

THIRD COMMITTEE: COMMERCIAL POLICY

SUMMARY RECORD OF TWENTY-EIGHTH MEETING (III b)

Held at the Capitol, Havana, Cuba,
Thursday, 8 January 1948, at 3 p.m.

SECTION D - STATE TRADING (documents E/CONF.2/C.3/9 and Corr. 1 and Add.1)

General Discussion

Mr. AUGENTHALER (Czechoslovakia) said his delegation accepted Articles 30 and 31 as at present drafted.

Mr. CAPLAN (United Kingdom) said the degree of State control varied greatly and there were at present very few countries where there was not a certain measure of such control. Section D was a recognition of that fact.

Article 30 ensured that the State trader would not enjoy any special privileges nor suffer any special disability; Article 31 was a corollary of Article 30.

The United Kingdom was in a midway position between those countries with no State trading and those with comprehensive State trading, and the delegation of the United Kingdom was therefore in a position to say that Section D met the acid test of not affording any unfair privileges to nor of imposing unjust disabilities upon State traders.

Mr. EVANS (United States of America) pointed out that countries representing nearly the entire range of categories with respect to State trading were members of the Preparatory Committee in Geneva. Yet the Preparatory Committee was able to adopt Articles 30 and 31 with no reservation by any country to Article 30 and with only one reservation to Article 31.

Mr. BRIGNOLI (Argentina), referring to the amendment of his delegation that Articles 30 and 31 be deleted, said that the present conditions of international trade were not normal, and certain State trading enterprises were a result of that situation. Several countries were faced with a lack of primary commodities and manufactured goods and also with a constant lack of hard currency. The problem of supplies and currency must be solved before any rules on State trading were adopted.

The CHAIRMAN, after inviting observations on the proposal, stated that there was no support in the Committee for the deletion of Section C.

/Article 30

Article 30 - Non-Discriminatory Treatment

Paragraph 1 (a)

Mr. AUGENTHALER (Czechoslovakia) suggested that the Note to the Geneva draft (item 3) should be incorporated in the text of the Charter.

Mr. EVANS (United States) said his delegation was not opposed to the content of this Note, but suggested that the Sub-Committee should consider the possibility of either deleting the Note entirely or of inserting its first part in the text and deleting the second part.

Mr. CAPLAN (United Kingdom) favoured the opinion of the representative of Czechoslovakia.

Paragraph 1 (b)

Mr. EVANS (United States) felt that the text of Article 30 as drafted could not be interpreted in any other way, and the Note (item 6) appended to the Geneva draft was unnecessary.

Mr. AUGENTHALER (Czechoslovakia) considered that the Note should be incorporated in the Charter.

New sub-paragraph to Paragraph 1

Mr. NASH (New Zealand) said that in New Zealand there was a Dairy Products Marketing Commission consisting of three members of the Government and three members of the dairy industry, with an independent chairman. That body bought and sold all the dairy produce of New Zealand. It could not be completely defined as a State trading enterprise, and the sole purpose of introducing a new sub-paragraph (item 7) was to ensure that the Commission was recognized as an enterprise under State trading provisions.

Mr. de VRIES (Netherlands) said there were many bodies in the Netherlands which could be compared with the body mentioned by the representative of New Zealand, and it had always been felt that such bodies came under the term of State trading. He considered that this matter and the notes in the Geneva Draft (item 8) should be studied by the Sub-Committee and also by the Central Drafting Committee, so that there would be no conflict between Section D and other provisions of the Charter.

Paragraph 2

Mr. OLMEDO (Mexico), referring to the proposal of his delegation (item 9) that paragraph 2 should be deleted, said that there were many State trading enterprises in Mexico, all of which aimed at preventing high prices of consumer goods. If Mexico were to apply paragraph 2 of Article 30, a number of State trading enterprises would have to close down.

Mr. EVANS (United States) pointed out that paragraph 2 dealt with imports for governmental use, such as the armed forces, or stock piling, which were exempt from the provisions of paragraph 1. The Mexican problem

/did not pertain

did not pertain to paragraph 2.

Mr. OLMEDO (Mexico) thought that the Mexican proposal was akin to the Swiss amendment to paragraph 6, and that it could be dealt with under that paragraph.

Mr. CAPLAN (United Kingdom) felt that if there were doubt regarding the position of state trading practices of Mexico, paragraph 1 rather than 2 should be questioned.

Mr. MORALES (Guatemala) asked that the Sub-Committee consider the non-profit transactions of state agencies importing agricultural materials for the benefit of small producers. That type of imports should be safeguarded regardless of any commercial considerations to which other state trading might be subject.

Mr. LLERAS (Colombia) said that he had no misgivings as to Article 30 concerning organizations in his country which were similar to Mexico's. He agreed with the interpretation of paragraph 2 as given by the representatives of the United States and the United Kingdom.

Mr. CORIAT (Venezuela) asked whether the provisions of Article 30, paragraph 1(a) conflicted with the present practice of his country whereby oil received by the government in payment of taxes was exported in exchange of certain food stuffs. He asked that the Sub-Committee consider this and reserved the right to submit an amendment if the practice were not permitted under Article 30.

Mr. McCAHNEY (Australia) asked that the Sub-Committee study the precise legal position of certain preferential trade transactions between territories joined in trusteeship under the United Nations, if one of the parties practiced state trading.

Mr. ZOLOTAS (Greece) asked that a definition of "fair and equitable treatment" be considered, so that a government might properly choose between purchases of imports and domestic products.

Mr. CAPLAN (United Kingdom) replied that the paragraph referred only to fair and equitable treatment of imports; domestic purchases were outside the scope of this provision.

It was agreed that Article 30 be referred to Sub-Committee for consideration in the light of the debate.

Article 31 - Expansion of Trade

Paragraph 2

Mr. LOZANO (Cuba) stated that the new sub-paragraph (c) suggested by the delegation of Cuba (item 14) proposed that regulations issued by monopolies, should be subject to negotiation.

Mr. AUGENTHALER (Czechoslovakia) thought that the amendment would

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interfere with the purely internal economic policy of a member country. There were other provisions in the Charter which would take care of the purpose of the Cuban amendment.

Mr. RICHARDS (Canada) said that negotiations were usually associated with some compensation, but that a complaining member could expect to receive justice without having to pay for it; perhaps Article 89 was applicable to the Cuban problem.

Mr. CAPLAN (United Kingdom) suggested that the point was probably covered by Articles 18 and 31 (5).

Mr. de VRIES (Netherlands) supported the remarks of the representatives of Czechoslovakia and the United Kingdom. The principle of the Cuban proposal was covered by Article 30, paragraph 1(a); however, if it were included, Article 31 was not the proper place.

Mr. LOZANO (Cuba) replied that the amendment was submitted because tobacco, one of Cuba's basic exports, was subject to certain import regulations which had been found not negotiable because they were considered internal matters. Reservation had not been made previously because in Geneva the Cuban delegation had understood it was protected, but later experience had proved otherwise.

Mr. EVANS (United States of America) agreed that the Cuban amendment was covered by Articles 30 and 31. If Article 31 accomplished the authors' intention, it removed the possibility of any kind of protection against imports, except by price differentiation which would be subject to negotiation. It should be noted that Article 31 was evolved while tariff negotiations were being conducted; therefore, it was possible that some delegates at Geneva were not ready to negotiate on questions relating to monopolies, but that would not hold true today.

Mr. LECUYER (France), supported by Mr. LA ROSA (Italy), said that Article 31, paragraphs 1(b) and 2(b), fully covered the Cuban problem.

Paragraph 4

Mr. RICHARDS (Canada), supported by Mr. Evans (United States), thought that the second proviso of paragraph 4 did not give automatic protection to members with domestic price stabilization schemes and therefore the sense of the footnote to the Draft Charter should be included in paragraph 4.

Paragraph 5

Mr. SEIDENFADEN (Denmark) said that his amendment (item 17) was proposed so as to prevent rationing from being used for restrictive purposes. The amendment might parallel a Colombian proposal for a new Article 40A. He stated that that advice would be welcome if it were considered that the amendment was too narrow by being attached to Article 31.

/Mr. CAPLAN

Mr. CAPLAN (United Kingdom) doubted if rationing for the purpose of escape from the provisions regarding state trading would ever be accepted by the public of any country. The obligation to meet full domestic demand was in the text and there was no justification for amendment.

Paragraph 6

Mr. HAUSWIRTH (Switzerland) explained that the amendment to paragraph 6 (Item 18) was proposed because the Swiss system of Control of grain and fodder imports might not be in accord with Section D of Chapter IV. The purpose of these monopolies was neither restrictive nor discriminatory. Switzerland did not intend to increase monopolies, but could not renounce the two which were to basis of its grain and fodder import policy.

Mr. MCCARTHY (Ireland) supported that Swiss amendment. Article 31 interfered with the Irish policy of guaranteeing full employment and a fair price to agricultural producers.

Mr. de VRIES (Netherlands) stated that the position of the Netherlands was similar to that of Ireland and Switzerland. There was necessity for price stabilization and protection against flooding of markets, but it was possible to reconcile the Netherlands monopoly system with the provisions of the Charter and the present text of Article 31 was acceptable to his Delegation.

Mr. EVANS (United States) felt that the Mexican amendment (Item 19) would greatly diminish the value of the provisions of the present Article. The term "public service" was too wide to serve as criterion.

Mr. DUNAWAY (Liberia) asked whether monopolies referred to in paragraph 6 were entirely exempted from any other provisions of Article 31.

Mr. EVANS (United States) explained that paragraph 6 was not intended to exclude such monopolies from the other provisions of Article 31. The intent of paragraph 6 was to allow a Member to withhold from negotiations products for which certain government monopolies were established.

Mr. AUGENTHALER (Czechoslovakia) referring to the Note to the Geneva Draft of Article 31 (Item 20), recalled that at Geneva no country with a complete monopoly of external trade had been present. Article 33 had been deleted, but Article 74 (4) could be invoked if at any time in the future there should be need of arrangements with a country having such a monopoly.

Mr. NASH (New Zealand) said that if the Geneva wording of Article 21 were not accepted by the Conference, the proposal made by New Zealand in Geneva to the previous text of Article 33 (Geneva document E/PC/T/W.101), should again be considered.

Mr. CAPLAN (United Kingdom) and Mr. TINOCO (Costa Rica) supported the
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view of the representative of New Zealand.

Mr. NASH (New Zealand) asked that the Note to Article 31 in the Geneva Draft be retained until Article 21 had been approved.

Mr. BLUSZTAJN (Poland) seconded the New Zealand proposal. Section D of Chapter IV was determined by the final wording of Section B, especially Articles 21 and 23.

It was agreed to refer Article 31 to the Sub-Committee which would consult with the Sub-Committee on Article 21.

A Sub-Committee to consider Section D was appointed, consisting of the representatives of Czechoslovakia, Ecuador, Egypt, Mexico, New Zealand, Netherlands, Pakistan, Switzerland, United Kingdom and United States.

New Article to Section C Proposed by the Representative of Ecuador
(Item 17, E/CONF.2/C.3/8)

Mr. PARRA-VELASCO (Ecuador) stated that the new Article was intended to assure the equitable regulation of prices in international trade and emphasized the importance of considering the relation between prices of primary commodities and those of manufactured goods. The standard of living in countries producing raw materials should be equal to that of industrialized countries, but in the present world circumstances, a large degree of free trade often led to a lack of balance which imposed hardship on countries producing raw materials; the problem should be studied in order to work out an equitable relation between the prices of the two types of products.

Under-development was not due to backwardness but to lack of balance and injustice in international prices. The highly developed countries were benefiting now, but the present situation would have repercussions. If the situation were equitable, there would be no reason for quotas, tariffs and other restrictions, which were only defenses against international competition.

The amendment should not be construed as an exploitation of countries producing raw materials over countries producing manufactured goods, but as a means of studying the problem for a proper solution. The ITO should have the power to investigate and consider the problem, and the possibility of establishing control and regulation of prices. The war-time experience of intervention in prices refuted the argument that regulation could not be accomplished on an international basis.

Countries producing raw materials were dependent upon industrialized nations both for exports and imports to such a degree that even though they were political entities, they were economically semi-colonies. They had the right, therefore, to create an ample domestic market and to build industries, as others had done before. Consideration should be given not only to the proposed new Article on equitable prices but to the amendments submitted

/concerning customs

concerning customs preferences. Among the exceptions to Article 16, the legitimate right to defend the unification of small markets by regional preferences should be recognized. It was not fitting to countenance preferential tariffs between comparative strangers and prohibit them between peoples of historical unity. Spanish America desired to collaborate, but needed the cooperation of all other states so as not to be forced to pay starvation wages, to remain divided small and poor markets. Political freedom had been achieved within the framework of international co-operation and economic development was to be attained in the same way.

The CHAIRMAN thanked the Minister for Foreign Affairs of Ecuador for his explanation.

Mr. AUGENTHALER (Czechoslovakia) expressed sympathy for the plight of countries producing raw materials and basic foodstuffs, particularly during the period 1930-33. It was known that the delegation of Czechoslovakia was not opposed to regional preferences. The production of primary commodities was entirely different from and lacked the flexibility of manufacturing industries. An entire Chapter of the Charter dealt with that problem and when the ITO was established, it should immediately consider the situation, in accordance with the provisions of Article 55.

Mr. FERRERO (Peru) supported the Ecuadorean amendment, which was important in its implications for all Latin-American countries. His delegation had submitted a similar proposal in the expectation that the Organization would consider the international point of view of the problems involved.

Mr. CAPLAN (United Kingdom) thought that the amendment might more suitably be discussed by another sub-committee in connection with some other Chapter of the Charter, possibly Chapter III, dealing with economic development.

Mr. de VRIES (Netherlands) recalled that in the period before the war the general trend for prices of raw materials was downward, prices of industrial and manufactured goods had a tendency to climb, with increased transportation costs, higher wages for organized labour, and other influences playing their part in industrialized countries.

Articles 4 and 7, on fair labour standards, would, to some extent, take care of the problems raised by the Ecuadorean amendment, but they would not apply to the large masses of small peasants who made up the largest part of the population of Asia, for example. The Ecuadorean amendment deserved most careful study, but its proper context would have to be considered. He agreed with the United Kingdom representative that Chapter III might be the right place. He had certain reservations about paragraph 3 of the amendment which

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gave Members the unilateral right to initiate measures, which might run counter to the spirit of Chapter IV.

Mr. GOMEZ (Brazil) recalled that his delegation had expressed its position in Geneva, London, and at Havana in regard to preferences. As to the relationship between the prices of raw materials and manufactured products, he fully agreed with the principles of the Ecuadorean amendment.

Mr. BRIGNOLI (Argentina) supported the Ecuadorean amendment in regard to preferences as well as to price relationships, particularly as it was in line with his delegation's amendment to Article 16.

Mr. NORIEGA-MORALES (Guatemala) expressed his support for the amendment which was a matter of vital importance to all countries producing raw materials. The price problem could not but be of concern to the Conference; if Section C was not the proper place for it, the Chairman might refer the amendment to some other sub-committee for further study.

Mr. GARCIA-VILLAS (El Salvador) and Mr. GUTIERREZ (Bolivia) agreed with the objectives of the amendment.

Mr. MULLER (Chile), supported the amendment, but pointed out that price fixing of raw materials in the international market during the last war had meant ceiling prices imposed under centralized purchasing. In the first war, Chilean copper sold for 22 cents, but in the last war for only 11 cents. In this way, his country suffered doubly, first, because prices for raw materials had been low and sufficient foreign exchange could not be accumulated, and later, because manufactured goods had risen by 50 per cent after the war, and thus could not be purchased in adequate quantities.

The CHAIRMAN considered that the sub-committee on subsidies was not the right body to discuss this amendment. Announcement would be made at the next meeting of Committee III-b, as to which sub-committee should deal with the matter, or whether a special working group should be appointed.

The Chairman then declared the first reading of Chapter IV by Committee III as completed and adjourned the Committee until further notice.

The meeting rose at 6.00 p.m.