

PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE ON
TRADE AND EMPLOYMENT

COMMITTEE II

Fifth Meeting,
Held on Wednesday, 30 October 1946,
at 3 p.m.

Chairman: Dr. COOMES

1. Continued Discussion of Quantitative Restrictions.

The CHAIRMAN said that the Committee's discussions on quantitative restrictions at its previous meeting had revealed divergent views. New Zealand desired to use quantitative controls as a continuing instrument of economic policy because of the special nature of her international and development problems. Other countries had indicated preference for continued use of quantitative restrictions in order to maintain price control measures during the post-war period or in cases where quantitative controls were less restrictive than other forms of restrictions producing the same degree of protection.

H.E. Mr. AUGENTHALER (Czechoslovakia) queried, with reference to Article 19 of the United States draft charter, whether any country would be entitled to maintain import restrictions on commodities subject to state monopolies. He referred to the monopolies applicable to tobacco, explosives, salt, raw spirits, and saccharin which his country maintained as a method of indirect taxation. Unrestricted imports would defeat the purpose of the monopolies in question. He agreed with the delegates of Australia and Canada that import and export restrictions imposed because of price control could not be abolished.

He requested the United States delegate to explain more fully the meaning of sub-paragraph (c) or paragraph 2 of Article 19 relating to restrictions necessary to the application of standards for classification and grading of products. The present wording left openings to abuse of the provision.

Article 21 of the draft charter, since it embodied references to administrative methods, might lead to conflicts and disagreements, and publicity to the extent proposed in the Article might lead to pressure for greater restriction of imports. He therefore proposed the substitution of the following Article:

"Article 21. Nondiscriminatory Administration of Quantitative Restrictions.

1. No prohibition or restriction shall be imposed by any member pursuant to this Section on the importation of any product of any other member country, or on the exportation of any product destined for any other member country, unless the importation of the like product to all third countries, respectively, is similarly prohibited or restricted.
2. Any member imposing such quotas allots a share of the total quantity or value to any other country having an important interest in the trade in the product with respect to which an allotment has been made, shares based upon the proportion of the total quantity or values supplied by such member countries during a previous representative period, account being taken insofar as practicable of any special factors which may have affected or which may be affecting the trade in that product.
3. No conditions or formalities shall be imposed which would prevent any member country from fully utilizing the share of any such total quantity or value which has been allotted to it. The provisions of this paragraph shall also apply to any tariff quota established or maintained by any member.
4. In the case of import restrictions the member imposing the restrictions shall provide, upon the request of any other member who was trading with the respective countries in the product concerned during a previous representative period, as provided in paragraph 2, all relevant information as to the administration of the restrictions.

5. With regard to restrictions imposed in accordance with paragraph 2 of this Article or under paragraph 2 (e) of Article 19, the selection of a representative period for any product and the appraisal of any special factors affecting the trade in the product shall be made initially by the Member imposing the restriction: Provided, That such Member shall, upon the request of any other Member having an important interest in the trade in that product, or upon the request of the organization, consult promptly with the other Member or with the organization regarding the need for an adjustment of the base period selected or for the reappraisal of the special factors involved."

Vicomte du PARC (Belgium) reminded the Committee that his delegation had submitted a statement concerning quantitative restrictions (E/FC/T/C.II/26) in the first part of which it had indicated its adherence to the principle of suppression of quantitative restrictions, and in the second part of which it had suggested a sub-paragraph (c) of paragraph 2 of Article 19. The contribution of the Belgo-Luxembourg Economic Union to the lowering of tariff barriers would be the tariff reduction resulting from the contemplated customs union with the Netherlands. Equivalent sacrifice should be made by other countries.

He read the following substitute sub-paragraph (e) of paragraph 2 of Article 19:

"Import quotas on agricultural products, imported in any form whatsoever, when such quotas become necessary because of price depreciation on the domestic market due to the combined effects of national production and the importation of a particular commodity. Quotas may be applied as soon as price depreciation reaches the point where sales on the domestic market are effected below the normal price. By normal price is understood that which covers the cost price of domestic production."

Domestic regulation in any field, particularly agriculture, was extremely difficult in Belgium, and policy could not be planned sufficiently far in advance to permit the application of the restrictions suggested by the United States Draft Charter in clause (i) of the sub-paragraph mentioned. Moreover, Belgium could not accept clause (ii) of the sub-paragraph, because there did not exist there sufficient differentiation between groups of population to permit the selection of "certain groups of domestic consumers" as envisaged in the clause.

Mr. LOKANATHAN (India) was gratified to find that the views expressed in the document presented by India to the Committee on the subject of quantitative trade restrictions had found a large measure of support in the Committee.

Quantitative restrictions could not be dispensed with entirely by countries with regulated economies but could be used constructively as instruments for trade expansion. India was embarked on a programme of planned or regulated economy, and could not dispense with quantitative trade controls.

He objected to the distinction made between tariffs and quantitative restrictions; both were equally valid instruments of commercial policy in certain circumstances.

India could not avoid the use of quantitative controls entirely. They would be necessary to maintain some priority in the use of foreign exchange. However, India was prepared to agree:

that provision be made for prior consultation with the International Trade Organization before the imposition of quantitative controls;

that the principle of non-discrimination be applied as provided in the Charter; and

that the criterion for permitted controls would be a test showing that their effect was expansion rather than restriction.

He agreed that some provision should be included in sub-paragraph (e) of paragraph 2 of Article 19 for import restrictions necessary to support price control measures. India was committed to the maintenance of prices of primary commodities as a measure of national policy, and might need to impose restrictions for that purpose.

He objected to the concluding sentence of sub-paragraph (e) on the ground that there was no justification for imposing so rigid a rule for binding the ratio between imports and total domestic production. Because exporters had alternative markets, the incidence of such a rule would bear more heavily on producers for the domestic market than on exporters.

Mr. TUNG (China) could not agree that the adjustment of tariff rates alone would afford sufficient protection for an under-developed country. It was imperative that such a country should regulate its trade by the application of simple quota or tariff quota systems during a defined transitional period. China also had to restrict imports of non-essential products in order to conserve foreign exchange. The application of a system of licences was therefore regarded as justifiable and indispensable. Selective restrictions, if judiciously applied, would not affect total imports, but would merely change the composition of imports.

A transitional period during which an under-developed country might resort to "reasonable measures of quantitative restrictions", should not be limited by any specified date; nor should it be determined by monetary reserves or balances of payments. He proposed that a transitional period of industrial development should be extended until:

- (a) fifty per cent of the wage-earning population were employed in modern industrial enterprises concerned with production and distribution; or
- (b) fifty per cent of the national income was derived from modern enterprises of industry, trading, and finance.

The Chinese delegation interpreted clause (i) of sub-paragraph (e) of paragraph 2 of Article 19 to mean that, if a member nation had to adopt import restrictions on any agricultural product for the reason stated in the clause, it could not reduce the ratio existing between total imports and domestic production in the representative period chosen. If that interpretation was correct, the Chinese delegation regarded the clause as imposing grave handicaps on the development of an under-developed

country. The price structure of agricultural products in such countries affected standards of living, and determined the success or failure of industrialization. A government should be free to take appropriate measure to regulate production and consumption, in order to stabilise prices of agricultural products, and to maintain a balance between manufactured goods and foodstuffs and raw materials. Many factors affected the quantity and kind of agricultural imports; and no agricultural country could accept a fixed ratio between imports and domestic production as included in the clause. The clause should be revised so as not to imply any restraint on the right of all member governments to make qualitative or quantitative adjustments of their agricultural imports.

Mr. SPEEKENPRENK (Netherlands) agreed with the United States delegate that quantitative restrictions were objectionable, as they restricted trade and could be used in a very discriminatory way.

Referring to the stipulation in Article 19 that quantitative restrictions might only be used for the purpose of reconstruction until 1 July 1949 with certain exceptions, he pointed out that it was most unlikely that the Netherlands or the Netherlands Indies would have regained a normal economic position by that date. His country was unable to abide by the rigid rules contained in Article 19, because it could only obtain essential industrial commodities by bilateral agreements. The Netherlands Government had set up Government monopolies of the import and export of agricultural products, which had never been discriminatory, but had been necessary to prevent social disturbances. Agriculture in the Netherlands depended on the import of raw materials, and 30 per cent of the population were engaged in agriculture. Reconstruction could not possibly be completed by 1 July 1949.

He disagreed with the clause in Article 19, 2e :

"or (ii) to remove a temporary surplus of the like domestic product by making the surplus available to certain groups of domestic consumers....."

He also asked for clarification of the phrase "like products" in the same sub-paragraph.

He drew the attention of the Committee to the memorandum by the Netherlands delegation (E/PC/T/C.II/21), in which it was suggested that the provisions of the Draft Charter were not sufficient to safeguard, after the transitional period, the interests of countries which relied more on a system of quantitative restrictions than on high tariffs. No harm must be caused to other countries by quantitative restrictions; but, until agreements had been reached on tariff reductions, he must reserve the Netherlands position in regard to quantitative restrictions.

Mr. STEEN (Norway) advocated the abolition of quantitative restrictions but asked for clarification of the phrase "conditions of distress" in Article 19, paragraph 2b, and, secondly, of the phrase "standards for the classification and grading of commodities" in Article 19, paragraph 2c.

Mr. SHACKLE (United Kingdom) stated that in general, except in order to safeguard balances of payments which would be discussed later, and in connection with the transitional periods for reconstruction, quantitative restrictions were injurious both to the countries employing them and to other countries. That was due to their rigidity and their arbitrary and unpredictable character. Tariffs were obstacles to trade, but did not preclude competition. Quantitative restrictions on the other hand were unsurmountable barriers; and, if generally applied, would mean the end of any hopes for the expansion of world trade. It would be impossible for the United Kingdom, for example, to increase exports to balance external accounts, as that would mean restriction of imports, and the effects of that would be disastrous to world economy. The draft text might be amended; but he strongly supported it.

In article 19, paragraph 2(c), standards for the classification and grading of commodities should be laid down, so that not only domestic, but also foreign, products could compete. He suggested that these standards should also be agreed internationally, as proposed in Article 16 paragraph 6.

Article 19, paragraph 2(e), should be applied to fisheries as well as to agriculture, and also to agricultural products for manufacture. Variations of price and yield were even more frequent in fisheries, which were mainly carried on by small producers and needed government protection. He strongly deprecated the application of the Article to manufactured products.

In Article 21, paragraph 2, he thought that a representative period should not be taken as the test of non-discrimination. He preferred the concept of commercial considerations as contained in Article 26 of State Trading.

In Article 22, he felt that some re-drafting was necessary in connection with the question of the balance of payments, which was to be discussed at a later date.

The CHAIRMAN called upon the United States delegate to answer questions put during the above discussion.

Mr. HAWKINS (United States) in answer to the Lebanese delegate, replied that it would be possible under Article 52 for the ITO to make provision for regional preference arrangements in particular cases.

Several delegates had asked for a definition of the phrase "like product". This phrase had been used in the most-favoured-nation clause of several treaties. There was no precise definition, but the Economic Committee of the League of Nations had put out a report that "like product" meant "practically identical with another product". He recommended that the ITO should study this question. However, in Article 19, paragraph 2(e) "like product" did not mean a competing product.

Article 19, paragraph 2 (a) should be extended to provide for the maintenance of war-time price control by a country undergoing shortages subsequent to the war.

An international agreement between countries having surpluses was provided for under the exceptions regarding the liquidation of surpluses (Article 19 2a (ii)).

He agreed with the United Kingdom delegate that the wording of Article 19, paragraph 2 (c) should be amended. The sub-paragraph as it was originally drafted permitted abuse.

Before commenting on the Redraft of Article 21 proposed by the Czechoslovakian delegate, he required first to consider it closely, and suggested that the Drafting Sub-Committee should undertake this task.

The suggestion of the Belgian delegate for an exception to be made to allow restrictions to maintain domestic prices of agricultural products at profitable levels, would have the drastic effect of allowing any extent of restriction on the import of agricultural products.

He sympathized with the Netherlands delegate, when he admitted that the period of transition until 1 July 1949, as proposed in Article 19, paragraph 2 (a), might not be sufficient for the reconstruction of some countries' normal economy. He would readily consider any concrete suggestions on this subject. However, he pointed out that the Article provided for extension of the transitional period.

In reply to the Norwegian delegate, the phrase "conditions of distress" did not mean economic distress but referred to shortages of crops, etc. in cases such as famine.

He agreed with the United Kingdom delegate that Article 19, paragraph 2 (a) should not be extended to manufactured goods.

The CHAIRMAN stated that the question of quantitative restriction appeared to be one of the more difficult problems confronting the Committee. There appeared to be some fundamental differences of opinion between the various delegations, according to the attitude of their respective governments to the ways of regulating imports. All delegates appeared to agree that reconstruction justified the imposition of firm priorities in the selection of goods for imports, but some delegates felt that these provisions were insufficient. The New Zealand, Chinese and Indian delegates had recommended that the less developed countries should have the right to select imports and establish priorities, until such time as their industry was developed.

It had been suggested that exceptions to the use of quantitative restrictions should be extended to:

- (a) maintain the effective continuance of wartime price controls;
- (b) provide for the effective conduct of State monopolies;
- (c) maintain the price stability of primary products;
- (d) take the place of subsidies and tariffs in cases where quantitative restrictions would prove less restrictive while affording the same degree of protection.

It was difficult to see principles on which to base a reconciliation of the fundamental differences of opinion. He urged delegations to modify their requirements in regard to quantitative restrictions so as to admit a compromised reconciliation. In view of the fact that the work of the Committee was so much in arrears, he proposed the immediate establishment of a Drafting Committee to deal with quantitative restrictions.

Mr. SHACKLE (United Kingdom) and Mr. BARADUC (France) proposed that the Drafting Committee should not begin its work until the Committee had discussed the question of balance of payments provisions, pointing out that many of the present difficulties might be solved as a result of the way the problem of balance of payments was decided.

The Committee agreed to postpone the setting up of a Sub-Committee on the question of quantitative restrictions, until the Committee had discussed Article 20 of the Draft Charter on Restrictions to Restore Equilibrium in the Balance of Payments.

2. Discussion of State Trading

Mr. HAWKINS (United States) outlined Section F of the Draft Charter relating to State Trading. Articles 26, 27 and 28 were not complicated to explain, but would be more difficult to apply.

Under Article 26 the rule of nondiscrimination applied to state trading in the same manner as the most-favoured-nation principle applied to duties. The obligation pursuant to this article of a country engaged in state trading was to make its purchases in accordance with commercial considerations, i.e. to the best advantage. The rule included no explanation, because it seemed desirable only to state the principle. Its application in concrete circumstances would permit the development of a body of rules, which would define and amplify the principle.

Article 27 referred to state monopolies of individual products such as those mentioned by the Czechoslovak delegate, namely, tobacco, salt, or any other product on which a state might establish a monopoly. The article was a counterpart, in relation to state trading, of the article providing for reductions in duties where trade was handled by private business. The margin between the price paid for an imported product and that at which it was sold to consumers measured the degree of protection accorded to the domestic producer. The margin corresponded to the import duty, and was subject to negotiation in the same manner.

The same principle applied to export monopolies, the margin being between the buying price at home and the resale price abroad. The margin in that case was analogous to the export duty.

Article 28 referred to complete state monopoly of all import trade. It provided that total imports should not be less than an established amount, which would be subject to periodic adjustment. The analogy for this type of state trading was found in the Articles providing for reductions in duty and other trade barriers relating to trade handled by private enterprise.

Mr. LOKANATHAN (India) requested the United States delegate to comment on the last sentence of Article 27.

Mr. HARKINS (United States) said the purpose of the sentence was to prevent the withholding of supplies from the market in order to defeat the purpose of the Article.

Mr. VIDELA (Chile) was in agreement in principle with Article 26, provided it was understood that a state enterprise, motivated entirely by commercial considerations, might fix different prices in different markets without such action being regarded as discriminatory. He suggested that the Drafting Committee take that point into consideration.

Mr. STEEN (Norway) agreed in general with Article 26, but observed that the rules regarding price policy for products imported under state monopolies of individual products, as suggested in Article 27, did not seem applicable under present conditions. For many years Norway had had two large state monopolies, for grain and wine. The grain monopoly conducted its business on a commercial basis, but as a purchaser of domestic grain had to remain free to fix sale prices in order to maintain Norway's production and a stable price for bread. The wine monopoly had long-established trading relations with the countries of Southern and South-Western Europe, involving imports of wines and spirits and exports of Norwegian products. The practice could be modified only if other stipulations of the Draft Charter were agreed to, and if the wine-exporting countries became members of the International Trade Organization.

Norway had to keep a free hand in order to continue long-established restrictions on the sale and prices of wines and spirits, . restrictions which were imposed in connection with internal conditions.

Mr. SHACKLE (United Kingdom) was in general agreement with Articles 26 and 27. As drafted, Article 26 applied to goods and services. He suggested the advisability of limiting the application of the Article to goods, since the consideration of services, such as shipping, would expand the Committee's task considerably.

He suggested the substitution of the phrase "effective control" for the phrase "a substantial measure of control" in paragraph 2 of Article 26, in order to avoid ambiguity.

The margins referred to in Article 27 should be subject to negotiation in the same manner as tariffs - negotiation about what might be called most-favoured-nation margins and also about preferential margins.

The reference in Article 27 to the protected margin was stated as the difference between the price at which an imported product was offered for sale to the monopoly by foreign suppliers and the price for an imported product charged by the monopoly in the home market. In the Proposals which the United States issued in December, 1945, the protected margin was stated as the difference between the landed price and the selling price. The United Kingdom preferred the latter definition.

It would be necessary to take an average price over a period of time in order to arrive at a suitable margin, in order to avoid administrative difficulties. A reasonable period might be three years.

Exceptions should be made in cases where a system of rationing still prevailed, and also where it was necessary to restrict imports for balance of payment reasons.

Mr. LOKANATHAN (India) asked if the "commercial considerations" allowed for bulk purchase on a long-term basis, and also for the granting of extra facilities which provided an incentive to purchase.

Mr. DEUTSCH (Canada) agreed in principle to Section F of Chapter IV of the Draft Charter. He agreed with the necessity for averaging in the determination of margins, which otherwise were impossible to operate. In reference to the United Kingdom's statement that it was not always possible to meet full domestic demand in the prescribed margins, he pointed out that the converse applied to Canada meeting full foreign demand.

He thought that a state which completely monopolized the import trade could not carry out the provisions of Article 28. How could it negotiate an aggregate of purchase with all the member countries of ITO simultaneously or individually? In view of such difficulties he suggested the deletion of Article 28.

Mr. CHENEY (Cuba) asked if the exceptions contained in Article 32, paragraph (c) covered the cases of states continuing, because of the shortage export monopolies and global sales established during the war.

Mr. BACHMAN (South Africa) asked how this Section affected the agricultural Supply Boards set up under the South African Ministry concerned, which stabilized prices and authorized importation of commodities to help the development of agriculture. Secondly, how did this Section affect South African State Railways, which had been established on commercial lines?

Mr. AUGENTHALER (Czechoslovakia) stated that he preferred to reserve his opinion on this Section until the next meeting, as he had not come prepared to discuss it. He asked how Article 27 affected the state monopolies which had been established in Czechoslovakia since the middle of the 18th Century. How was it possible to negotiate a sales price, which constituted the taxation itself?

Mr. SPEERENBRINK (Netherlands) also wished to discuss this item later. He asked how the Netherlands state monopolies, to which he had referred earlier on during the present session, were affected.

Mr. McCARTHY (Australia) thought that the Draft Charter made a very brave attempt to meet all the circumstances of state trading, but was too rigid. Members engaged in state trading should give an undertaking to do their utmost to abide by the principles of the ITO Charter. He pointed out the difficulties of the inclusion of provision for services as well as goods in this Section. Members should be able to examine the implication of long-term contracts. The ITO should be consulted when members were troubled by the state trading transactions of other members. He thought article 28 impracticable.

He wished to investigate all the facts of this Section further.

Mr. JOHNSEN (New Zealand) thought that the phrasing of the first sentence of Article 27 "such member shall enter into negotiations" should be brought in line with the wording of Article 18 "shall, upon the request of another member or members, enter into reciprocal and mutually advantageous negotiations."

Mr. TUNG (China) asked if certain state Monopolies with fixed prices set up by China during the war could continue under the provisions of Article 27.

The Committee agreed to continue discussion on state trading at the next meeting.

3. Date of Next Meeting.

Thursday, 31 October 1946, at 3 p.m.

The CHAIRMAN suggested that the Sub-Committee on Procedures, Tariffs and Preferences should meet at 8 p.m. on Friday, 1 November 1946, simultaneously with the Joint Committee.

The Meeting rose at 6.25 p.m.
