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COMMITTEE II.

REMARKS OF THE POLISH OBSERVER

On Item C.3. of the Provisional Agenda

(doc. E/PC/T/C.II/3.)

It is to be expected that the discussion on item C.3 of the Provisional Agenda will develop along the lines suggested by Article 21 of the suggested United States Charter. The following remarks are destined to contribute, if possible, to some clarification of the different aspects of this most difficult and controversial problem.

1. It would seem obvious that, in the opinion of the authors of the Charter, Article 21 on non-discriminatory administration of the quantitative restrictions should apply to the whole of Section C. of Chapter IV. of the Charter, i.e. to Article 19 and to Article 20. In other words, the proposed rules of non-discrimination of quantitative restrictions cover, both, restrictions imposed or maintained in order to deal with special situation within the country concerned (Article 19 paragraph 2 a-e) and those destined to restore equilibrium of the balance of payments (Article 20). In this second case they should apply during the transition period (Article 20 paragraph 2) and, in exceptional circumstances, after such a period (Article 20 paragraph 3).

It seems then to follow from the foregoing that the non-discrimination rules contained in Article 21 of the suggested Charter are to be applied to all quantitative restrictions imposed or maintained at any time, with the only exceptions mentioned in Article 22 and referring to Article VII. and Article XX Section 4 (g) of the International Monetary Fund, to the utilization for imports of non-convertible currencies, to the distribution of commodities in short supply and to the future inter-governmental commodity agreements.

2. Article 21 paragraph 1 makes, moreover, a distinction between the three types of quantitive restrictions, i.e. quotas, licensing systems and "other non-quota methods". It appears, finally, that the authors of the charter intend to give preference to the use of quotas as against the two other systems of restrictions.

3. It should, perhaps, be reminded that, as far as continental Europe was concerned, two different types of quantitative restrictions destined to achieve two different aims have been used during the inter-war period and, in particular, during the 'thirties. They are:

(a) the system of import and export prohibitions consisting in an over-all prohibition of import or export of a given commodity; on the basis of such an over-all measure bilateral agreements have been negotiated with countries which were the most interested in imports or exports of the prohibited commodity and "contractual quotas" have been fixed, on reciprocal basis, thus lifting partly the prohibition; these quotas had very different characteristics from those dealt with in the suggested United States Charter; in fact, they consisted in a series of bilateral quotas allotted to different countries in accordance with the extent of concessions granted by each of them on the basis of reciprocity; thus, no "global quota" for any of the prohibited commodities could have been established, as the number of partners to these bilateral agreements and the extent of mutual concessions granted by any of them varied in accordance to the situation; moreover, the establishing of a "global quota" was the more superfluous that the whole system was destined not to protect the home market but to defend and to restore the equilibrium of the balance of payments of the country concerned; the "contractual quota" could be larger or smaller in accordance with partner's concessions in the same or in another field of the current account of the balance of payments; if the concessions were large enough to restore or to better the situation of the bilateral balance of payments between the country concerned and its partner, the imports of the prohibited

commodity could even increase above the level existing before the introduction of the prohibition;

(b) the system of quotas (in the meaning of the suggested United States Charter) introduced in Western Europe since 1931 and destined exclusively to protect the home market (chiefly those of agricultural products) from being submerged by the much increasing imports from several primary producing and agricultural countries where the breakdown of prices was particularly heavy; it should be noted that, at least at that time, the Western European countries which used this system of restrictions were not faced by any threat of disequilibrium in their balance of payments; on the other hand, the increasing competition of the cheap foreign imports made it necessary to protect the rentability of their own productions; the burdensome surplus of imports in any of the commodities concerned could be fairly easily established beforehand and, thus, a "global quota" of future imports fixed with a fair accuracy; there was no necessity for any bargaining with any of the exporting countries, as the measure was purely defensive; thus, the allotment of import shares within a given quota to the most interested partners could be (and, in fact, was) established on basis of a general criterion (the, so called, "representative period"); the result of the measure was always the expected drop in imports of the commodity concerned.

4. This experience of the past might, perhaps, serve as basis for the future provisions of the international agreement concerning the rules of world trade. It may be, for instance, safely assumed that the non-discrimination provisions of Article 21 of the suggested Charter can perfectly well apply to this kind of quantitative restrictions which are embodied in Article 19 paragraph 2 a-e, as the nature of these "home market restrictions" seems to suit very well the provisions concerning the establishment of "global quotas", their proportionate allotment to different countries etc. On the other hand, the application of

Article 21 to the "balance of payments restrictions" under Article 20 would seem rather doubtful.

5. The chief aim in restoring equilibrium of a balance of payments is to eliminate its deficit. This deficit is defined in Article 20 paragraph 3 (a) by means of referring to Article XIX (i) of the International Monetary Fund. Under the provisions of this last Article, the deficit in question is defined as the deficit on current account of the balance of payments, this account being formed by its different component parts such as:

(a) all payments due in connection with foreign trade, other current business, including services, and normal short-term banking and credit facilities;

(b) payments due as interest on loans and as net income from other investments;

(c) payments of moderate amount for amortization of loans and for depreciation of direct investments;

(d) moderate remittances for family living expenses.

6. If the provisions of Article 21 are to apply to quantitative restrictions destined to restore equilibrium of a balance of payments, it would mean that the authors of the Charter are envisaging this restoration <u>only</u> by means of restricting payments in connection with imports. It would appear, however, that there are many other ways of achieving the same aim and this because of the various character of payments forming the current account of a balance of payments. In this connection distinction should be made between the period of transition as defined in Article 20 paragraph 2 and the subsequent period mentioned in paragraph 3 of the same Article.

7. During the period of transition (which, by the way, should be defined rather along the lines embodied in Article XIV Sections 2 and 4 of the International Monetary Fund) it must be assumed that exchange controls and trade restrictions will remain in force in a great number of countries.

Normal trade relations will be hampered, exchange of services reduced to a small scale, interests on loans left unpaid, credit facilities (even on short-term operations) either suspended or, at least, only reluctantly admitted. There seems, therefore, to exist a vast field where different countries may have the opportunity to improve, by means of bilateral arrangements with their most important partners, the global value of payments on their current account, thus contributing to a partial restoration of their trade under these difficult and abnormal conditions. By combining, in a bilateral way, the imports and exports of goods with exchange of services (tourism, transit, shipping operations, etc.) and with other payments on current account a complete stagnation of international trade in the most stricken parts of the world can be avoided. The primary condition of such operations must, however, consist in a suspension of the non-discrimination rule in regard to quantitative restrictions, as, naturally, all these deals cannot be made on the basis of the most-favoured-nation principle. Thus, during the transitional period, the choice seems to be either to abandon any hope for a gradual restoration of world trade in the most disintegrated economies of the world or to admit bilateral operations, even if they are based on certain discriminatory practices.

8. Much can be said in favour of such "unorthodox" operations not only from the realistic but also from the purely theoretical point of view. In a "note on employment policy and foreign trade" presented to the Preparatory Committee by the Secretariat (doc. E/PC/T/W.2.) we read on page 10:

> "As regards structural changes, both exports and imports may be subject to adverse fluctuations, whereas cyclical changes will originally affect only the volume of exports. In both cases, however, the policy of the country may be to restore the balance of payments <u>by decreasing imports and increasing exports comparatively to the amount that would have taken place in the absence of intervention</u>."

This remark seems perfectly well founded. In fact, the restoration of equilibrium of a balance of payments is not necessarily connected with

a cut in imports (which is the only result of the application of rigid quotas) but also with an increase in exports, all kinds of credit operations, additional export of services etc. Governmental intervention should, indeed, operate on both sides of the current account and not be limited solely to the decrease of expenditure. This, of course, is only possible when a more elastic system is applied in administering quantitative restrictions.

9. A special remark should be made, finally, concerning the situation during the period subsequent to the transitional stage. Here, of course, the field for bilateral operations in view of restoring equilibrium of a balance of payments will be far more restricted. As, in most of the countries of the world, exchange controls and quantitative restrictions will, at that time, disappear, elements for deals concluded on a bilateral basis will become scarce. This will not mean, however, that the only way to use, during that period, quantitative restrictions allowed under Article 20 paragraph 3 of the suggested Charter, will be that of cutting imports by means of quotas. There seem to exist at least two ways for other operations, not necessarily involving a shrinking of international business of a country, as expressed in its current account of the balance of payments. These two operations which can take place during a period when the majority of the countries of the world will restore a more free system of trade, are tied loans and bulk purchases. It does not seem necessary to enter, at this stage of discussion, into a more detailed analysis of the two (and, possibly, other) possibilities.

10. The purpose of this paper is to prove that a governmental intervention with the aim of restoring equilibrium of a balance of payments cannot be restricted solely to the use of quotas (in the meaning given them by the suggested United States Charter). It would appear, moreover, that some kind of a more elastic system (bilateral quota agreements or

licences) are, in fact, more or less inherent to an action undertaken to protect the equilibrium of a balance of payments, unless, of course, the only internationally approved way of such a protection would consist in cutting imports of goods without any attempt to maintain or to increase - in spite of the protective measures - the global value of exchanges on current account.
