) The amendment of Uruguay was referred to the Sub-Committee.

(Item 63) The representative of Mexico withdrew his amendment.

PARAGRAPH 1 (b)

(Item 64) Mr. WOLD (Norway) reminded the Committee that the provisions of Article 23 and particularly Paragraph 1 ought to enter into force either simultaneously with the whole Charter or, if the French amendment were accepted, on 1 January 1949, or at such later date as might be fixed under that amendment; but the Article should be based on conditions of world trade at present.

World trade, disorganized by the war, had been re-established by bilateral agreements. These arrangements might be harmful in the long run, but they had been the only means to be applied in Continental Europe. He hoped that the reconvertibility of currencies would be established, but this would take many years; Article 23 recognized that fact. The Article, and every amendment, must aim at an increase in the general volume of world trade.

The word "substantially" in Sub-paragraphs (b). (i) and (ii), might suggest more than 25%. The Amendment of Norway stressed the real element, which was the relation of import to export prices. As a result of the inflation which many countries were today experiencing, Norway had had to fix her export prices to cover the cost of production in other countries. This was in itself undesirable, but the primary causes lay not in foreign trade but in

trade but in the domestic economies concerned.

The word "appreciably" in sub-paragraph (b) (ii) required definition. Present agreements between European countries included hard currency goods as well as soft currency goods, perhaps to a certain extent on a discriminatory basis both as regards quantities and prices. These must be considered as a whole. There was danger in this sub-paragraph.

These were also the problems suggested by the representatives of Czechoslovakia and New Zealand as to long term contracts which might not involve any element of discrimination at the time the agreements were being carried out, but which might involve discrimination in the course of time. Appropriate wording should be found to cover this problem as well. In both respects the individual conditions of world trade at the present time should be borne in mind.

Mr. BRONZ (United States of America) agreed with the representative of Norway in this last respect, but said it would not be desirable to perpetuate all the present-day practices of world trade.

The Norwegian amendment would give an entirely different meaning to Paragraph 1. When a country discriminated, it prevented the import either of the cheapest or of the most desirable goods. Sub-paragraph (i) simply provided that the differences in price would not be too great. The Norwegian amendment recognized the differences in price in soft and hard currency areas, but would merely be a test of whether a country was making a good bilateral bargain.

Referring to sub-paragraph (ii), the representative of Switzerland had stated that a country would have to get imports by using the currency it had. The example given was not representative of the prevailing situation. Apart from the sterling balances, there were no large holdings on inconvertible currency that had any effect on world trade. Paragraph (ii) said in effect that a country was not justified in discriminating simply to use the soft currency which it had acquired by its own export policy. It was designed to lead towards multilateralism by encouraging countries, which preferred to sell their products in soft currency, to secure the maximum in hard currency before asking for the right to use in a discriminatory manner a soft currency acquired through the operation of a bilateral agreement. It might be true that two countries could with mutual advantage exchange products not readily saleable in the world market but this raised the question of how far bilateralism was to be allowed to spread.

Mr. WOLD (Norway) said that a strict definition of the word "substantial" would rob Norway of its trade with certain countries. But it was not the aim of his amendment to prevent the gradual abolition of discriminatory practices. Perhaps the Sub-Committee could find an appropriate wording which would cover the situation.

/Mr. ROYER (France)

Mr. ROYER (France) believed the advice of the representative of Switzerland should be taken, and the matter considered from a more realistic standpoint. He stressed the difficulty in drafting, particularly Paragraph 1 (b) (i) and (ii). The United States did not take into account the conditions of exchange in Europe. It was not true that countries were interested particularly in selling their products on a soft market, and unfortunately there were not many strong markets at the present time. Bilateral trade treaties should be terminated as soon as possible but could not be at the moment.

Mr. SAHLIN (Sweden) said that he assumed the word "reasonably" in sub-paragraph (b) (ii) referred to conditions of free competition and took into account the normal interests of traditional markets.

Mr. FORTHOMME (Belgium) pointed out that his country had inconvertible currency holdings of 300 million dollars.

Mr. BRONZ (United States of America) stated that in London there had been a specific clause corresponding to Article 23, providing that countries which had accumulated inconvertible currency before a given date would be allowed to discriminate in order to get rid of it. Such a clause could be re-introduced, setting cut-off dates to limit the use of such balances for discriminatory purposes if acquired in the future.

Mr. FORTHOMME (Belgium) hoped there would be further discussion on the subject in the Sub-Committee.

Mr. BLUSZTAJN (Poland) stressed that he did not approve of the provisions of Paragraph 1 (b) (i) and (ii) and would like them eliminated unless other factors related to trade were to be taken into consideration.

In principle he was in favour of the Norwegian statement; the practice of bilateral negotiations implied not only price considerations, but also involved the relation of the entire range of exchangeable products.

Mr. THOMPSON-MCCAUGLAND (United Kingdom) said that the accumulation of inconvertible currency was not the only case where discrimination might be advantageous. A country might seize the opportunity to export, or might by long custom have exported, to a market which could not at the present time pay in convertible currency. Such a country would have to take careful thought as to how it would dispose its power to export and its resulting power to import. It would not be faced by the problem of inconvertible currencies, but with opportunities, which the Charter attempted to regulate and define. The whole subject was more complex than had been thought when the original proposals were drawn up.

/The proposal of

The proposal of NORWAY was referred to the Sub-Committee.

(Item 65) The representative of the UNITED KINGDOM withdrew his amendment in its present form because at the present time it would be advantageous to increase payments in convertible currency. The present draft covered not only direct earnings of convertible currencies but also those cases in which a country, though its own currency was inconvertible, was willing to pay in convertible currency. The United Kingdom did not wish to rule out the latter category, but the first was the most beneficial.

The meeting rose at 6.30 p.m.

-----