

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL
E/C.2/305
30 July 1951
ORIGINAL: ENGLISH



COUNCIL COMMITTEE ON
NON-GOVERNMENTAL ORGANIZATIONS

Dual Distribution

RESTRICTIVE BUSINESS PRACTICES

Statement submitted by the International Co-operative Alliance, a non-governmental organization in Category A consultative status.

The Secretary-General has received the following statement, which is circulated in accordance with paragraphs 22 and 23 of Council resolution 288 B (X):

Dated: 27 July 1951

Received: 30 July 1951

The International Co-operative Alliance which represents important co-operative associations of consumers, primary producers and artisans in thirty countries, welcomes the action of the Government of the United States in proposing the subject of Restrictive Business Practices for consideration by the Economic and Social Council at its Thirteenth Session. The International Co-operative Alliance is strongly of the opinion that a thorough and comprehensive investigation of this subject by an organ of the United Nations Organisation, is an urgent need.

It is submitted by the I.C.A. that there is prima facie a case for an impartial but rigorous examination of the purpose and scope of all organisations of and agreements between private industrial, commercial and financial

enterprises in two or more countries, the effect of which could possibly be to confine international trade or exchange to particular channels or to obstruct others in which it would naturally tend to flow. The object of the present memorandum is to bring to the attention of the Economic and Social Council certain evidence in support of that case.

In the first place, the very existence of Chapter V of the Charter of the International Trade Organisation proves that the possibility of private international combinations and agreements which may have restrictive effects upon the exchange of goods and services across national frontiers was taken very seriously by the Havana Conference of 1947-48. It is unlikely that the situation today is radically different from the situation three years ago.

There is in fact, more recent evidence. The Executive Secretary of the Economic Commission for Europe, reporting to its Fifth Session in April 1950, declared:-

".....it would be useful in my judgement for the E.C.E. with the help of Governments, to undertake preliminary studies of some of the major forces affecting international price formation What is contemplated in this suggestion is first-hand and objective investigation and study of certain aspects of contemporary market organisation which are often thought adversely to affect economic welfare. One notable phase of that problem is that of European or extra-European cartels, monopolies and business practices which may restrain competition in Europe."

In course of its Economic Survey of Europe in 1949, the E.C.E. reported:-

"Apart from official restrictions on foreign trade, whether in the form of direct controls or tariffs, there are the institutional barriers which private producers and merchants have established through the years, precisely for the purpose of protecting themselves from competition and ensuring profits. These barriers take the form of national and international understandings which seek to fix prices, limit production and divide markets. Viewed with regard to the ultimate purpose of the

trade-liberalisation programme - that is, the stimulation of higher productivity - these arrangements may well restrict competition more than foreign trade controls and tariffs alone, since they operate in the home market as well as in foreign trade."

Early in 1951 the Policy Committee of the International Federation of Agricultural Producers, with the support of other interested bodies, instituted an enquiry into cartelisation in the fertiliser industry. This enquiry covered 18 countries and, in summing up the results, the investigator stated:-

"There are undoubtedly a number of private agreements and secret understandings throughout the whole fertiliser industry. Whether they will lead to further cartelisation is a matter of conjecture and may depend on the development of trade as remaining government controls are lifted."

Although the Government of the United States in its statement of views lays emphasis on the restriction of international trade, it would be mistaken to assume that strictly international organisations and arrangements are the principal, still less the only important factors. There is an intimate and inevitable relation between the growth of cartels within national territories and the conclusion of restrictive agreements internationally. Participation in an international cartel arrangement, particularly when it provides for division of markets, enables a contracting party to exert, whether alone or in combination, a decisive influence on supply conditions within its domestic market.

The E.C.E., supporting its contention that the existence of restrictive practices within national boundaries has made the effective liberalisation of trade difficult to attain, states:-

"In Italy a commission, set up to examine the increase of monopoly control and cartelisation, reported on the concentration of large industries in a few hands - for example, in the case of artificial silk, chemicals, engineering products, electric power, cement and rubber - and arrived at the conclusion that throughout a significant area of

Italian industry there exists no free enterprise. In Sweden, the registration of cartel agreements has revealed the existence of a large number of such agreements; far-reaching restrictions apply to paper and foundry products as well as to some types of electrical goods and equipment..... In France, industrial agreements have already been formed in the industries producing petrol, building materials, paper and cardboard and nuts and bolts. In Switzerland, apart from foodstuffs, for which the prices are maintained at a high level by governmental policy, industrial agreements fixing a minimum price, exist for example, for cement chocolate, and fats and oils; in addition, the retail prices of most imported manufactures and of commodities such as coal and wool are fixed by importers' consortium".

Corroborative evidence is supplied by the opposition encountered by governments which propose to lift quotas, reduce tariffs or abolish other official restrictions on imports or exports. It is even argued that if protective devices are removed, international cartelisation must replace them. Thus the French National Committee of the International Chamber of Commerce protested on 26 January 1950:-

"..... it would, in fact, be disastrous if because of internal legislation, the French industrialist were prevented from taking his place in international cartels which constitute the only means of organising European production in a rational way by allowing everybody to specialise in a line of production for which he is most qualified."

No one would contend, however, that knowledge of the facts concerning international combinations and cartel agreements today is more than fragmentary. Some of the influential and well-known international cartels which flourished before the second world war did not survive it. Others have been replaced by inter-governmental commodity agreements. National measures for the control of cartels, while they reveal the existence of restrictive business practices within particular countries, do not throw an equally clear light upon current

international agreements. In fact national governments, acting on a narrow and short-sighted view of what is really beneficial, may be inclined to permit or encourage their industrialists to adhere if they can, to international agreements. It is not here contended that cartel agreements are without compensating advantages, such as those which appeal to the French industrialists cited above. What is submitted, however, is that until the facts are fully known, the balance of advantage and disadvantage cannot be accurately estimated, and that it is only through international, and indeed, inter-governmental enquiry, that the facts can be properly ascertained.

The Co-operative Organisations affiliated to the International Co-operative Alliance, in developing their structures and expanding the services they render to their members, have direct experience of the restrictive effect on enterprise of cartel and similar agreements, their power to limit access to markets and their tendency to impart rigidity to prices and costs.

The principal object of co-operative associations everywhere is to minimise costs. In the case of Consumers' Co-operative Societies, the aim is to reduce the cost of living of their members, not merely through the distribution of profits according to purchases but also by holding (and sometimes forcing) down the retail or wholesale price level in a given market. In the case of Producers' Co-operative Societies, whether of agriculturists or of artisans, the aim is to reduce the costs of production or marketing and thereby increase the income earned. It must be emphasised that the vast majority of the 100 million members enrolled in the organisations of the I.C.A. consists of industrial wage-earners, craftsmen and small farmers, and that the savings which their Co-operative Societies effect for them, though small, do represent an appreciable rise in their standards of living.

Co-operative Societies have, therefore, a strong interest in the maintenance of freedom of enterprise in national, as well as international markets, and are acutely sensitive to any business practice which restricts their power to cheapen the cost of consumption or production goods to their members. It is their co-operative character also and their distinctive method

of distributing profits which, on the one hand, keep them, on grounds of principle, from joining in cartel agreements, and on the other, ensure that they are discriminated against under whatever restrictive business practices may be in force.

At various times, and in different countries, Co-operative Societies and their Federations, in order to supply their members, have been obliged to break out of monopolised and restricted national markets by importing from abroad, to wage price-cutting wars with cartels, and to establish their own productive enterprises in order to loosen the hold of international concerns on the supply of important articles of consumption in particular countries. In some of the undeveloped countries Co-operative Societies have provided an alternative channel of export trade for primary producers whose products reached the world market through a ring of middlemen. The existence of powerful co-operative enterprises is in several countries the principal factor which keeps the market open and competition alive in certain branches of trade; often to the advantage of the whole consuming public. To cite particular examples would add unduly to the length of this Memorandum, but the facts can be given either to the Council in the course of its discussion or to any body appointed, as it is hoped, by the Council to investigate the subject of restrictive business practices affecting international trade.

It may be pointed out in conclusion that it is to the interest of all nations that knowledge of the technique of restriction and monopoly should be complete and generally available. The very fact that agreements and arrangements are shrouded in secrecy can easily give rise to unfounded and exaggerated ideas about their effects and their effectiveness. If the current belief that restrictive business practices are fundamentally uneconomic be sustained on investigation, as is probable, diagnosis is nevertheless necessary in order that the best preventives or remedies may be applied.