

CHAPTER 16

RELATIONS WITH NON-MEMBERS

It was assumed, in drawing up the plans for an international trade organization, that membership should be universal. But it was recognized that some countries might delay adherence and that others might never join. Provisions governing the relations between members and non-members were therefore required.

It appeared to be necessary, in formulating a non-members rule, to provide that members of the organization should not accord to non-members treatment as favorable as that accorded to other members. Two considerations supported this view. First, it was thought to be desirable to attract the widest possible membership by offering inducements to those who would enter the organization and imposing penalties on those who would remain outside. This could be accomplished by confining the benefits promised under the provisions of the *Charter* to those who were prepared to assume its obligations, denying them to those who were unwilling to do so. By making adherence attractive and non-adherence unattractive, general observance of common rules of conduct might be obtained. Second, effective enforcement of the commitments contained in the *Charter* required the withdrawal of benefits from members who should violate its rules. But if these benefits were to be accorded to non-members, it might be more advantageous to remain outside of the organization than to join. For this reason, too, denial of equal treatment to non-members appeared to be required.

It was accordingly proposed by the United States: (1) That no member should seek to obtain from a non-member advantages that would result in discrimination against the trade of another member;

(2) that no member should be a party to a contract that would entitle a non-member to receive any of the benefits afforded by the *Charter*; (3) that each member should terminate any agreement that conflicted with these rules; and (4) that a year or more should be allowed to permit adherence to the Organization, but that, thereafter, unless the Organization should consent, members should not apply the tariff concessions agreed upon among themselves to the trade of other countries which, although eligible for membership, had failed to join or had withdrawn from the Organization. The last of these rules would have operated, in effect, to set up a preferential system among the members of the Organization. But the system would have been open to participation by all countries at all times, and when such participation became universal the requirement of discrimination against non-members would have lost its significance.

This proposal was not a novel one. It had been suggested, as a means of promoting the reduction of barriers to trade, by the Economic Committee of the League of Nations in 1929. It had been urged by the Commission of Enquiry for European Union in 1931. It had been included in the Ouchy Convention, designed to reduce tariffs between Belgium, Luxembourg, and the Netherlands, in 1932. It had been advanced again by the Preparatory Committee of the London Monetary and Economic Conference in 1933. And it had been written into the convention adopted by the Conference of American States at Montevideo in the same year. None of these proposals, however, had come into effect. The Ouchy Convention had failed when the United Kingdom refused to surrender her most-favored-nation rights. The Montevideo Convention had been ratified only by Cuba and the United States.

THE NON-MEMBERS ARTICLE

At the meetings of the Preparatory Committee in London and in Geneva, the formulation of provisions governing relations with non-members was impeded by the failure of the Soviet Union to attend. It was apparent that many of her neighbors feared that agreement to any rule involving discrimination between members and non-members might be regarded by Russia as an unfriendly act. At Lon-

don, accordingly, consideration of the problem was postponed. At Geneva, despite the obvious reluctance of certain delegations, it was finally agreed to forward to the Havana conference, without recommendation, three alternative texts. The first of these texts was drafted by Czechoslovakia, the second by the United Kingdom, and the third by the United States.

The Czech draft would have seriously weakened the obligations of membership. Under its provisions, a member having heavy trade with non-members would have been permitted to suspend the application of any provision of the *Charter*, required thereupon to afford other members an opportunity for consultation, and permitted, in the absence of agreement, to withdraw from the Organization. The American draft followed the lines of the proposals originally made by the United States. It would have necessitated the abrogation of agreements that required members to extend to non-members any of the benefits contained in the *Charter*, unless the Organization, in a particular case, should permit such an agreement to stand. It would have forbidden a member, one year after it joined the Organization, to extend to non-members tariff concessions granted to members, unless permission to extend this period should be requested and obtained. The British draft was similar in purpose and effect. It would have prohibited the extension to non-members of tariff concessions or *Charter* benefits, but would have authorized the ITO, in the case of new as well as old agreements with non-members, to grant specific exceptions to this rule.

The article adopted at Havana, while rejecting the position taken by Czechoslovakia, falls far short of the proposals made by the United Kingdom and the United States. It neither forbids the extension to non-members of tariff concessions and *Charter* benefits nor requires the abrogation of agreements under which such extension is guaranteed. In view of the probable non-participation not only of Russia but also of Argentina, few countries were prepared, at the time, to assume such obligations. Under the circumstances, it was clear that the Anglo-American proposals were not negotiable and they were not pressed.

The *Charter* forbids members of the ITO to participate in agreements under which they would accord preferential treatment to

goods imported from non-members, where such treatment would prove injurious to the economic interests of other members. It further forbids members to enter into agreements under which they would obtain advantages for goods exported to non-members, if such agreements preclude the extension of comparable advantages to other members. It permits members to deny equality of treatment to non-members; such a policy "shall not be regarded as inconsistent with the terms or the spirit of the *Charter*." Trade relations between members and non-members are to be kept under review by the Executive Board of the Organization and the adoption of amendments that would strengthen these provisions may be recommended at any time (98).

The provisions are admittedly weak. But the denial of equal treatment to non-members, while permissive rather than mandatory, is given the sanction of international authority. If the United States, together with other major trading nations, were to confine tariff concessions to members of the ITO, there would still be a penalty for non-participation and an inducement for membership. And since membership is open, the adoption of such a policy could scarcely be regarded as an unfriendly act.

RELATIONS WITH RUSSIA

It was not to be expected that the *Charter* would commend itself strongly to the Soviet Union. It is a product of the philosophy of economic liberalism; this philosophy runs counter to Communist ideology. It seeks to open markets and expand trade; the Russians have little interest in foreign markets; they are import-minded; they sell only to pay for the things they buy; they see no advantage in the expansion of trade *per se*. The *Charter* would make for greater interdependence and a closer integration of the world economy; comprehensive economic planning makes for economic independence and national self-sufficiency. Under the *Charter*, trade would be freed increasingly from political controls; in the monolithic state, trade is an instrument of national policy. The *Charter* will operate to restore an environment that is congenial to the preservation of private enterprise; this is not an objective that Communism shares.

It cannot be maintained, however, that the *Charter* was designed

to injure the economic interests of the Soviet Union or that it would operate in any way to do so. Before the war, Russia practiced and preached multilateralism and non-discrimination. She conducted her foreign trade on the basis of multilateral principles, selling in one place and buying in another, converting the currencies obtained from exports into those required to pay for imports. At the meeting of the Commission of Enquiry for European Union in 1931 and again at the Monetary and Economic Conference in 1933, her delegates introduced a Protocol for Economic Non-Aggression, calling for the outlawry of all forms of discrimination. The *Charter* embodies these principles.

The benefits afforded by the *Charter* could be obtained by Russia at little cost. The reduction of barriers to exports, the assurance of equal treatment, the suppression of restrictive business practices, and the protection of national interests in intergovernmental commodity agreements should prove advantageous to the Soviet Union as they are to other states. Her own commitment to reduce tariffs and to abandon import quotas, having no effect on the volume of her trade, could be taken without sacrifice. The *Charter's* rules on state trading might be inconvenient; it could not be said that they are really onerous.

In certain respects, however, the requirements of the *Charter* are bound to be unwelcome. Publicity as to exports, imports, and trade agreements is expected; the Russians are addicted to secrecy; they have published no trade statistics for the last ten years. Freedom of national action is limited; economic planners prefer administrative flexibility. Members of the ITO are granted the right to call into question the policies and practices of other members and the Organization is authorized to settle trade disputes; this procedure would doubtless be regarded by the Russians as an unwarranted intrusion into their affairs. State-trading operations, says the *Charter*, should be conducted solely on the basis of commercial considerations; the impropriety of employing trade to serve political objectives is unlikely to be acknowledged by a Communist state.

Bilateralism and discrimination have been preached and practiced by the Soviet Union since the war. Russia now professes to find in the principle of equal treatment an effort by capitalist powers to enslave

the economies of weaker states. Her own relations with her satellites are governed by a series of agreements that bind them tightly to her economy. Through bilateral trade agreements, they have been forced to turn toward the Soviet Union as the market for most of their exports and the source of most of their imports. Through economic collaboration agreements, establishing joint holding companies in which Russia appropriates half of the ownership and appoints the managements, they have been compelled to surrender control of some of their major industries. If it is the purpose of these agreements to pave the way for the ultimate absorption of neighboring countries into a greater USSR, they are well designed to serve that end. Short of this, they will make it possible for the Soviet Union, through its greater strength, to exploit the surrounding peoples and, by requiring them to discriminate against outsiders, to maintain an exclusive trading bloc.

Neither in Communist ideology nor in the present foreign policy of the Soviet Union is there any ground for hope that Russia will become a member of the ITO. She has participated in few of the specialized agencies of international cooperation. Russia belongs to the World Health Organization, the Universal Postal Union, and the International Telecommunications Union; she has refused to join the United Nations Educational, Scientific, and Cultural Organization, the International Refugee Organization, the International Labor Organization, the Food and Agriculture Organization, the International Civil Aviation Organization, the International Bank for Reconstruction and Development, and the International Monetary Fund. She has declined to participate in the trade negotiations at London, Geneva, or Havana. She has consistently opposed the program of European economic reconstruction upon the success of which the *Charter* must stand or fall. Despite this record, if the Soviet Union were some day to conclude that its political objectives would be served by international economic cooperation, it might still join the ITO. The door has always been kept open. But the possibility that Russia will enter appears to be remote.

How will Russian non-adherence affect the operation of the *Charter*? Before the war, the Soviet Union accounted for one-seventieth of the world's trade. Her postwar share is unlikely to be large; some

trade that was once external is now internal; policy is directed toward economic self-sufficiency. Even though she rejects the *Charter's* rules for state trading, Russia is so small a factor in world markets that competition should suffice to hold her operations in line. It is possible that all of the nations in the Russian trading bloc will refuse to join, thus splitting the world of trade in two. While this would be unfortunate, it would not be fatal to the operation of the ITO. Before the war, the whole area accounted for less than one-thirteenth of the world's trade. Rules of fair dealing can be applied effectively to the other twelve-thirteenths. It is in its political implications, rather than its economic effects, that the Russian position is dangerous.

