

DISCRIMINATIONS PRACTISED BY CERTAIN STATES IN
INTERNATIONAL TRADE OBSTRUCTING NORMAL DEVELOPMENT OF TRADE RELATIONS
AND CONTRARY TO THE PURPOSES AND PRINCIPLES OF THE
UNITED NATIONS CHARTER

Report of the Second Committee

Rapporteur: Mr. Finn MOE (Norway)

1. The General Assembly, at its 142nd plenary meeting held on 24 September 1948, decided to allocate to the Second Committee for consideration and report the item proposed by Poland concerning discrimination by certain States in international trade (A/C.2/125).
2. The Second Committee considered this matter at its 69th meeting and from its 71st to its 76th meeting inclusive.*
3. The representative of Poland (A/C.2/SR.69, A/C.2/SR.73, A/C.2/SR.75 and A/C.2/SR.76) referred to Articles 1 and 55 of the United Nations Charter which stressed the importance of international economic co-operation and defined the principles on which such co-operation should be based. These principles were "equal rights and self-determination of peoples".
4. These principles meant that differences in the economic development of nations should be taken into account when framing the economic relations between nations. The same criteria could not be applied to rich, highly industrialized countries and to poor, under-developed countries; equality of rights in economic relations between two such countries would result in economic and political dependence of the weaker country upon the stronger one. That was why the United Nations Charter linked the concepts of equality of rights and self-determination of peoples. It was self-determination which created the possibility of assuring a real, and not only formalistic, equality of rights.
5. It was important not to limit the principle of equality in international economic relations to its formalistic application, but to create conditions leading to an equality in fact. The Polish delegation believed that genuine

* Since this is a synopsis, the statements quoted below are of necessity very incomplete. For a more complete account it is indispensable to refer to the Summary Records of the debate.

equality could best be promoted under present conditions by bilateral agreements.

6. The kind of discrimination to which the representative of Poland found it necessary to draw attention, as contrary to the letter and spirit of the United Nations Charter, was that in which a country refused to maintain normal commercial relations with another country, not on account of reasons justified by economic circumstances, but because of purely political considerations. As an example of such discriminatory practices he cited the licensing policy of the United States of America towards certain countries located in Eastern Europe. He presented a draft resolution (A/C.2/137) reading as follows:

"THE GENERAL ASSEMBLY,

"CONSIDERING

"1. That Article 1 paragraphs 2 and 3, and Articles 55 and 56 of the United Nations Charter stress the importance of international economic co-operation and define the principles on which such co-operation should be based,

"2. That in matters of international co-operation particularly, the United Nations should endeavour to agree on measures calculated to strengthen peaceful and friendly relations between nations, based on respect for the genuine equality of rights of nations and on the principles of the Charter,

"DECLARES

"1. That any discrimination in trade or credit policy which is calculated to apply sanctions or to influence the domestic or foreign policy of any other country should be regarded as contrary to the principles of the Charter and of national sovereignty;

"2. That, furthermore, such discrimination renders the normal development of international trade relations impossible, and hampers the reconstruction and development of a large number of countries and nations;

"RECOMMENDS

"1. That all Members eschew the use of economic discrimination designed to apply sanctions to other countries or to influence their domestic or foreign policy;

"2. That the Economic and Social Council, together with the other economic organs of the United Nations, when dealing with problems relating to foreign trade and other forms of international economic relations, regard the present resolution as one of their basic principles".

7. The representative of the United States of America (A/C.2/SR.71, A/C.2/SR.74 and A/C.2/SR.76) said that it was a matter of concern to the United States Government that many factors in the post-war world had made bilateral agreements and discriminatory trade measures a frequent characteristic of present international relations. He pointed out some of the highlights of the United States efforts to establish the rule of non-discrimination; the United States Government had neglected no opportunity, whether in bilateral or multilateral negotiations, of striving to obtain the agreement of other Governments to the general rule of non-discrimination. After considerable preparatory work, the United Nations Conference on Trade and Employment had met at Havana from 21 November 1947 to 24 March 1948. The Havana Charter drawn up by that Conference was founded on the principle of non-discrimination, and provided a basis on which trade could develop along multilateral lines as free as possible from harmful restrictions and discrimination. Twenty-two countries, accounting for a very considerable portion of the world's trade, had already brought provisionally into force the General Agreement on Tariffs and Trade which contained provisions concerning non-discrimination quite similar to those in the Havana Charter. The representative of Poland had offered a strange definition of the term "discrimination" under which it appeared that, by means of bilateral agreements, one rule would be established for industrially developed countries and another for the less developed countries. The United States delegation could not agree that bilateral agreements should provide a guiding principle in international trade, nor that they constituted the best means of ensuring equality and lack of discrimination.

8. The United States of America had had great difficulty in allocating goods in short supply and it was natural that there should be some complaints. But it was not the intention of the United States to impose an embargo on trade with any country. Nevertheless, in the interest of national security, Governments, including the United States, had the right to prohibit or restrict the export of goods for the direct or indirect use of foreign military establishments.

9. The representative of Czechoslovakia (A/C.2/SR.71, A/C.2/SR.75 and A/C.2/SR.76) said that in the joint declaration of 14 August 1941 known as the Atlantic Charter, and later at the interallied meeting held in London on 24 September 1941, the Allied nations had solemnly declared that they would ensure to all States, great and small, access on equal terms to the raw materials of the world and full participation in the apportionment of goods by means of trade. Nevertheless, in practice, the United States of America had discriminated against the countries of Eastern Europe. The

planned economy of Czechoslovakia was directed to one end only: raising the standard of living, ensuring full employment and furthering the social progress and development of the country. Such a plan was not directed against anybody and was not based on any discrimination for political or strategic reasons. Czechoslovakia was endeavouring to extend its trade to all countries. The representative of Czechoslovakia supported the Polish draft resolution.

10. The representative of France (A/C.2/SR.72, A/C.2/SR.74, A/C.2/SR.75 and A/C.2/SR.76) recalled that the principles of non-discrimination in trade had been thoroughly studied by the United Nations' Conference on Trade and Employment. Articles 21 and 22 of the Havana Charter stated that quantitative restrictions had to be applied in principle without any discrimination. Article 23 stipulated the cases where discrimination was authorized. Article 99, moreover, set forth the general exceptions, which included, in particular, those deemed necessary for the protection of the essential security interests of a Member State. The representative of France presented a draft resolution (A/C.2/143) reading as follows:

"THE GENERAL ASSEMBLY,

"CONSIDERING

"1. That the principles of the Charter of the United Nations imply, as a logical consequence in matters of trade and credit, a general rule of non-discrimination precluding, subject to the provisions concerning economic sanctions laid down in Article 41, any measures calculated to exercise political pressure,

"2. That numerous questions are involved in the very definition of non-discrimination as well as in the rules for observing it,

"3. That the United Nations Conference on Trade and Employment, convened in accordance with the resolution of the Economic and Social Council adopted on 18 February 1946, has drawn up the text of the Havana Charter constituting a coherent body of rules concerned with international commercial policy, particularly in respect of non-discrimination,

"RECOMMENDS that, pending the entry into force of the Havana Charter, Member States, in dealing with problems concerned with foreign trade and with other aspects of the economic relations between nations, be guided by the principles relating to non-discrimination laid down in that Charter, with due regard to the general exceptions provided for therein".

11. The representative of the United Kingdom (A/C.2/SR.72, A/C.2/SR.74 and A/C.2/SR.75) agreed with the French delegation in thinking that the question

should be based on the principles of the Havana Charter. The representative of Poland's definition of the word "discrimination" contradicted the interpretation given that word in economic terminology in which it meant the contrary of "fair trading". The representative of Poland was in fact advocating preferential treatment in international trade and not non-discrimination.

12. The representative of the Union of Soviet Socialist Republics (A/C.2/SR.73, A/C.2/SR.75 and A/C.2/SR.76) considered that the development of trade between countries, without political discrimination, on terms mutually advantageous to them and without interference in their respective internal affairs was the wholesome foundation which was indispensable for the development of international co-operation not only in the economic but in the political and cultural fields as well. Behind discussions on the development of international trade and of international economic co-operation, the United States of America was violating present trade agreements and its own obligations arising therefrom, and was using discriminatory practices in its trade relations with certain countries Members of the United Nations, and in particular with the Union of Soviet Socialist Republics. Such an attitude towards international trade agreements did not in any way foster economic co-operation between Member countries and was contrary to the principles of the United Nations. As a result of this attitude international trade was shrinking, this being proved by data showing the curtailment of United States trade with the Union of Soviet Socialist Republics and seven Eastern European countries. The ruling circles in the United States of America were attempting to saddle the countries of Western Europe participating in the Marshall Plan with the same discriminatory policies towards their trade with East European countries.

13. The delegation of the Union of Soviet Socialist Republics considered that under present conditions the basic form of economic agreement between European countries continued to be the bilateral agreement. If observed conscientiously, such agreements were capable of ensuring that the interests of all countries - great and small - were taken into account. Such agreements, however, did not exclude the application of various forms of multilateral trade. Any forms of trade and payments should ensure the mutual interests of the participating countries, should be a result of agreement between those countries and should not create disadvantageous conditions for the economies of States which were economically weaker especially because no discrimination in trade with individual countries Members of the United Nations should be permitted. The representative of the Union of Soviet Socialist Republics supported the Polish draft resolution.

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14. The representative of Yugoslavia (A/C.2/SR.74 and A/C.2/SR.75) considered any policy discriminatory in the field of economic relations if it tended to prejudice the economic development and general interest of another country with the aim of bringing about economic or political domination. Thus, discrimination consisted in using economic power for expansionist ends, by exercising economic and political pressure to the disadvantage of under-developed countries. The representative of Yugoslavia supported the Polish draft resolution.

15. The representative of Argentina (A/C.2/SR.75) agreed with the principles which had motivated the Polish and French draft resolutions, but regretted that he could not support either of them. The Polish draft resolution implied criticism of the internal measures taken by a State Member of the United Nations. As regards the French draft resolution, the representative of Argentina could not agree to bind his country to the provisions of the Havana Charter which Argentina had not signed.

16. The representative of China (A/C.2/SR.75 and A/C.2/SR.76) proposed the following draft resolution (A/C.2/147):

"THE GENERAL ASSEMBLY,

"HAVING CONSIDERED the draft resolutions on trade discrimination submitted by Poland (A/C.2/137) and France (A/C.2/143) and the draft amendments submitted thereto (A/C.2/144, A/C.2/145 and A/C.2/146),

"DECIDES to transmit to the Economic and Social Council for its consideration the question of trade discrimination."

17. The representatives of the following countries also took part in the debate: Australia, Belgium, Canada, Denmark, Egypt, Iraq, Mexico, Netherlands, Norway, Pakistan, Philippines, Sweden, Syria, Ukrainian Soviet Socialist Republic.

18. The Committee discussed the draft resolutions proposed in connection with this matter by the representatives of Poland, France and China, and a joint resolution presented by Syria, Norway, Denmark and Belgium (A/C.2/150/Rev.1). The Committee also discussed a number of amendments to these resolutions contained in documents A/C.2/144, A/C.2/144/Rev.1, A/C.2/145, A/C.2/146, A/C.2/148.

19. The Chairman ruled that the resolution presented jointly by Syria, Norway, Denmark and Belgium had priority and should be voted upon first. He considered that, since that draft resolution required the Second Committee to take no action on the matter under discussion, the resolution raised a question which should logically take precedence over any other draft resolutions before the Committee. A similar ruling had been upheld at a recent meeting of the Joint Second and Third Committee. If the Committee
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adopted the draft resolution contained in document A/C.2/150/Rev.1, it would automatically have disposed of all other draft resolutions on this matter.

20. The representative of Poland expressed his astonishment that the Committee might, after several days of lengthy discussion on the draft resolutions before it, be faced with a proposal which declared in substance that the General Assembly decided to take no action. The Polish delegation, in a spirit of co-operation, had tried to combine all the indisputable ideas which had been supported during the debate, and was in favour of asking the Economic and Social Council to consider the matter at its next session. The Polish delegation had sought to establish agreement on the principle that discrimination for no other but political motives must be condemned. A decision on that matter would be important for the future of international economic relations. If the General Assembly took no action it would in fact be acting by omission, and such a negative attitude would have the most undesirable results. The representative of Poland then challenged the ruling of the Chairman, and asked that a vote be taken first on the French draft resolution and the amendments thereto. The Chairman maintained his ruling and, under rule 102 of the rules of procedure of the General Assembly, put to the vote the challenge of his ruling made by the representative of Poland. The Committee maintained the Chairman's ruling by 37 votes to 6, with 3 abstentions.

21. The Committee adopted the draft resolution presented by Syria, Norway, Denmark and Belgium (A/C.2/150/Rev.1) by 28 votes to 6, with 13 abstentions. The resolution reads as follows:

"THE SECOND (ECONOMIC AND FINANCIAL) COMMITTEE OF THE GENERAL ASSEMBLY

"1. HAVING CONSIDERED the draft resolutions on trade discrimination submitted by Poland, France and China, and the amendments submitted thereto,

"2. DECIDES to take no action on these draft resolutions and to request the Rapporteur to give in his report to the General Assembly a general account of the debate which has taken place in the Second Committee on the subject of discrimination in international trade."
