

TOWARD A WORLD CONFERENCE ON TRADE AND EMPLOYMENT

Within the framework of the United Nations system there have recently been significant developments looking to the provision of broad economic bases of peace and the acceptance of international rules designed to undergird an effective international trade organization. In the initiation of effort toward these ends the United States has taken a leading part. The organization of the effort in its preliminary stages, the general nature of what has been proposed, and the relation of this effort to other undertakings for international cooperation seem to merit special attention.

In December, 1945, the Secretary of State of the United States made public certain American *Proposals for Consideration by an International Conference on Trade and Employment*,¹ with the announcement that the proposals had the support of the Executive branch of the Government and had been submitted to other Governments as a basis for discussion. At the same time it was announced that the Government of the United Kingdom was in full agreement on all important points in the proposals, had accepted them as a basis for international discussion and, in common with the United States Government and in the light of views expressed by other countries, would use its best endeavors to bring such discussions to a successful conclusion.² Negotiations for the purpose of developing concrete arrangements, it was explained, were to relate to tariffs and preferences, quantitative restrictions, subsidies, state trading, cartels and other types of trade barriers. At a press conference held on December 6, 1945, Mr. Clayton, then Assistant Secretary of State, indicated that the financial credit which was to be extended to Great Britain would enable that country to undertake, with the United States, a "full partnership in the enterprise of restoring the world to a multilateral trading basis and getting it off the bilateral barter and quota system that developed to such a great degree between the two world wars. . . ."³

The enterprise soon came under the direction of the United Nations. On February 18, 1946, the Economic and Social Council of that organization approved a resolution calling for an International Conference on Trade and Employment, and constituted a Preparatory Committee of nineteen countries which was to elaborate an agenda, including a draft convention for consideration by the Conference.⁴ The first meeting of the Preparatory

¹ United States Department of State, *Publication No. 2411 (Commercial Policy Series, No. 79)*. A text of the proposals is found in the issue of the Department of State *Bulletin* referred to in note 2, below, at pp. 918-929, and a brief analysis of them in the same issue at pp. 914-918. Objectives of the proposals are explained in *New Horizons for World Trade*, Department of State *Publication No. 2591 (Commercial Policy Series No. 90)*.

² Department of State *Bulletin*, Dec. 9, 1945, p. 912.

³ Same.

⁴ The nineteen countries included, in addition to those which were represented at the meeting of the Preparatory Committee in London, the Soviet Union.

Committee was arranged for the Autumn of 1946, and it was understood that the meeting would be exploratory in nature. Before it took place, the United States published, on September 20, 1946, the *Suggested Charter for an International Trade Organization*,⁵ which was an elaboration of the previously published *Proposals*⁶ and had been prepared by a technical staff within the United States Government. Separate chapters of the *Suggested Charter* (as to which it was made clear that the provisions were designed to provide a basis for discussion and not a document expressing the fixed or final views of the Government issuing it) related to Purposes, Membership, Employment Provisions, General Commercial Policy, Restrictive Business Practices, Intergovernmental Commodity Arrangements, and Organization.

Pursuant to the resolution of the Economic and Social Council, representatives of eighteen of the countries which composed the Preparatory Committee for the International Conference on Trade and Employment met in London on October 15, 1946, and continued their sessions until late in November. The Soviet Union did not participate, but the eighteen countries which did take part represented three-fourths of the international trade of the world.⁷ The meeting was to be a preliminary one, and in the discussions the Governments taking part were not formally committed. In welcoming the delegates, Sir Stafford Cripps, President of the Board of Trade of Great Britain, told them that his country was, following the lead given by the Atlantic Charter and the mutual-aid agreement between the United Kingdom and the United States, "putting forward to the world through this meeting a new conception of national responsibility in economic matters."⁸ At the outset of the discussions the chairman of the American delegation, after explaining that the draft charter was not the product of pure altruism (the principles which it embodied being conceived to be in the interest of the United States), went on to observe that

If the trade of the world were to be governed by rules the opposite of those contained in the *Suggested Charter*, the United States would deeply regret it, but it could adapt itself to the resulting situation; its economy would survive the strain. But other nations, in this respect,

⁵ Department of State Publication No. 2598 (*Commercial Policy Series No. 93*).

⁶ Note 1, above.

⁷ *The New York Times*, Dec. 1, 1946, Sec. E, p. 4. The countries represented were Australia, Belgium, Brazil, Czechoslovakia, Luxemburg, Canada, Chile, China, Cuba, France, India, Lebanon, The Netherlands, New Zealand, Norway, Union of South Africa, the United Kingdom, and the United States.

⁸ *The New York Times*, Oct. 16, 1946, p. 12. The speaker also included in his remarks the following comments: "Hitherto it has been considered sufficient if each nation regulated its conduct in these matters in accordance with the bilateral treaties it has entered into. It was no one else's concern as to what those treaties contained or how they would affect others, and beyond that it was accepted that each country could do as it liked with its own market.

"It was that accepted attitude to international trade which led us into the disastrous chaos of the interwar years."

are less fortunately endowed than are we. For us, the strangulation of trade would necessitate a difficult readjustment. For others, it would spell catastrophe.⁹

The meeting provided opportunity for criticisms of what the United States had proposed. These criticisms are reported to have stressed, *inter alia*, that trade restrictions had received great emphasis as compared with expansion of employment and full development of home resources,¹⁰ and that little attention had been given to the problems of industrially backward or war-weakened countries.¹¹ At the final plenary session a spokesman for the World Federation of Trade Unions, attending as an observer, criticized countries which he did not name because of their supposed deficient and negative economic policies.¹² In the main, however, there appears to have been remarkable harmony and a spirit of coöperation. At the conclusion of the conference complete agreement was reported to have been reached on clauses of the charter relating to admission of states to the proposed organization, the prevention of unemployment and its consequences, the economic development of backward areas, most-favored-nation treatment, tariffs and preferences, quantitative restrictions and exchange controls, subsidies, state trading, emergency provisions, restrictive business practices, and commodity agreements. Important parts of the United States proposals still to be agreed upon were reported to be those relating to the treatment of countries with complete state trade monopolies, and relations with non-members (these matters, in the absence of representatives of the Soviet Union, having apparently been left out of the discussion). The statement of purposes, part of the provisions concerning organization, and some technical matters such as those relating to countervailing duties, customs procedure, and valuation practices, were referred by the full conference to an interim drafting committee for further work.¹³ The chairman of the American delegation could say that, "We have come, almost all of us, to an identity of views,"¹⁴ and the President of the Board of Trade in Great

⁹ Remarks of Clair Wilcox, as reproduced in Department of State *Bulletin*, Oct. 27, 1946, pp. 759-760.

¹⁰ *The New York Times*, Oct. 17, 1946, p. 4. In an address before the American Chamber of Commerce in London while the conference was going on; the British Parliamentary Secretary of the Ministry of Fuel and Power drew attention to the fact that, in the original proposals of the United States thirteen pages were given to trade policy and two paragraphs to employment (same, Oct. 24, 1946, p. 6). It was later reported that there had been agreement on the subject of employment (same, Oct. 31, p. 9, Nov. 12, p. 8).

¹¹ *The New York Times*, Oct. 18, 1946, p. 34; Nov. 27, 1946, p. 31.

¹² Same, Nov. 27, 1946, p. 8 (remarks of M. Duret). The same speaker is reported to have advocated that weaker countries be allowed to discriminate and apply trade restrictions until they could compete.

¹³ Same, Nov. 24, 1946, pp. 1, 5. It was estimated that there was agreement on ninety per cent of the text of the charter (Michael L. Hoffman, in same, Dec. 1, 1946, p. 4E).

¹⁴ Same, Nov. 27, 1946, p. 8.

Britain characterized the meeting of the preparatory committee as "most successful."¹⁵ April 8, 1947, was agreed upon as the date for the next meeting, which is to be held in Geneva.

While the experts were still in session at London the Acting Secretary of State of the United States issued, on November 9, formal notice of intention to conduct trade-agreement negotiations with eighteen foreign states (the Soviet Union being included, in addition to all of those states which had been represented at the London meeting of the Preparatory Committee), and made public a list of products that will be considered for the possible granting of tariff concessions by the United States in these negotiations.¹⁶ President Truman in a statement to the press referred to the projected negotiations as "central to the structure of international economic coöperation under the United Nations" and said that their success or failure would "largely determine whether the world will move towards a system of liberal international trade, free from arbitrary barriers, excessive tariffs, and discriminations" or would "pay the heavy costs of narrow economic nationalism."¹⁷ The outcome of the trade-agreement negotiations will have an important bearing upon plans for the holding of the World Conference on Trade and Employment in the latter part of 1947.

The limitations of a brief comment preclude consideration of many technical provisions of the *Suggested Charter* which invite attention, and until an authentic record is available of the London discussions an attempt at a comparative study of the views expressed by representatives of the participating states would be premature. For specialists in international law any comprehensive effort looking to the acceptance of international rules on a basis of multilateral agreement necessarily assumes significance in view of the notable absence of rules of customary international law which would prevent states from following policies of narrow economic nationalism.¹⁸ One of the more specific legal questions which arises is that of the effect of the proposed new multilateral undertaking upon existing bi-lateral commitments of the states which become members of the projected International Trade Organization. On this point provisions of the *Suggested Charter* envisage the review, by such states, of any prior commitments which they may have and which would prevent them from giving full effect to specified paragraphs in the basic plan; if necessary, the members would agree to ter-

¹⁵ Same, Nov. 29, 1946, p. 5.

¹⁶ Department of State *Bulletin*, Nov. 17, 1946, p. 907. For public notice of the Department of State pursuant to legislation concerning trade agreements, see 11 *Federal Register* 13447. The list of products, to be considered for the possible granting of tariff concessions by the United States under the broadened authority given in the Act approved July 5, 1945 (59 *Statutes* 411), is printed in Department of State *Publication* No. 2672 (*Commercial Policy Series* No. 96).

¹⁷ Department of State *Bulletin*, Nov. 17, 1946, p. 909.

¹⁸ See the statement of the Permanent Court of International Justice in its *Publications*, Series A/B, No. 46, p. 162.

minate such obligations either by agreement of the parties or in accordance with the terms of the instruments.¹⁹ The article relating to the interpretation and settlement of legal questions includes a plan for referring to the International Court of Justice (at the request of a party to the dispute) any "justiciable issue" arising out of a ruling of the Conference (to consist of representatives of the members of the organization) on certain parts of the Charter.²⁰ A "justiciable issue" arising out of any other ruling of the Conference may (under the draft Charter), if the Conference consents, be submitted to the Court by any party to the dispute. It is proposed that the Organization be permitted, with the authorization of the General Assembly of the United Nations, to refer any dispute concerning the interpretation of the trade Charter to the International Court of Justice, with a request for an advisory opinion thereon.

Of interest from the point of view of general international organization are many features of the basic plan which the United States presented, such as those concerning voting, denial of benefits to non-member states, and the integration of the work of the proposed machinery with that of various other international agencies (such as the International Monetary Fund, the Food and Agriculture Organization, and the International Labor Organization) which have functions relating in some way to those which the international trade organization would undertake. For the great body of the citizenry of the participating countries the realization of higher living standards and of a resultant climate conducive to the preservation of peace in the world will doubtless be the ultimate ends in terms of which the current movement will be judged. Of the foreign economic policy of the United States in which the plan for an international trade organization now holds a very central place, the Under Secretary for Economic Affairs has recently said that ". . . abandonment of the program is unthinkable because it would be a step backward with serious consequences for the peace of the world."²¹

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¹⁹ Art. 31. By the final paragraph of this article the members would accept this rule as to any international obligations they may have which would prevent them from giving full effect to the following paragraphs of the charter:

1. No Member shall seek exclusive or preferential advantages for its trade in the territory of any non-Member which would result, directly or indirectly, in discrimination in that territory against the trade of any other Member.

2. No Member shall be a party to any agreement or other arrangement with any non-Member under which such non-Member shall be contractually entitled to any of the benefits under this Charter.

²⁰ Art. 76. The parts of the Charter referred to in this connection are subparagraphs (c), (d), (e) and (k) of Article 32 (the general exceptions article in Chapter IV) and paragraph 2 of Article 49 (on exceptions to provisions relating to intergovernmental commodity agreements).

²¹ Address of Mr. Clayton before the National Foreign Trade Convention, Nov. 13, 1946: Department of State *Bulletin*, November 24, 1946, p. 953.