

CHAPTER VIII



INTERNATIONAL TRADE ORGANIZATION

THE SUCCESS of the Geneva Conference in revising the proposed Charter for a world trade organization and adjourning in complete harmony, is the greatest and most hopeful achievement since the creation of the United Nations at San Francisco. Had it failed there would have been disaster—world-wide discouragement, a return to the economic anarchy which preceded the Second World War, probably leading directly to a third global struggle and to the rise of new totalitarian despots and states. Nothing else could have compensated for defeat at Geneva. As Mr. J. A. Lacarte, deputy secretary of the Conference, pointed out, never before had representatives of so many countries “sought to draw up multilateral trade agreements acceptable to all.” For four months, from April, 1947, on, the delegates of seventeen nations (Russia, the eighteenth, refusing to attend) wrangled over the details of the Charter with the press constantly prophesying complete failure up to a day or two before the final success. It was an epoch-making accomplishment, whatever may happen at Havana in November, 1947, when officials of sixty nations undertake another revision. As a whole the Conference stands as a very great American diplomatic triumph, giving the promise of true world leadership. Yet the event was hardly noticed by the leading American dailies.

How revolutionary and far-reaching this Charter is appears from the fear in Congress that the International Trade Organization may become a super-state, and from the belief

of many that, if fully developed, it will possess greater powers than the United Nations Organization.¹ Certain it is that if this program is finally accepted by the world it will do more than anything else, except disarmament, to insure the stability of the United Nations. It will give to that body the economic background and international co-operation which it must have, in addition to its political authority, in order to survive. Never before had there been a move not only to create an international trade authority and to initiate world-wide tariff reductions, but to remove all trade barriers and to insist upon sound and honest commercial policies and practices in carrying on the business of the world. It has even been called an effort to apply the American anti-trust laws to the world scene. Never before had there been such a conference for dealing with the maintenance of world-wide employment on the ground that that is no longer a domestic concern, but is a necessary condition for the expansion of international trade and for the maintenance of fair labor standards. Again, the delegates to Geneva had to face such problems as the control of international cartels, whether there should be a general level of tariffs and all of them nondiscriminatory with complete equality of treatment of imports and exports whatever their origin or destination, and whether it is possible to harness free capitalistic practices with those of the semi-socialistic or wholly socialistic States.

That the outcome is a series of compromises must frankly be admitted, for the difficulties which faced the American delegation, headed by the able and convinced Under-Secretary of State, William L. Clayton, were very great and enough to daunt the faint-hearted. Mr. Clayton himself stated at the beginning of the Conference that there would have to be

¹Cf. "International Trade Organization: Does Its Charter Offer Hope, Illusion or Menace?" by Benjamin Wham. *American Bar Association Journal*, June, 1947.

many exceptions to the rules to be established, and declared that they "are essential and necessary" in the present state of the world. That new obstacles presented themselves almost every day, was not surprising. With no less than a hundred and thirty-six separate negotiations being carried on at one time, that was, of course, inevitable, just as there would have been profoundly conflicting interests to be reconciled had the participants in the Conference been private individuals representative of the business world instead of government officials. Almost every state had its special axes to grind, which made all the more encouraging the whole-hearted support for the American plan given by the Scandinavian nations, for one example. The original State Department proposals were not rigidly uncompromising or demanding. It pointed out that "no government is ready to embrace 'free trade' in any absolute sense." It was particularly interested in the "general relaxation and regulation of barriers to world trade." The Charter called for the abolition of all quotas, embargoes, subsidies and import licenses, with, however, certain exceptions affecting countries in short supply or for the maintenance of wartime price control by a nation facing shortages, or in connection with balance of payment deficits and other issues.

This cautious attitude was borne out by Congressional insistence on an escape clause so that an American industry which was jeopardized by any clause of the Charter or ITO arrangements could be aided, and by various changes recommended by the Senate Finance Committee in the Charter chapter dealing with employment and production which were all approved by the State Department and embodied in the document as sent to Geneva. Since, if the Charter goes through, Congress must adopt an enabling act incorporating all the necessary modifications in the laws of the United States affecting customs procedure and valuations of goods,

the importance of keeping Congress in line is obvious, even without consideration of the fact that it is now controlled by the Republicans, and that the wool bill, vetoed by President Truman, would have wrecked the position of the American delegation in Geneva.

During the sessions of the Conference there were other uncomfortable happenings besides the wool bill, which were directly contrary to the spirit and purpose of the meeting. Thus, Brazil put on an import ban on luxuries on the ground of depreciation of its currency and sharp inflation, and Sweden one on automobiles, furs, radios, hosiery and other products. Cuba announced the raising of some tariff schedules prior to any agreement for lowering them. France startled the delegates by announcing the establishment of a number of new duties, but explained that these were merely to take the place of import quotas to be abolished, and brought out the fact that it imposed no duties at all on most of its imports. Nonetheless, the Americans soon found negotiations with the French practically impossible. Again, the British crisis seriously affected the proceedings in view of the British position that their financial condition was so serious as to render it impossible at this time to apply the nondiscriminatory clauses of the master trade and tariffs agreement in a control of imports. On July 31, Sir Stafford Cripps told Mr. Clayton in Paris that, much as the British were in sympathy with the whole Geneva program for the reduction of tariffs, they could not possibly accept the restrictions "for a year." As for the Czechoslovaks, every effort was made to keep them in the ITO, especially after that nation's withdrawal from the Paris conference on the Marshall Plan, because of a feeling that the ITO might offer "the last chance to establish economic relations between the East and the West in Europe."² It was successful.

²Michael L. Hoffman, Dispatch in *The New York Times*, July 31, 1947.

Concerning cartels, the preliminary draft of the Charter admitted that cartels might continue to operate and sought apparently to distinguish between "good" and "bad" ones, precisely as President Theodore Roosevelt once undertook to divide all the trusts into the good and bad. In other words, the Charter aimed to control and regulate the cartels, but did not outlaw them. It authorized any nation which believed itself to be adversely affected by an international cartel to complain to the ITO, which body is to hear the views of the offender and of the offended and demand full co-operation from the former. If guilt is established, the ITO will have authority to demand elimination of the abuses and prompt reports from the offender on its actions in response to the orders of the ITO. If there is defiance of the ITO, any nation will be able to prohibit the sales of the products of any offending cartel and ask other nations similarly to bar the goods. Indeed, all signing the Charter are to pledge their word to obey its findings and to prevent its citizens from violating the rules. In this case, and in general, the ITO will rely upon moral force to prevent violations of its ordinances which forbid such matters as fixing prices or terms or conditions to be observed in dealing with others in the purchase, sale or lease of any product.

It will be an offense to exclude enterprises from any territorial market, to divide markets, or to allocate customers, or to fix sales or purchase quotas, or to boycott any particular enterprise. The signatories will have to agree not to limit production, or to suppress inventions, whether patented or unpatented, nor to extend their use or that of trademarks or copyrights to matters not properly within their scope. In short, they must consent to abandon all discriminatory practices that reduce the total volume of trade. It is true that Articles 26 and 29 of the draft presented to the Geneva Conference allowed countries to impose quantitative restrictions

on imports without prior approval of the ITO so that they might protect their balances of payment. But it was nonetheless implicit in the document that any such country could be called to account by the International Monetary Fund. If the latter organization found that this action was not justified, any restrictions would have to be withdrawn or the offender would have to "face sanctions" in the form of discriminatory treatment from other ITO members. "These Articles greatly increase the power of the International Monetary Fund."³

The most difficult question in the entire gamut submitted to the Conference is that of the relationship between free enterprise states and those in which the government to a greater or less degree controls its foreign trade. It cannot be denied that so far as possible the Charter has sought to dodge the issue. Both the London conference, which authorized the Geneva one, and the latter, deferred consideration of this issue because of the absence of Russia, but it is obvious that the negotiators could not without stultifying themselves free any state monopoly of foreign trade from the provision forbidding members to make special bilateral trade arrangements after their acceptance of the Charter. It was laid down at Geneva that any country with state-controlled industries must permit foreign trade to be conducted according to the ITO's rules governing private industries. In brief, the aim was to insist that foreign trade will not be conducted by state-controlled nations according to political exigencies. One of the provisions in the London draft provided that State trading enterprises "shall . . . be influenced solely by commercial considerations, such as price, quality, marketability, transportation, and terms of purchase or sale." Still another proposal sought to regulate through international negotiations the export price over cost of pro-

³*Ibid.*, *The New York Times*, August 9, 1947.

duction, and the rate of protection to be established by state monopolies. Whether it will be possible to bring Russia and its satellites to accept any such agreement is on the lap of the gods. But even if Russia continues to remain wholly outside of the ITO, if the rest of the nations will accept and abide by it the world will gain mightily.

While it is impossible to deal in this chapter with the almost innumerable subjects covered by the Charter, or the multitude which will inevitably come within the scope of its activities once it is established, comprising such matters as shipping, international travel and banking, it must be pointed out that especial attention has been given to the question of foreign investments, notably in connection with the backward areas. An elaborate code for the loaning of money overseas out of which, so often, international troubles and threats of hostilities have arisen, was offered for discussion and adopted. The main points were the safeguarding of capital investments in undeveloped countries, and the outlawing of discrimination against the investment of money in one country by a third nation. Again, adequate compensation if expropriation occurs is provided for. As for the occupied German areas, they are covered in a special appendix; it is needless to say that the Americans and British were most eager that their portions of Germany should profit by all possible freedom of trade and from the abolition of any restrictions on international business. Indeed, before the Conference reached its final decision the American and British military governments in Germany were making trade agreements with neighboring countries for their respective occupation zones. An agreement with Czechoslovakia was one of the first.

Since the United States has for more than twenty-three years favored the unconditional most-favored-nation agreements in dealing with foreign countries, and especially in

the writing of reciprocal trade agreements, it goes without saying that the keynote of the whole American policy at Geneva has been complete equality of tariff treatment. But there will be no obligation upon members of the ITO to extend the most-favored-nation policy to nonmembers, and they will not be able to do so without special permission from the ITO itself, this again in the interest of equality of trade, lest a high tariff country share in the tariff reduction of other nations making reciprocal agreements while refusing to lower its own duties.

The United States delegation did not find prompt acceptance of all its proposals. Indeed, by a vote of eight to one a sub-committee defeated the American demand for approval of agricultural export subsidies which are now being paid by the United States Government at the demand of its Department of Agriculture in the face of violent opposition on the part of the State Department. The provision adopted allows a country with a "burdensome surplus" to seek an international commodity agreement to maintain prices. Should such an agreement collapse a nation could resort to a subsidy, but only with ITO approval. Again, the American demand for weighted votes in the Conference was not welcome. Despite the favorable vote in Congress for the vetoed wool bill, the American delegation was forced to agree to a cut in the American duty on raw wool of no less than 25 per cent, 8½ cents off the current 34 cents a pound duty. Whether it will be possible to obtain Congressional approval of this, or whether the dying American wool business will have sufficient political power to defeat the proposal, remains to be seen. If it is not obtained the results will be most disastrous since the Australians and South Africans have both made a lowering of the American duty on wool the *sine qua non* of their acceptance of the entire Geneva program.

That there are many criticisms of the Charter was to be expected, if only because of the enormous numbers of businesses and nations involved, and the ideological rifts. The faultfinders insist anew that there are so many exceptions to the rules that practically little has been gained, that trade restrictive measures are inescapable in the present situation of the world. As already admitted, some of the most important problems are left unanswered. But the vitally important point is that enormous progress has been made and that, barring the coming of war, it is impossible to believe that there will not be continuing efforts to achieve the Geneva aims. Had Geneva failed that would seriously have affected the effort to produce a workable Marshall Plan for Europe. Under-Secretary Clayton was correct in stating on July 3: "The Marshall Plan makes the ITO negotiations more important than ever because without a sound, permanent program of reciprocal multilateral trade, no temporary emergency program could possibly have any permanent worthwhile results."⁴ Indeed, it is beyond doubt that the sudden determination of several of the nations conferring in Paris to submit proposals to the United States under the Marshall Plan for an immediate European customs union was due, at least in part, to the ITO Conference.

Again, the Paris conferees might well have been influenced by the customs union agreed upon by Belgium, the Netherlands and Luxembourg, the so-called "Benelux" agreement, the first constructive step taken by European countries toward freedom of trade, customs union and economic reconstruction. That the three countries involved are small does not detract from the importance of their accomplishment which was recognized at Geneva by the promise that, if Benelux enters the ITO organization as one economic

⁴*The New York Times*, July 3, 1947.

entity, it will be entitled to a seat upon the permanent executive board. This Board is to control the organization and is to consist of fifteen members elected by the Conference constituted by all the membership. In addition, there will be three important commissions to function permanently, one dealing with Commercial Policy, one with Business Practices, and one with Commodities. To these, others may be added. There are the usual provisions for the secretariat, the director-general and the staff. It cannot be denied that if the ITO is to accomplish its great work, it will have to build up another huge bureaucracy which might, it would seem, become a candidate for the abandoned League of Nations buildings.

Most encouraging was the attitude of all the participants at Geneva in the last sessions. Thus, only two countries, Cuba and Czechoslovakia, opposed the provisions for the protection of foreign investments, with Norway and New Zealand making reservations pending further discussions with their home governments. China and Belgium, which had been rather belligerent in several aspects, came into line. The British Secretary for Overseas Trade, Harold Wilson, repudiated the assertion that the work of the Conference was in vain and remote from the existing realities. Conceding that the methods Britain has adopted to meet her great crisis "may appear to be opposed to the principles and methods of the Charter," he asserted that the guiding principle must still be upheld, namely, to avoid the establishment of permanently artificial channels of trade. The Indian delegation, one of the most difficult and critical of all, admitted that it had only two reservations to the text left. As Mr. Hoffman, the admirable reporter of *The New York Times* cabled, during the final summing up, "delegates and observers have been impressed with the amount of agree-

ment reached and with the fact that the reservations, when seen together, were not so serious as had been supposed." Only a professional pessimist could possibly believe that Geneva will not remain an outstanding milestone in the progress of the race toward world unity.