

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/568

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RESTRICTIVE BUSINESS PRACTICES

Proposal by the Delegation of Norway

(for consideration at the Eleventh Session
of the CONTRACTING PARTIES)

A.

GENERAL NOTES.

1. At the Ninth Session of the CONTRACTING PARTIES the delegations of Denmark, Norway and Sweden, in document L/273, stated as their opinion that the CONTRACTING PARTIES should consider the inclusion in the revised agreement of provisions with regard to control of restrictive business practices in international trade. As a basis for the discussion of this question the said delegations referred to the report submitted on 19 February 1953 by an ad hoc committee, appointed in 1951 by the Economic and Social Council. The proposal was commented on in a statement by the Norwegian representative in Review Working Party IV on 8 December 1954 (doc. W.9/§3). The Working Party recommended in doc.L/327/Rev.1 that the CONTRACTING PARTIES should postpone further consideration of this matter pending receipt at the next regular session of a report by the Executive Secretary on discussions in this field by the Economic and Social Council at its Nineteenth Session in 1955. This proposal was approved by the CONTRACTING PARTIES.
2. At the Nineteenth Session of the Economic and Social Council in May 1955 it was generally recognized that restrictive business practices affecting international trade may have harmful effects upon economic development, employment and international trade, and that both national action and international cooperation are needed in order to deal effectively with such practices. At the same time it was stressed that international action in this field would not be effective without support by a sufficient number of governments. Up to that time, however, many members of the United Nations had not commented on the report submitted by the ad hoc committee. In these circumstances the Council adopted a resolution which stressed the importance of the problem, but postponed the matter for further consideration at a later session of the Council.
3. During the discussions in the Economic and Social Council it was felt as a drawback that no comments were received from the CONTRACTING PARTIES with regard to the ad hoc committee's report. In this connection reference was made to a resolution adopted by the Economic and Social Council on 31 July 1953.

In paragraph 2 (a) of this resolution, the text of which is annexed to this document, the Council requested the Secretary-General to transmit the report from the ad hoc committee to the States Members of the United Nations and of specialized agencies in the economic field, and to interested inter-governmental organizations and non-governmental organizations, for examination and any comments they might wish to make. This request included also transmittance of the report to GATT. The representative for the Secretary-General informed the working group, which dealt with this matter in May 1955, that the report informally had been delivered to the Executive Secretary of GATT, but that the Secretary-General of the United Nations had not formally requested any comments from GATT. Thus the situation is that the Council has been waiting for comments from GATT and that the CONTRACTING PARTIES have been waiting for a final decision by the Economic and Social Council. The only way out of this vicious circle seems to be that the CONTRACTING PARTIES arrive at a conclusion with regard to the control of restrictive business practices in international trade and inform the Economic and Social Council of the result of their considerations.

4. The problem of international control of restrictive business practices was further discussed by the CONTRACTING PARTIES at their Tenth Session. With a view to enabling the individual contracting parties to examine the problem closer, the CONTRACTING PARTIES decided to take up the matter again at the Eleventh Session.

5. It is generally recognized that it is impossible to deal effectively with harmful restrictive business practices in international trade without international co-operation. The international trusts and cartels generally consist of enterprises or groups of enterprises in many different countries and the restrictive practices they apply may affect numerous countries. Consultations between individual countries would not solve these problems. If a country representing buyers would lodge a complaint against an international trust or cartel, it would have to face all the countries where the trust or cartel concerned has enterprises. It is not likely that all these countries would agree on concerted actions with respect to the restrictive practices complained of, if other countries are not obliged to follow the same course of action with regard to international trusts and cartels within their territories.

6. In the view of the Norwegian delegation it would be appropriate to carry out the international control of restrictive business practices by GATT or by the Organization for Trade Cooperation in accordance with a supplementary agreement. This view was expressed in the joint Scandinavian proposal set forth in doc.L/273 and supported by the delegation of the Federal Republic of Germany. Similar opinions were expressed in the meeting of the Economic and Social Council in May 1955. Thus, the Indian delegate pointed out that GATT was the most important body concerned with international trade and that there were enough contracting parties to ensure the execution of the ad hoc

committee's recommendations. From the summary record of the discussions in the Economic and Social Council in May 1955 the Norwegian delegation would also like to quote the following statement made by the Turkish delegate:

"His Government also agreed with the Ad Hoc Committee's statement on the inter-relation between restrictive business practices and the other main forms of restriction and control of foreign trade, such as tariff barriers, quotas and exchange control,

"The Turkish Government did not, however, agree with the Ad Hoc Committee on the establishment of a new control organization; in its view, GATT should be regarded as the most appropriate international body for such action."

7. Whether or not the majority agree that the international control of restrictive business practices should be carried out by GATT, by the Organization for Trade Cooperation or by another body, they should, in the view of the Norwegian delegation, make clear their position with regard to these questions. It would not be possible, however, to reach final decisions on this matter at this session. We are here facing very complicated problems both in regard to the question whether and to what extent the CONTRACTING PARTIES or the Organization for Trade Cooperation should undertake the control and with respect to the provisions to be included in the General Agreement or in a supplementary agreement. In the opinion of the Norwegian delegation there should be appointed an intersessional working party to undertake a comprehensive study of the problems involved and to make recommendations to the CONTRACTING PARTIES as a basis for deliberations on this matter at the next ordinary session of the CONTRACTING PARTIES.

The Norwegian delegation submits the following draft resolution for consideration by the CONTRACTING PARTIES at this session.

B.

DRAFT RESOLUTION

The CONTRACTING PARTIES

RECOGNIZING that the activities of international trusts and cartels may hamper the expansion of international trade and in other ways interfere with the objectives of the General Agreement on Tariffs and Trade,

RECOGNIZING further that cooperative international action is needed in order to deal effectively with harmful restrictive business practices relating to international trade,

REFERRING to the report on this matter, submitted in February 1953 by the ad hoc committee, appointed by the Economic and Social Council on 13 September 1951,

CONSIDERING the importance of ascertaining whether the CONTRACTING PARTIES deem it appropriate to undertake controlling functions in this field and having in mind the desirability of informing the Economic and Social Council of the result of the deliberations of the CONTRACTING PARTIES concerning this question,

DECIDE

- (i) to appoint an intersessional working party to make recommendations to the CONTRACTING PARTIES with regard to the question whether, and if so to what extent, the CONTRACTING PARTIES should undertake to carry out control of restrictive business practices in international trade and with regard to provisions to be included in the General Agreement or in a supplementary agreement, if the CONTRACTING PARTIES should decide to undertake such control,
- (ii) to deal with this matter at the next ordinary session of the CONTRACTING PARTIES

A N N E X

The Resolution No.487 (XVI) on
Restrictive business practices
adopted by the Economic and Social Council
on 31 July 1953

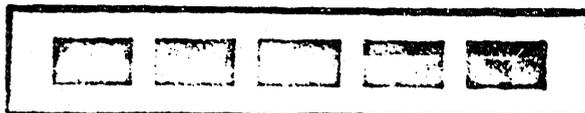
THE ECONOMIC AND SOCIAL COUNCIL

NOTING the report of the AD HOC Committee on Restrictive Business Practices and the Secretariat's analysis of governmental measures relating to restrictive business practices prepared in accordance with Council resolution 375 (XIII),

BEARING IN MIND that restrictive business practices in international trade may have harmful effects on the attainment of the higher standards of living, full employment and conditions of economic and social progress and development envisaged in Article 55 of the Charter of the United Nations,

RECOGNIZING the necessity of according sufficient time to governments to give thorough study to the proposals of the AD HOC Committee, and to the Secretary-General to formulate the report and recommendation called for in paragraph 6 of resolution 375 (XIII),

1. COMMENDS the AD HOC Committee and the Secretariat for the thoroughness and dispatch with which the tasks assigned to them have been executed;
2. REQUESTS the Secretary-General:
 - (a) To transmit the Committee's report and the Secretariat's analysis to the States Members of the United Nations and of specialized agencies in the economic field, to the specialized agencies concerned, and to interested inter-governmental organizations and non-governmental organizations, for examination and any comments they may wish to make;
 - (b) To circulate to the foregoing such comments as he may receive, together with such analysis as he deems appropriate;



3. FURTHER REQUEST the Secretary-General to proceed to implement paragraph 6 of resolution 375 (XIII) when a sufficient number of governments have commented on the Committee's report to provide some indication of attitude towards the report, and to continue to follow, on the basis of information obtained from governments, the principal legislative, judicial, executive and administrative developments in this field, to summarize relevant information regarding restrictive business practices in international trade which may be contained in official government documents, and to report thereon to the Council before it resumes consideration of this problem;

4. DECIDES to resume consideration of this matter not later than the nineteenth session of the Council.

