

UNITED NATIONS

NATIONS UNIES

ECONOMIC
AND
SOCIAL COUNCIL

CONSEIL
ECONOMIQUE
ET SOCIAL

RESTRICTED
E/PC/T/A/PV/27.
7th July 1947.

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

VERBATIM REPORT.

TWENTY-SEVENTH MEETING OF COMMISSION A.

HELD ON MONDAY, 7th JULY, 1947, AT 4.55 P.M. IN THE
PALAIS DES NATIONS GENEVA.

MR. MAX SUETENS (Chairman) (BELGIUM)

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CHAIRMAN: Gentlemen, we have before us to-day Article 26: Restrictions to Safeguard/^{the}Balance of Payments. This is a highly technical Article, which involves extremely delicate points.

May I remind you of the rule we have adopted, namely, that we will limit ourselves to substantive statements, leaving to a Sub-Committee which we will appoint the task of reconciling the views, re-drafting the Amendments and setting all minor points.

Gentlemen, the following Amendments to this Article have been presented by Czechoslovakia, Australia, U.S.A., France, China and the United Kingdom.

I will call on the authors of the different Amendments in turn, beginning with the Delegate for Czechoslovakia.

Mr. BAYER (Czechoslovakia): I do not want to make a long statement on the subject of the Amendment: with regard to Article 26. We think it is self-explanatory.

I shall therefore add only a few words to our written comment. First of all, I would like to make it clear that the suggested Amendment refers to the whole of Article 26. However, no matter how substantial it may seem at first sight, it does not intend to bring about a new idea which would not conform with the main idea contained in Article 26.

We all know the structure of Section (E) of Chapter V, dealing with Quantitative Restrictions. There is Article 25, which more or less says that quantitative restrictions are generally undesirable and therefore are to be abolished. Now, in the Article which immediately follows, in Article 26 which we are discussing now, the idea underlying this Article throws a somewhat different light on the question of quantitative restrictions as a whole.

According to this Article they are considered as legitimate means for countries with difficulties in their balance of payments, and other countries with low monetary reserves. Countries under such circumstances are, in accordance with Article 26, permitted to apply quantitative restrictions in order merely to survive - I would say, in order merely to survive economically and financially. Now, having in mind the main objective, which is to bring about the necessary relief of countries with balance of payments difficulties, and with low monetary reserves, we have so far paid insufficient attention to the possibilities of restricting the imports of such countries.

However, there are two ways in which the international payments are being made. First in gold, or in freely convertible currencies; secondly, in inconvertible currencies. We have, therefore, practically, also two ways to safeguard the balance of payments, and to protect low monetary reserves. First to restrict imports from countries which should be paid for in convertible currencies, and which would therefore unfavourably affect the low monetary reserves. Secondly, to restrict, under the circumstances, the exports as well to countries which should be paid for in inconvertible currencies. By doing so, the country concerned is able to prevent frozen accounts accumulating and difficulties increasing.

The restrictions on exports, in the conditions as they are to-day, and as they most probably will prevail for some time to come, are the appropriate means to be used for the same purpose as the restrictions on imports.

To cover up this point we have suggested amending Article 26 and including the words "or exports" wherever the

word "import" is mentioned in connection with restrictions.

I dare say, Mr. Chairman, that we need not be very much disturbed about the prospective effect of such a provision in the future. It is logical to say that the country will always desire to export as much as it will be in a position to export, and therefore would not avail itself of such a provision unless this would be absolutely necessary.

On the other side, of course, should it not be possible, according to the Charter, to restrict the exports at all, we may envisage for the future that the quantitative restrictions on imports of goods to be paid for in convertible currencies will be perhaps more numerous, more urgent, and as the natural consequence of the accumulated frozen accounts, will necessarily cover a field much larger than otherwise.

That is why we have submitted our amendment. Thank you.

CHAIRMAN: (Interpretation): The Delegate of Australia.

Mr. J.G. PHILLIPS (Australia): Mr. Chairman, our amendment is not a very substantial one. I do not need to say much about it, I think, as the comment adequately covers the point. It is merely to ensure that the provision of Paragraph 1 of this Article could not be taken as over-riding in any sense the requirements set out in Paragraph 2. We feel that the wording as it stands does give some possibility that the words "insofar as this is necessary" might be interpreted to mean that every other expedient must be tried first before import restrictions are permitted. We assume that that was not the intention, but the suggestion is to make that clear.

CHAIRMAN (Interpretation): The Delegate of the United States.

Mr. George BRONZ (United States): The amendments proposed by the United States to Paragraph 1 involve two points. The use of the words "The Members" at the beginning of the Article gives the impression that quantitative restrictions for balance-of-payments reasons are expected to be the normal procedure. We did not think that was the intention of the Article and we felt it could be clarified by using the words "some Members", with appropriate other changes in the text. There are other possible ways of meeting the same difficulty. You could say "A Member may need to use import restrictions" and have the entire paragraph changed accordingly.

The second suggestion is to introduce the word "temporarily", again to emphasise the fact which we felt was clearly understood though imperfectly expressed in the paragraph, that quantitative restrictions are not to be used as a permanent procedure for permanent balance-of-payments difficulties, or at least that we did

not foresee balance-of-payments difficulties necessitating quantitative restrictions or the continuing use of quantitative restrictions, but they are designed as a temporary expedient to meet difficult problems which a country may encounter for a temporary period.

CHAIRMAN (Interpretation): The Delegate of France.

M. BARADUC (France) (Interpretation): Mr. Chairman, in conformity with the suggestion you made at the beginning of our discussion, I shall not develop any technical arguments here in order to defend the amendment presented by the French Delegation. I shall simply attempt to define our general attitude concerning Article 26. I think all of us who are here agree that Article 26 is one of the most important articles in the Charter, and in believing that, the most difficult and delicate questions arises.

I think you were very wise Mr. Chairman, to suggest that we should avoid all technical discussions here and refer them to a sub-committee. It is doubtless that it is the disequilibrium of the balance-of-payments which is, in most cases, the origin of quantitative restrictions established in a general form. It is also doubtless that such restrictions have harmful repercussions on the volume and distribution of international trade. The history of the years between 1930 and the war shows it clearly. But inversely, it is nevertheless unquestionable in our mind that there will be eliminations of existing restrictions before the differences which give rise to them are found a remedy to, and would be very seriously jeopardised by the financial position of considered countries, and would entail within a more or less near future resorting to restricting practices more severe even than the first ones, and would consequently have a more harmful influence on international exchanges.

In this field there are two factors which may appear to be contradictory. One is to limit to specific cases the use of quantitative restrictions, and to provide for the elimination of these restrictions as soon as circumstances enable countries to do so. The second tendency is to enable, all the same, any nations which may meet serious difficulties to resort to restrictions until

these difficulties have been put an end to.

The French Delegation intends to contribute in finding a solution to this problem and my intervention here today in confirming the will of co-operation is to make the stand-point of France clear in this respect. I wish to stress first of all that France has already evinced several times the interest which she attaches to the restoration of normal relations in the financial international field. During the war and at a time when our country was still occupied by our enemies it participated in the Bretton Woods agreement, adhered to the International Monetary Fund and to the International Bank on Reconstruction and Rehabilitation. However, the French Government could not envisage adopting it at the beginning, and as far as the convertibility of our own currency was concerned, the commitments provided for the normal periods of application of the Bretton Woods agreement.

Therefore, it made it known that it would invoke the provisions of Article 14 of the statute of the International Monetary Fund, thus meaning that it intended to maintain during the transitory period the restrictions on payments and transfers which it had been compelled to introduce at the outbreak of hostilities.

As far as the International Monetary Fund is concerned, the position of France can be defined as follows. First of all, France desires the restoration of normal monetary and financial relationships in the international field, and consequently feels it desirable that the restrictions established during the War should be progressively abolished.

Secondly, France is compelled temporarily to maintain the exchange and quantitative restrictions in commercial matters which are their consequence, until the economic reconstruction of the country has been brought to its termination.

France has been considerably impoverished and considerably shaken by the War. It has to reconstruct and to repair the destruction caused to it by the enemy. It must also complete and modernise its equipment and also modernise its economy in order to enable it to occupy its due rank in the international field.

To achieve these purposes, it is necessary that the small supplies of currency which are at its disposal be reserved to pay only essential imports which are needed for the achievement of this plan. It is also necessary that a choice be made as far as imports are concerned, and that essential goods have preference and come before purely utility goods or purely luxury goods.

These are the purposes which have been assigned to themselves by the authors of what is now known as the Monnet Plan.

In doing this, France is not simply seeking to achieve selfish purposes. Of course, her aim is, first of all, to achieve equilibrium of her balance of payments and, therefore, has to take into consideration the fact that exports must henceforth supersede, in the assets of her balance, the incomes which she derived formerly from her holdings abroad. But she also has the intention, in achieving the plan she has set herself, to produce in greater quantities equipment and goods which are necessary to the development of less industrialized countries, and, therefore, to co-operate in the efforts which would enable these nations to reach a better economic position and to open her own markets to international competition.

The position which has just been defined is that which was adopted by the French Delegation in respect of Article 26 of the Charter. However, I wish to make it clear right away that the French Delegation has no intention of disputing the principles included in the London compromise, the purpose being the restoration of balance of payments on a sound and durable basis. Therefore, quantitative restrictions can only be admitted inasfar as these restrictions are necessary to achieve such a restoration. Our purpose must be to strive to eliminate, progressively and rationally, quantitative restrictions: which means that in the conception we have of Article 26, quantitative restrictions should never be considered except as purely transitory measures.

We must therefore abide by the principles set down in London, but this should not deter us from bringing some alterations to the text prepared in December 1946, since we believe that some alterations are absolutely essential - on some points the London text is either ambiguous or not clear enough. We should therefore try to make it both more precise and clearer.

This is the purpose which the French Delegation has set itself in presenting a number of amendments. I wish to say at once that these amendments are not, as we see them, intangible at all, they are merely suggestions, and might prove a useful basis for discussing work which we will have to carry on here.

They also mention the points on which we believe that the London text should be amended; and the only thing left for me is to give you a few indications in that respect.

Equilibrium of balance of payments on a sound and durable basis. This means, in our view, that there should be a purely statistical equilibrium-which may be accidental or occasional between the incoming and outgoing currency; but that this equilibrium should find its stability in the currency, or at least in the resources of the currency.

This also means that this equilibrium can only be achieved if it is the exact expression of the actual position of international exchanges attained by the involved country. This position may be achieved in the exceptional but at the present time frequent instance where the interests of reconstruction of countries which have been devastated by war necessitate a resort to exterior special credits. We do not believe that this is necessarily so. The loan asked for by the involved country temporarily procures to this country the means of meeting

considerable deficiencies in its external payments; but it is impossible in such a case to speak of a sound and durable equilibrium of balance of payments. There can only be real equilibrium if the balance of payments of a country could support itself without being supported by any external credits. We believe that this is one of the points on which the text of the London compromise should be made clear.

If a country has to resort to external credits, and would have at the same time to give up quantitative restrictions which it had to institute formerly, its position would soon become even worse than before. Those credits would very soon be exhausted, and would have to be renewed, if quantitative restrictions were immediately abolished. The Member who would avail himself of special external credits must adjust in a reasonable way such restrictions as it will maintain, and also agree to discuss the question with the Organisation itself. But the principle and necessity of these restrictions cannot be questioned, and the right of utilisation of the special credits for the effective reconstruction of a country should not be questioned either.

There is a second point on which we believe that the provisions of Article 26 should be elaborated. When a country wishes to suppress quantitative restrictions, we believe that this abolition should be done progressively, otherwise the too sudden return to freedom may increase the imports of goods into a country and new crises in the external financial position of the said country will occur.

Finally, there is a last point on which we believe that the London Draft should be improved. It is in establishing the

relationships between a Member State using quantitative restrictions and the Organisation itself. The respective powers of the Organisation and other competent institutions with a Member should be, to our mind, more clearly defined than at present.

This other suggestion, I thought, was necessary to be put before the Commission.

Nothing in the remarks I have made seems to me to be against the general principles on which we agreed in London, and I express the hope that they may contribute to our work and help us to implement the principles which are common to all of us

CHAIRMAN (Interpretation): The Delegate of Canada.

Mr. J.J.DEUTSCH (Canada): Mr. Chairman, I think the French Delegation has made a very helpful statement as, as far as the Canadian Delegation is concerned, we agree with him that the points he has raised are within the general intentions of the London Draft and that such changes as may be necessary of a verbal character, or re-arrangements of wording in language to bring out these intentions more clearly should be made.

With respect to the other amendments that have been proposed, we are generally in agreement with the amendment proposed by the Delegation of Australia to Article 26(1) - at least we are in agreement with the intention of those drafting alterations and we believe they can easily be done to meet the purpose of the Australian suggestion. Similarly, we are in agreement with the intention of the amendments proposed by the Delegation of the United States.

With respect to the amendment proposed by the Czechoslovak Delegation, we feel that the main purposes of the Czechoslovak amendments are already covered in another Article of this balance-of-payments section. Article 28, Paragraph 1(c), we believe, would meet the intention of the Czechoslovak amendment and we feel that the point which they are trying to cover should be covered in Paragraph 1 (c) of Article 28, or an Article similar to that. If I understand it correctly, they are mainly concerned with ensuring that countries which are exporting should not be required to accumulate unconvertible currency. That is the intention of sub-paragraph 1(c) and I believe that could be done in that paragraph rather than by an amendment to Article 26.

CHAIRMAN: Mr. Helmore.

Mr. R.J.HELMORE (United Kingdom): I am very glad, Mr. Chairman, that you interrupted the series of speeches moving amendments, so that Members of the Commission can put forward their views on them before they are sent to the Sub-committee, and I would like to refer briefly to each of the amendments we have had. If in so doing I seem to be stressing any points of drafting, that is because we believe that this is an Article of fundamental importance and that quite small changes in drafting may make a very noticeable change in the real meaning of the Article.

If I might take the amendments in turn, I would agree with what the Delegate of Canada has said about the proposal by the Czechoslovak Delegation, and if my Czechoslovak colleague will forgive me, I do not believe that his amendment would, in this place, have the effect he intends, since Article 26 has to be administered in the light of Article 27, which refers to non-discrimination. In other words, it refers to the total amount of imports that are to be admitted and not to the type of currency in which they are paid for. A similar thing would happen in the case of exports, and I, therefore, entirely agree with the suggestion that they should be looked at in relation to Article 28 or it might be, perhaps, worth considering, since it is a matter which relates to exchange arrangements, that is to say a difference between importing and exporting inconvertible and convertible currencies in Article 29.

I would only say, on the Australian amendment, that we too accept the idea behind the revised draft, and think it can probably be quite easily taken account of.

As regards the United States amendment, there is only one word to which it refers especially. That is, the use of the word "temporary". I must say I should find great difficulty in accepting the insertion of that word there. Of course, Mr. Chairman, I would not, on the other hand, expect my United States colleague to accept the insertion of the word "permanent", and it seems to me that it is much wiser of the Preparatory Committee not to attempt to prophesy the exact length of time, the nature of the period, during which restrictions on balance-of-payments will be needed.

We deal, in paragraphs (a) and (b) with the conditions which would justify the imposition of such restrictions, and we attempt to lay down a rather carefully drawn criteria which says when the

restrictions are to be relaxed or withdrawn. I should have thought it would have been much wiser to stick to that, rather than to put in a vague word like "temporary" which might cause a great deal of trouble and dispute about its interpretation later on. It is possible to conceive a country which has gone on with some sort of balance-of-payments restrictions for three-and-a-quarter years, and we should then have a dispute in the Organization as to whether "temporary" could possibly be longer than three years. And finally, if I may relate, on this subject, a remark which comes from the recesses of Whitehall, with relation to a complaint of mine when I had a very nice job and I had only been appointed to it temporarily. I complained to one of my betters about this, and he said "My boy, don't you worry, there is nothing more permanent than a temporary arrangement".

Mr. Chairman, if I can say a word about one suggestion by the French Delegation, it is the use of the word "normal". in an early part of their amendment. Again, I would say that, using the word "normal" there to convey all the meaning which has just been explained to us, is likewise dangerous. We dealt with the point about how to take into account loans or credits in London, and we put the words at the end of paragraph 2 "and to any special Credits or other resources which may be available to protect its reserve".

I would be very ready to believe that those words are not correctly expressed, but I feel sure that a much better solution of the difficulties on which the French Delegation have expressed themselves would be to re-write those words rather than to insert the words "normal" where they now propose it.

CHAIRMAN (Interpretation): The Delegate of Brazil.

MR. E.L. RODRIGUES (Brazil): Mr. Chairman, I agree with the comments made by the representative of Canada in regard to the amendments of Australia and Czechoslovakia.

In regard to this amendment presented by the United States, I am in full agreement with the representative of the United Kingdom, but in regard to the amendment presented by France, I should like to ask the representative of France to give us some explanation in regard to the full implication of the words "normal", and if the French representative does not think it advisable to listen to the representative of the International Monetary Fund on this subject?

CHAIRMAN: The Delegate of France.

M. BARADUC (France) (Interpretation): Mr. Chairman, in my previous general statement I stressed that the amendments put forward by the French Delegation were in no way intangible. I think my statement showed our position with enough clarity and precision, and my sole object in making that statement was to raise a number of questions. I think we shall be able to deal with them satisfactorily in the sub-Committee which we will appoint.

CHAIRMAN (Interpretation): Does any other Delegate wish to speak? The Delegate of Czechoslovakia.

Mr. B. J. BAYER (Czechoslovakia): Mr. Chairman, I wish to thank the Delegate of the United Kingdom and the Delegate of Canada for reminding me that the point I raised here at the beginning of the Meeting was, according to their views, fully covered under Article 28 (1) (c). I do not want to go into any details; I merely wish to say that we have studied the amendment, and the reason that we submitted the amendment was that we were not fully persuaded that the point was covered in this Section (c) of Chapter V.

In our view, Article 28 represents a later stage in the process of restricting. The first stage is the general rule not to restrict at all - that is Article 25. Then there is Article 26, which contains the exceptions to this general rule, namely, in order to safeguard the balance of payments. That is where we talk about the possibilities for restricting imports in order to safeguard the balance of payments. Now, there is a third stage - Article 28, which contains the exceptions to the rule of non-discrimination. It seems to me that a possibility of restricting exports should be mentioned in Article 26, because Article 28 deals with the later stage when the non-discrimination could be made.

CHAIRMAN: The Delegate of the United States.

Mr. BRONZ (United States): Mr. Chairman, with reference to the last point of the Delegate of Czechoslovakia, we were aware of the inconsistency of having a provision in Article 28, which Article has its exceptions from the rule of non-discrimination, and which in effect constitutes either an exception or an explanation of a restriction that would be an exception to the entire section; and it was for that reason that we proposed that the provision be moved from Article 28 to Article 29 and be clearly worded as an exchange provision, rather than as being tied to the quantitative restrictions on imports. Our Amendment in this regard is contained in the Agenda as Note 59. It was our opinion that provision was really not necessary at all; that the restriction is purely an exchange restriction requiring exporters to take only specific currencies, and not to permit exports for any kind of exchange which you might not want to accept. But in order to remove any ambiguity we had in London, we now suggest it would be made even clearer by removing it to Article 29.

I think that will meet the problem that the Czechoslovak Delegate has in mind.

I fear that the language proposed by Czechoslovakia in Article 26 would have very much broader implications and might possibly open an entirely new field of quantitative restrictions which would seriously as a result change the character of these provisions.

With respect to the other Amendments proposed, as to the French Amendment we join with many other Delegations in saying

that we think the language of Section 2 (a) could possibly be more clarified to meet the objective of the French Delegation, and without undertaking to support the present words submitted by the French Delegation, we think that language can be worked out in Sub-Committee.

Likewise we feel that the Australian proposal in general is acceptable, subject to possible rewording of the language.

I am a little disturbed by Mr. Helmore's objections to my proposal to include the word "temporarily". Mr. Helmore has told you that in the United Kingdom the word "temporarily" does not necessarily have a very critical effect, and I might testify that on the other side of the ocean the word has been sometimes extended too. For example, I myself have worked for 14 years in the service of the Government, and have only held "temporary" positions during that time. But we have always looked at paragraph 1 of Article 26 as in effect the preamble to the remainder of the Article.

It sets forth the general principles and purposes of the remaining language of the Article; but the precise texts are included in paragraph 2 and in the following paragraphs.

If we felt that the language of Paragraph 1 were a precise test on which to justify quantitative restrictions we would have considerable doubt about the breadth of the language itself.

If we take the word "temporarily" - a word looking the other way, it would not necessarily mean that that word is to be taken into account in interpreting the precise terms of Paragraph 2(a), except to indicate it in a general sort of way in working out the meaning of the much more precise language in Paragraph 2(a), and we feel it is quite important in this Article, in setting forth the general principles, that we should emphasize the notion which we felt was implicit in the London Draft, that quantitative restrictions are not regarded in this Charter as a permissible permanent policy of a Government, that the general prohibition in Article 25 has been generally agreed to, that Article 26 provides an exception for balance-of-payments difficulties, and that we hope that no Government proposes as a permanent policy to remain in balance of payments difficulties for ever. It would therefore seem to be entirely in keeping with the spirit of this portion of the Charter to use the word "temporarily" without intending that that word should cover a period of one year, two years or three years, or any other precise time; that is, that restrictions of that character should be temporary and their duration should be measured by the duration of the need for them, as set forth in Paragraph 2(a) and elsewhere in the Article.

CHAIRMAN (Interpretation): Do any other delegates wish to speak?

Mr. L.C. WEBB (New Zealand): Mr. Chairman, it seems to us that the Czechoslovak Delegation has raised a very important question with the amendment it has moved, and we were, at first, inclined to think - having looked very carefully at Article 28, 1(a) and got very little out of that except a sense of confusion - that probably the Czechoslovak Delegation was right in making the type of amendment which it has put forward. Having heard the discussion, I am still, I think, in a state of some uncertainty. I am impressed by Mr. Helmore's point that, in fact, for very good reasons it may be that the reference to exports in Article 26 has, at any rate, certain difficulties, but at the same time I find some difficulty in accepting the contention, as I understood it, of the United States Delegate who was rightly arguing that this could be satisfactorily met merely by dealing in terms of the exchange situation. I am not at all convinced that that is the case, and I feel that, on balance, it is probably preferable to deal with the problem in Article 26, but I think it might be agreed that at any rate the question is not, at the moment, satisfactorily and clearly dealt with in the Charter.

The only other amendment I wish to refer to is the amendment moved by the Delegate of the United States. As to the proposal to substitute "Members" for "the Members", we have no particular views on that point except that we think that the second suggestion of the United States Delegate - that is, instead of saying "some Members" or "the Members" we say "a Member" - is the better one. We agree with what Mr. Helmore has said about the word "temporary".

The United States Delegate has said that this part of Article 26 is a sort of preamble. Well, I think that we can be reasonably thankful that there are no preambles in the Charter, because preambles are very dangerous things. It is agreed, I think, that the meaning of Article 26 is clear, and therefore I think that we might also agree that it is not wise in drafting to start to throw in words which we know are not necessary to make meanings, which are in the text and perhaps implicit, more explicit.

I think that that is a rather dangerous step to take in drafting, and it seems to me that, in some other parts of the Charter, in the Committee's work we have run into difficulties just because there has, at some stages, been a tendency to put in words which, strictly speaking, were not necessary and which have only, in that event, been a source of confusion.

CHAIRMAN (Interpretation): Gentlemen, as it is getting late, I would like to know whether any other Delegates wish to speak on Article 26.

The Delegate of the United Kingdom.

Mr. J.R.S. HELMORE (United Kingdom): Mr. Chairman, I think you meant to say, Article 26, paragraph 1.

CHAIRMAN (Interpretation): I think the discussion has been rather more general than just on paragraph 1. We will resume our discussion tomorrow.

The Meeting is adjourned.

The Meeting rose at 6.20 p.m.