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Preliminary Draft Opinion on the Report of the Ad Hoc Committee on Restrictive Business Practices of the Economic and Social Council of the United Nations

Report[1]
Committee on Economic Affairs and Development
Rapporteur: Mr Fritz HELLWIG, Germany

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Preliminary Draft Opinion

1. The Assembly, having taken note of the request of the Committee of Ministers for an Opinion on the Report of the Ad Hoc Committee on Restrictive Business Practices (Document 226; Fifth Report of the Committee of Ministers, Document 237, para. 11), wishes to repeat the view expressed at earlier Sessions that it is very conscious of the need to promote the reduction of barriers to trade, governmental and private, and therefore also to deal adequately with restrictive trade agreements harmfully affecting international trade. It is fully aware of the fact that an international agreement on the control of abuses of economic power would certainly have an important role to play in the strengthening of European co-operation, in the freeing of international trade from far-reaching restrictions, and, consequently, in helping towards the achievement of a higher degree of international division of labour.

2. In the light of this statement the Assembly will confine itself to drawing attention, very briefly, to the fact that barriers to international trade may be classified into four categories : customs duties, quantitative restrictions, foreign exchange control and restrictive trade agreements. A country's foreign trade may conceivably be governed by either a combination of all four of these or, to take an extreme hypothesis, by each of them individually. Efforts so far made in the international held have succeeded in the establishment of institutions or the conclusion of agreements designed to put a check on action undertaken by Governments to protect unduly their respective national economies in the field of customs duties, quantitative restrictions, and currency control. But the Assembly has noted with some concern that nothing has yet been achieved in the wide field of the more hidden barriers to trade, such as restrictive business practices, which represent, sometimes, useful expedients;- but, sometimes also, have harmful effects on international trade. Governments or private enterprises will be tempted to resort to this type of "protection" when it is not possible to adopt other measures owing to the existence of international conventions or other contracts, unless something is done to close, that loop-hole.

3. The Assembly therefore appreciates the initiative taken by ECOSOC and in replying to the Report of the Ad Hoc Committee of ECOSOC it wishes to congratulate the Ad Hoc Committee on its most thorough study and its excellent work.

4. The Assembly, furthermore, welcomes the opportunity of making the following comments on certain questions mentioned in the Report, with particular reference to its own activities. At the request of the Assembly the Committee of Ministers instructed the Secretariat to study tho subject. The result was a Report (SG-/R (5) 15) and a draft convention prepared in consultation with the Interim Commission of the International Trade Organisation. This draft was elaborated on the assumption that the Havana Charter would come into existence, and that therefore something should be achieved going beyond the provisions of the Charter, because at that time, and this was late in 1950, it was felt that tho Charter would not provide sufficient measures to deal with those restrictive business practices harmfully affecting trade relations. As, however, the Charter did not come into being, and the international attitude in this matter changed slightly, the Assembly considers that to-day the draft agreement, as elaborated by the Ad Hoc Committee of ECOSOC, seems to represent those minimum standards of any agreement in this field to which a large number of nations could agree. Moreover, even if the Assembly is itself not qualified to consider the issue from a world-wide point of view, inasmuch as it represents a regional organisation only, it holds that there might be certain advantages if a solution to deal with the problem of restrictive business practices were sought more in the direction of an agreement of a world-wide character. Taking note of the impression prevailing that the time has not yet come to consider the issue on the lines previously regarded as adequate, and that the Report of the Ad Hoc Committee of ECOSOC represents to-day the views of ten countries with varied problems and interests, the Assembly proposes that the closest attention should be given to the draft agreement as elaborated by the Ad Iloc Committee.

5. In view of the fact that restrictive business practices are closely inter-related with governmental trade policy and given the general feeling prevailing with regard to trade and business agreements, as expressed in the Report; realising, too, that a regional agreement might not meet adequately the purpose in mind, the Assembly wonders whether it would be advisable to set up a new body to deal with this matter or whether it would no be easier to see whether the functions of one of the already existing organisations, such as G.A.T.T., could be reviewed, by way of initial approach, perhaps with a provision that, after a certain amount of experience has been acquired, the matter might be reconsidered. No full reconciliation of the views expressed at earlier sessions as well as at the last one has emerged from the Assembly's discussions on this organisational issue. There is only a feeling that it will in any ease be useful and necessary for some initiative to be taken in the near future in order to fill the gaps in the existing instruments (e.g. O.E.E.C., G.A.T.T., I.M.F.). The Assembly would like to add that, in the event of a preference being shown for the idea of reviewing the General Agreement on Tariffs and Trade (G.A.T.T.) in the direction of the Ad Hoc Committee's approach, those articles of agreement dealing with the organisational issue might be re-examined accordingly.

6. Considering, once again, the possibility of making the maximum use of existing institutions the Assembly suggests that there might be some study of the question as to what extent the draft agreement might be revised in respect of the establishment of co-operation or of some working arrangement with organisations such as the E.C.S.C. who are already carrying out useful work in this field, although on a regional and economically limited basis.