Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Opinion 10 (1954)[1]

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

Parliamentary Assembly

1. The Assembly, having taken note of the request of the Committee of Ministers for an Opinion onthe Report of the Ad Hoc Committee on Restrictive Business Practices (Doc. 226 and the FifthReport of the Committee of Ministers, Doc. 237, para. II), wishes to repeat the view expressed atearlier 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 business practicesespecially those in the form of restrictive trade agreements, which have a harmful effect oninternational trade. It is fully aware of the fact that an international agreement on the control ofabuses of economic power would certainly be of importance in strengthening European co-operation,in freeing international trade from far-reaching restrictions, and, consequently, in helping towards theachievement 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, tothe fact that barriers to international trade may be classified in four categories : customs barriers,quantitative restrictions, foreign exchange control and restrictive business practices based on privateor governmental trade agreements. A country's foreign trade may conceivably be governed by either acombination of all four of them or, to take an extreme hypothesis, by each of them individually. - Efforts so far made in the international field have succeeded in the establishment of institutions or theconclusion of agreements designed to put a check on action undertaken by Governments to protectunduly their respective national economics through customs duties, quantitative restrictions, andcurrency control. But the Assembly has noted with some concern that nothing has yet been achievedin the wide field of the more hidden barriers to trade, such as restrictive business practices, whichrepresent, sometimes, useful expedients, but which, sometimes, have harmful effects on internationaltrade. Governments or private enterprises will be tempted to resort to this type of "protection", whenit is not possible to adopt other measures owing to the existence of international conventions or othercontracts, unless something is done to close such a loop-hole.

3. The Assembly therefore appreciates the initiative taken by ECOSOC and, in replying to the Reportof 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 oncertain questions mentioned in the Report, with particular reference to its own activities. At therequest of the Assembly the Committee of Ministers had instructed the Secretariat to study thesubject. The result was a Report (SG/R (5) 15) and a draft convention elaborated in consultation withthe Interim Commission of the International Trade Organisation. This draft was elaborated on theassumption that the Havana Charter would come into existence, and that therefore something wouldbe achieved going beyond the provisions of the Charter, because at that time, and this was late in1950, it was felt that the Charter would not provide adequate measures to deal with those restrictivebusiness practices harmfully affecting trade relations. - As, however, the Charter did not come into being, and the international attitude in this matterunderwent modification, the Assembly considers that today the draft Agreement, as elaborated by theAd Hoc Committee of ECOSOC,

1. This Opinion was adopted by the Assembly at its 27th Sitting, on 23rd September, 1954 (seeDoc. 309, Report of the Committee on Economic Questions).

seems to represent those minimum standards of any agreement inthis field to which a large number of nations could agree. Moreover, even if the Assembly is itself notqualified to consider the issue from a world point of view, inasmuch as it represents a regionalorganisation only, it holds that there might be certain advantages that a solution to deal with theproblem of restrictive business practices should be sought more in the direction of an agreement ofworld-wide character. - Taking note of the impression prevailing that the time has not yet come to consider the issue on thelines previously regarded as adequate, and that the Report of the Ad Hoc Committee of ECOSOCrepresents today the views of ten countries with different interests and faced with different problems,the Assembly proposes that the closest attention should be given to the draft agreement as elaboratedby the Ad Hoc Committee. - Furthermore, regarding the opinion already expressed by various international organisations, at therequest of ECOSOC, and having regard to the trends of international trade, the Assembly notes thatproducers and consumers in many countries are waiting for an international agreement effectivelydealing with restrictive business practices which have a damaging influence on international trade.The Assembly, therefore, holds that an international agreement along the lines envisaged by theECOSOC Ad Hoc Committee will meet all those wishes, as formulated by Governments as well asby private organisations, and hopes that such an agreement will be achieved at an early date.

5. In view of the fact that restrictive business practices are closely interrelated with governmentaltrade policy and in view of the general feeling prevailing with regard to trade and businessagreements as expressed in the Report ; realising, too, that a regional agreement might not meetadequately the purpose in mind, the Assembly thinks it inadvisable to set up a new body to deal withthis matter and believes that it would be easier to see whether the functions of the existingorganisations, such as G. A. T. T., could be reviewed, by way of an initial approach, perhaps with aprovision that, after a certain amount of experience has been acquired, the matter might bereconsidered. No full reconciliation of the views expressed at its earlier as well as at its most recentSession has emerged from the Assembly's discussions on this organisational issue. There is only afeeling that it will in any case be useful and necessary for some initiative to be taken in the near future in order to close the gaps in existing agreements (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 ofreviewing the General Agreement on Tariffs and Trade (G. A. T. T.) in the direction of the Ad HocCommittee's approach, those articles of the draft Agreement dealing with the organisational issuemight be re-examined accordingly.

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