RFD. 46

Board of Governors of the Federal Reserve System
Division of Research and Statistics
International Sections

REVIEW OF FOREIGN DEVELOPMENTS

October 21, 1946

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The State Trading Provisions of the I.T.O. Charter

Alexander Gerschenkron

The Suggested Charter for an International Trade Organization of the United Nations which was published a few weeks ago is an elaboration of last year's Proposals for Expansion of World Trade and Employment. The "Section on State Trading" has been expanded considerably, and is now almost thrice its original size. A comparison of the state trading provisions in the two documents reveals that certain improvements have been made in the program for what is doubtless the thorniest aspect of an international program for reduction of trade barriers. A juxtaposition of the relevant provisions from the Proposals and the Charter follows:

Proposals	Charter
(Section E. Paragraphs 1,2,and 3)	(Section F. Articles 26,27,and 28)
I. Equality of treatment. Members engaging in state trading in any form should accord equality of treatment to all other members. To this end, members should undertake that the foreign purchases and sales of their state-trading enterprises shall be influenced solely by commercial considerations, such as price, quality, marketability, transportation, and terms of purchase or sale.	I. Nondiscriminatory Administration of State-Trading Enterprises. If any Member establishes or maintains a state enterprise, wherever located, which imports, exports, purchases, sells, distributes or produces any product or service, or if any Member grants exclusive or special privileges, formally or in effect, to any enterprise to import, export, purchase, sell, distribute or produce any product or service, the commerce of each of the other Members shall be accorded nondiscriminatory treatment, as compared with the treatment accorded to

Proposals (Contd.)

Charter (Contd.)

the commerce of any country other than that in which the enterprise is located, in respect of the purchase or sale by such enterprise of any product or service. To this end such enterprise shall, in making its external purchases or sales of any product or service, be influenced solely by commercial considerations, such as price, quality, marketability, transportation and terms of purchase or sale. The Member maintaining such state enterprise, or granting exclusive or special privileges to an enterprise, shall, upon the request of any other Member having an interest in the trade in the product or service concerned, or upon the request of the Organization, provide such specific and detailed information as will make possible a determination as to whether the operations of the enterprise are being conducted in accordance with the requirements of this paragraph.

II. State monopolies of individual products. Members maintaining a state monopoly in respect of any product should undertake to negotiate, in the manner contemplated for tariffs, the maximum protective margin between the landed price of the product and the price at which the product (of whatever origin, domestic or foreign) is sold in the home market. Members newly establishing such monopolies should agree not to create protective margins greater than the tariffs which may have been negotiated in regard to those products. Unless the product is subject to rationing, the monopoly should offer for sale such quantities of the product as will be sufficient to satisfy the full domestic demand.

II. Expansion of Trade by State Monopolies of Individual Products. If any Member, other than a Member subject to the provisions of Article 28, establishes, maintains or authorizes, formally or in effect, a complete or substantially complete monopoly of the importation or exportation of any product, such Member shall enter into negotiations with other Members, in the manner provided for in respect of tariffs under Article 18, with regard to (a) in the case of an import monopoly, the maximum margin by which the price for an imported product charged by the monopoly in the home market may exceed the price at which such product is offered for sale to the monopoly by foreign suppliers, or (b) in the case of an export monopoly, the maximum margin by which the price for a product offered for sale by the monopoly to foreign purchasers may exceed the price for such product charged in the home market; after due allowance in either case for internal taxes and for transportation, distribution and other expenses incident to purchase, sale or further processing. Members newly establishing any such monopoly in

Proposals (Contd.)

Charter (Contd.)

respect of any product shall not create a margin as defined above greater than the maximum rate of import duty (or, in the case of an export monopoly, greater than the maximum rate of export duty) which may have been negotiated in regard to that product pursuant to Article 18. With regard to any monopolized product in respect of which a maximum margin has been established pursuant to this Article, the monopoly shall, subject to the provisions of Section C of this Chapter, import and offer for sale (or, in the case of an export monopoly, offer for sale to foreign purchasers) such quantities of the product as will be sufficient to satisfy the full domestic demand for the imported product (or, in the case of an export monopoly, the full foreign demand for the product) at the prices charged under such maximum margins.

III. Complete state monopolies of foreign trade. As the counterpart of tariff reductions and other actions to encourage an expansion of multilateral trade by other members, members having a complete state monopoly of foreign trade should undertake to purchase annually from members, on the non-discriminatory basis referred to in paragraph 1, above, products valued at not less than an aggregate amount to be agreed upon. This global purchase arrangement should be subject to periodic adjustment in consultation with the Organization.

III. Expansion of Trade by Complete State Monopolies of Import Trade. Any Member establishing or maintaining a complete or substantially complete monopoly of its import trade shall promote the expansion of its foreign trade with the other Members in consonance with the purposes of this Charter. To this end such Member shall negotiate with the other Members an arrangement under which, in conjunction with the granting of tariff concessions by such other Members, and in consideration of the other benefits of this Chapter, it shall undertake to import in the aggregate over a period products of the other Members valued at not less than an amount to be agreed upon. This purchase arrangement shall be subject to periodic adjustment.

The foregoing shows that the State Trading Section of the Charter still encompasses the three main ideas of its predecessor:

1. The principle of commercial considerations.
2. The determination by agreement of price differentials permissible for partial state trading monopolies.
3. The global purchasing quota for complete state trading monopolies.

Something more will be said later about the validity of these ideas. Here it is sufficient to note that the revision of the relevant provisions has been limited to an improvement in formulation and a broadening in scope of application of the principles listed. In this field a very considerable progress has been attained.

A brief discussion of these changes in the order given in the Charter follow.

(1) The rather laconic first article of the Proposals which contained no more than a bare statement of principle has been considerably expanded. In particular "state enterprise" has been substituted for "state trading enterprise" and a definition of the concept has been added. The advantage of the new terminology is obvious. The old phrase, for example, did not necessarily include industrial enterprises in which foreign trade transactions were incidental to their main functions.

As far as the definition is concerned, the reference to "substantial measure of control" is perhaps inevitably vague. Moreover, it might be preferable to have the definition extended to cover both control and participation. Participation is easier to prove than control and, in any case, whatever the extent of control, it would seem desirable to forbid participation by state trading countries in discriminating enterprises, either in their own country or abroad. In this connection, it may be noted that the new formulation of the article, including as it does the words "wherever located," makes the principle of nondiscrimination and that of commercial considerations applicable not only to such enterprises as Amtorg, which operates under the laws of the State of New York, but also to such institutions as the joint companies which Russia has introduced in a number of countries in Eastern Europe. Furthermore, a first step has been made toward implementation of the provisions by instituting the obligation of the Member in question to furnish upon request by other Members, or by the Organization, specific and detailed information on the operations of State enterprises.

(2) Article 2 of the Proposals (now Article 27 of the Charter) has been improved by inclusion of partial export monopolies. The original stipulation concerning the price margins permitted to import monopolies has been analogously applied to export monopolies, to provide that a maximum margin between the selling price abroad and the domestic price (after allowance for freight charges, etc.) should be negotiated with other Members in the manner provided elsewhere for negotiations concerning reduction of tariffs. A newly established monopoly may not apply a higher margin than may have been previously agreed upon in the case of tariffs. Reference to Article 18 of the Charter apparently means that the margins are subject to most favored nation treatment.

The importance of the innovations, however, should not be exaggerated, as export monopolies do not normally present much of a problem. Even in the case of the complete foreign trade monopoly in Russia it seems that the threat of monopolistic pressures is much smaller on the export than on the import side. It may be noted finally that the deletion of the word "protective" before "margin" in Article 27 (a) constitutes an improvement, inasmuch as it eliminates the necessity for establishing in individual cases whether a certain margin should be considered as protective or as fiscal.

(3) Changes in the provision referring to the global quota appear to be merely verbal; the language has been made more careful ("complete or substantially complete monopoly" instead of "complete monopoly") and the purpose of the global quota as a method for expanding trade is emphasized. Essentially, however, the article has remained in its original form.

It would be unfair not to admit that the present version constitutes with few exceptions what probably comes close to the best possible formulation of the underlying principles. On the other hand, the wisdom of at least two of the principles is still open to question. Both the new and the old texts of the provisions proceed in such a way as to establish first the general principle of nondiscrimination, and then to clarify the concept by reference to the principle of commercial considerations. Conflict between the two principles is, however, conceivable. The principle of commercial considerations is unambiguous only in so far as it prohibits foreign trade on the basis of political motivations. Beyond that the concept is far from simple. Without further qualification, the principle of commercial considerations undoubtedly permits monopolistic price discrimination. In fact it may be argued that the state trading country would violate the principle of commercial considerations if it should forego opportunities in this direction. In this sense the principle is at variance with the general principle of nondiscrimination. It may be impossible to observe both of them. Moreover, commercial considerations of a state trading country may go substantially beyond those usually peculiar to private corporations. Such a country must be concerned with the totality of its foreign trade. Commercial considerations which it applies to individual transactions, or even to all transactions in individual commodities over the period, must needs be conceived as a part of the whole. A state trading country may pay higher prices for its imports from a certain country because it obtains substantial advantages for its exports to the same country. While non-state trading countries are precluded by the Charter from participation in such deals, it seems that there is nothing in the document to prevent such transactions between two state trading countries, say, Russia and Poland, unless "commercial principles" are to be interpreted in a rather restrictive sense.

It is one thing to state an obligation. It is another to establish the fact that it has been breached, and still another to secure its enforcement. The stipulation concerning supply of information seems to require both too little and too much. It requires too little because information supplied can hardly be conclusive except in flagrant cases.1/ It requires too much because in its present form it does not take into account the need for commercial secrecy. It is clear that, even though acting in completely good faith, state trading countries will be reluctant to divulge their sources of supply, their customers, and terms of transactions, unless guarantees for confidential treatment by the organization are secured. It may be considered a deficiency of the Charter that it fails to stipulate that, even though a request for information may be made by an individual Member, the Organization alone should receive the information and no one except the Organization should have access to it. Incidentally, the question of commercial secrecy well reveals the general difficulties inherent in an institutional framework designed to eliminate discrimination in economic relations with state trading countries. If the state trading country is to disclose information on its individual transactions, it finds itself placed on a less favorable basis than an enterprise in a free or "mixed" economy. On the other hand, if no such information is to be made available, the principle of nondiscrimination is stultified. Obviously a compromise is necessary, and a guarantee of secrecy to the state trading country might constitute such a compromise.

In general, it would seem that more would be accomplished if, in place of the formulation of a very general and ambiguous principle, a number of modes of undesirable behavior by the state trading country were to be concretely stated and restraints from engaging in such behavior imposed. The very nature of a complete monopoly of foreign trade legislates against generalities and invites as concrete a treatment as possible. In regard to the treatment of partial monopolies, there is no reason to suppose that the arrangements envisaged would not work properly. The magnitude of the problems involved in dealing with such monopolies is, of course, incomparably smaller.

The third principle--the global purchasing arrangements--is probably the weakest portion of the state trading provision. The underlying idea, as stated clearly in the Proposals and somewhat less clearly in the Charter, is to obtain a quid-pro-quo from the state trading country for the reduction of tariffs and other barriers to trade by non-state trading countries.

It may be assumed that the pertinent provisions were drafted mainly with a view to Russia. It has been remarked in support of the idea that the Russians themselves proposed a similar arrangement at

1/ Prices are established in the process of bargaining. The initial price to a state trading country offered by a firm in country A may be higher than the price agreed upon after negotiations in country B, but lower than the price which the firm in country A would be willing to concede ultimately. Yet the state trading country is able in this case to furnish documentary evidence that it had bought in the cheaper market.

the Monetary and Economic Conference in London in 1933. At that time Litvinov suggested that the Soviet Union could conceive of conditions which might induce her to place some 200 million dollars worth of additional orders abroad. It should be noted, however, that Litvinov did not propose a global quota for the whole of Russia's trade. Besides, the Russian attitudes have changed. It may be recalled that in 1933 the Russians were glowingly in favor of the Most-Favored-Nation principle, which they denounced, at least for the Balkans, only a few weeks ago in Paris.

More important than conjectures as to Russian acceptance of the suggested procedure is the question as to how the size of a global purchasing arrangement would be fixed, and what could be achieved thereby.

Neither the Proposals nor the Charter has anything to say about the criteria for determination of the quota. Presumably, this is to be left to bargaining between Russia on the one hand and the rest of the world on the other. What will be Russia's prospective bargaining position? The rest of the world will attempt to make tariff and other concessions dependent on the size of the global quota. The success of this strategy will presuppose that Russia will not conclude a number of important bilateral agreements concerning reduction of trade barriers. There is apparently nothing in the Charter to prevent Russia from entering into bilateral minimum purchasing agreements of the type which, for instance, were in effect between this country and Russia prior to the war. If Russia should succeed in this course, her bargaining position with regard to the global purchasing quota will be enhanced.

At any rate, it is easy to imagine that Russia would enter the negotiations with an unduly low offer and, in the course of the negotiations, would maintain that uncertainties and instabilities in the uncontrolled economies might result in her inability to pay for the purchases concerned; she would insist on special guarantees for the financing of her purchases, and finally agree to raise the global import quota to such levels as would be lower, by a safe margin, than the values she had already planned to import.

The main purpose of the global quota stipulation is to lead Russia away from the path of autarky. It is difficult to suppress the feeling that there is a certain lack of commensurability between the purpose and the instrument. Autarky in Russia is regarded by the Russians to a large extent as a question of security. A subsidiary consideration may be fear of economic instability of world markets and its repercussions in Russia if a large volume of foreign trade is maintained. Improvement in international political relations, and stability and expansion of the world economy may diminish Russia's interest in autarky and induce her to carry out such structural changes in her economy as are required for an increase of her foreign trade. It seems, however, unduly optimistic to hope that questions of such magnitude can be settled by juridical stipulations.

Even though the principle of commercial policy is open to question, it seems to constitute at least a promising beginning. The test of its practical value will lie in the ability of the organs of the International Trade Organization to supervise, to mediate, and to persuade. It will be much more difficult to try to influence the total volume of Russia's foreign trade. At the same time it is clear that the significance of efforts to eliminate or minimize discrimination in economic relations with Russia depends largely on the volume of Russia's foreign trade. If this trade should remain small, even a very general obligation to observe commercial principles may be sufficient to prevent discrimination in those cases that matter. If Russia's foreign trade should grow considerably in the years to come, the need for a more efficacious apparatus may arise. At present, however, Russia's attitude toward the International Trade Organization is just as uncertain as is her attitude toward the Bretton Woods organizations, even though, on a rational calculus, the burden imposed on Russia by the Charter seems to be so light as to give little justification for her abstention.

New Anti-Inflationary Measures Adopted in Colombia

David L. Grove

Following the inaugural address of President Ospina-Perez of Colombia on August 7, in which he stressed the immediate need for combating inflation, the Colombian Government has taken a series of measures aimed at sharply reducing Government expenditures and bank credit. Certain other complementary actions, such as reorganization of the price control system, Government distribution of foodstuffs, and increased taxation, are also being taken.

The preoccupation of the President with the problem of inflation is well-founded. The money supply in Colombia rose from 190 million pesos[1/] at the end of December 1941 to 612 million at the end of June 1946, an increase of 222 per cent of which two-thirds had its origin in the extremely favorable balance of payments which Colombia has enjoyed since 1941, while only the remaining one-third had its origin in domestic credit expansion. The increase in the money supply during the first half of the current year, however, which amounted to 63 million pesos, has been almost entirely the result of bank credit expansion, and this fact probably explains in part the renewed interest of the Colombians in measures of credit control. The index of the cost of living for a worker's family in Bogota, the capital of Colombia, has risen from 113 (with February 1937 = 100) at the end of 1941 to 210 at the end of August 1946, with 20 points of the rise taking place between December of last year and August of this year. Further large increases in the money supply and in the cost of living are feared as a result of the recent increase in the United States price of coffee, which represented nearly 75 per cent of Colombia's total exports last year.

1/ A Colombian peso is worth approximately 57 United States cents.

The first of the new anti-inflationary measures was a Presidential Decree issued on August 19 instructing the Treasury not to authorize new national, departmental or municipal issues, unless these should be strictly necessary for the execution of works of public interest or for the discharge of obligations contracted prior to the date of this decree. Even in such latter cases, however, authorizations may be forbidden if the Government believes they will have a disturbing effect on the circulating medium. If this measure is wisely enforced, the Government will have made an effective contribution to the campaign to combat inflation.

In conjunction with the Presidential decree, the Superintendent of Banks issued a Regulation aimed at sharply restricting bank credit expansion. The provisions of this Regulation are as follows:

(1) Total loans and discounts granted by any commercial bank may not exceed by more than 5 per cent the amount outstanding on the date of this Regulation.

(2) Exception is made for commercial banks whose total loans amount to less than twice their paid-in capital and surplus; such banks may increase their loans up to this amount. The purpose of the exception apparently is to avoid "freezing" the position of new banks or growing banks which have substantially increased their capital. One of the chief objections to a somewhat similar system of "portfolio ceilings" adopted in Mexico has been that it fails to make allowance for such cases.

If the lending commitments of a bank exceed the levels indicated in the two preceding articles, the bank shall adjust its position before the first of October.

(3) Banks may not grant loans or credit facilities which promote cornering or controlling the market for articles of prime necessity, for building materials or other implements necessary for the economic development of the country, regardless of the collateral securing the loan. Loans already granted, either directly or through the discount of warehouse receipts, which do not conform with the provisions of this article may not be extended except with the approval of the Superintendent of Banks.

These prohibitions do not affect the normal financing of imports, provided that the articles are to be for public sale, at the officially fixed prices, or, where prices are not controlled, at current market prices.

(4) Recourse to central bank credit is restricted by a provision that any obligations in favor of banks which may be construed as renewals or extensions for more than one year shall not be eligible for discount at the central bank unless they are destined for sound economic purposes such as those connected with agriculture, livestock, industry, building or works of public interest, whether urban or rural. Loans to cooperatives or loans serving a social interest, such as the acquisition of homes for the middle and working classes, will also be eligible for discount.

(5) Commercial banks may, with the approval of the Minister of Finance, purchase or discount bonds or other obligations of the Caja de Credito Agrario, Industrial y Minero, the Instituto Nacional de Abastecimientos, the Instituto de Credito Territorial, and the Instituto de Fomento Industrial, or may make loans to these entities without such operations being subject to the loan ceilings established in the first two articles of the Regulation.

(6) The Superintendent will not consider as loans for economic purposes those which are to be used to finance purchases of real estate or securities, with the exception of securities referred to in the preceding two paragraphs.

(7) The Superintendent of Banks, with the approval of the Minister of Finance, is to modify the basic credit limits set forth in the first two articles of the Regulation whenever undesirable contractions in the money supply occur.

(8) One of the most important provisions of the Regulation is one which provides that banks shall deny all credit applications of individuals or enterprises which are henceforth punished for violations of price control. The Secretary of the Price Control Board announced that the Superintendent of Banks would be notified immediately of all violations of price control, in order that appropriate action may be taken to cancel all lines of credit which the violator may have with the banks.

The apparent anti-inflationary potency of the Regulation issued by the Superintendent of Banks has been substantially weakened by the corresponding instructions which he sent to the banks. These instructions stated that the Regulation did not have as its objective the restriction of credit operations which supply funds for economically useful purposes, such as those referred to in Article 4 of the Regulation. The purpose is to limit those operations which depart from such ends and to prohibit peremptorily the granting of loans or credit facilities of any sort which may promote cornering or controlling the market for articles of prime necessity; the classification of articles in this category is to be determined by the Ministry of Economy.

The Superintendent emphasized that if disturbances of economically or socially desirable activities should occur (in spite of the discretion which he would employ in the application of these measures), then he would certainly revise the restrictions every three months and would permit a gradual and prudent increase in the credit ceilings established in the first two articles of the Regulation. He stated furthermore that all new loans destined exclusively for the promotion of agriculture and livestock or for the financing of harvests would not be subject to the ceiling requirements. Certain credit commitments, pertaining to the importation of merchandise or articles given a preferential classification by the Office of Control of Exchange, Imports and Exports, were also exempted.

As a measure of enforcement of this system of selective credit control, the banks must, except in the case of loans exempted from the restrictions, obtain from all credit applicants a declaration of the use to which they intend to put the funds which they may receive from the bank. Loans of less than 3,000 pesos (about $1,700), however, are not subject to this requirement.

From what has been said above it is clear that the purpose of these new measures is not primarily to curtail the total volume of bank credit but rather to effect a change in its composition. Ceilings are to be placed only on those loans which are not regarded as economically or socially desirable, but the line will be very hard to draw in practice. Any anti-inflationary effect of the new measures will probably stem from the psychological influence of the closer scrutiny now required of the banks over their borrowers, and of the Superintendent over the banks.

Although the practical results of these measures of credit control may be viewed with scepticism, the Colombian Government is also taking other anti-inflationary actions of a complementary nature which may achieve a greater degree of success. Exports of all foodstuffs and textiles have been suspended temporarily. The system of price control is being reorganized. The Government food purchasing and distributing company, known as INA, will have an increasingly important role in the campaign to reduce living costs. This company will purchase produce directly from the farmers, transport it to market in its own trucks, and distribute the food through cooperatives.

Another contemplated anti-inflationary measure is the project of the Minister of Finance to increase taxes. His proposals have been presented to the Colombian Congress and provide for the establishment of a tax on stock dividends, and for a sliding-scale tax on windfall profits or capital gains derived from the sale of property. The Minister's program also includes an import tariff increase on some 180 commodities, the purpose of which is not to combat inflation, of course, but to provide protection for Colombia's growing industries.

In conclusion, it may be said that the present administration in Colombia is acutely aware of the problem of inflation and is endeavoring to find ways to combat it. The proposed cessation of Government borrowing should prove of some value to the anti-inflationary program, although Government borrowing has not played a major role in the current inflationary situation. It may be very difficult for the new measures of bank credit control to achieve much success in view of the number of exemptions that are to be made in the case of productive loans. The measures pertaining to price control, Government distribution of foodstuffs, and the new tax projects should also help considerably. Whether all these measures in their entirety will be able to neutralize the effects of the great increase in coffee prices is very doubtful, but at least the Colombians are making a rather serious attempt to see to it that any inflation caused by their favorable balance of payments will not be intensified by expansion of purely domestic origin.

Swedish-Russian Trade Agreement — Robert W. Bean

On October 7 an agreement was signed by Sweden and the U.S.S.R. providing for an extension of credit to Russia in the amount of one billion kronor ($278 million) over a period of five years, to be used for the purchase of Swedish products. Another agreement signed at the same time provides for the additional exchange of at least 100 million kronor in goods annually between the two countries, and according to press reports it is expected in Sweden that this exchange may reach as much as 200 million annually. If the agreements are ratified by the Swedish Parliament, and if Russia succeeds in placing orders with Swedish industrialists to the full amount provided for, Swedish exports to Russia during the next five years may well average about 350 million kronor annually, increasing from perhaps less than 200 million during 1947 to as much as 500 million in 1951. This would place Russia among Sweden's leading trade partners. Sweden's foreign trade, however, will remain widely distributed, with not more than 10 to 15 per cent of Swedish exports going to the Soviet Union. Poland and Czechoslovakia together may receive more than 5 per cent of total Swedish exports, and if one includes Finland, the entire Russian "sphere" in Europe is likely to absorb 20 per cent of Sweden's exports during the next five years.

Table I
Shifts in the Pattern of Sweden's Foreign Trade
1936-38 and January-June 1946

Country of origin or consumption	Exports to selected countries as a per cent of total Swedish exports		Imports from selected countries as a per cent of total Swedish imports	
	Annual average 1936-38	Jan.-June 1946	Annual average 1936-38	Jan.-June 1946
U.S.S.R.	.6	.8	.5	.6
Poland	2.1	3.1	3.6	3.2
Czechoslovakia	1.7	2.4	2.3	1.4
Finland	4.4	3.3	1.1	1.5
Great Britain	23.1	13.2	13.0	9.0
Germany	16.6	1.1	21.4	.9
Norway	6.7	7.8	3.5	3.2
Denmark	4.6	6.4	3.3	3.5
Belgium-Luxemburg	3.4	6.8	4.3	4.5
Netherlands	2.3	7.1	2.9	2.0
France	4.2	5.7	3.1	2.7
Switzerland	.8	4.8	1.3	7.8
United States	10.7	7.8	14.4	26.1
Argentina	4.6	5.1	2.7	7.7
Rest of world	14.2	24.6	22.6	25.9
	100.0	100.0	100.0	100.0

Source: Computed from official trade statistics. January-June 1946 based on preliminary figures. Statistisk Aarsbok for Sverige, 1937, 1938, and 1939. Kommersiella Meddelanden, August 1946.

As shown in Table I, during the period 1936-38, the U.S.S.R. together with the countries now regarded as being within her orbit received about 9 per cent of Sweden's exports. During the same period, Germany alone received 17 per cent of Sweden's exports. In a sense, then, Russia and her neighbors are simply helping to fill the gap in Sweden's foreign markets left by the decline in German trade, the relative share of the rest of the world being undiminished. It is obvious, however, that Sweden's capacity to export is limited, and that in absolute terms the delivery to Russia of exports valued at an average of 350 million kronor annually will mean that some orders placed by other countries will not be filled. This is apparent from the table below, showing the value of Swedish exports to various countries during the first half of 1946.

Table II
The Value of Sweden's Foreign Trade
with Selected Countries 1/
January-June 1946
(In millions of kronor)

Country of origin or consumption	Exports from Sweden	Imports to Sweden
U.S.S.R.	9.2	9.2
Poland	36.7	47.0
Czechoslovakia	28.6	20.2
Finland	38.5	21.7
Great Britain	154.6	133.5
Germany	13.2	12.6
Norway	91.3	47.1
Denmark	74.6	51.4
Belgium-Luxemburg	79.6	66.6
Netherlands	82.6	29.3
France	66.4	39.8
Switzerland	55.8	115.3
United States	91.6	387.1
Argentina	60.0	114.6
Rest of world	286.7	386.6
Total	1,169.4	1,482.0

1/ Preliminary figures. Source: Kommersiella Meddelanden, Stockholm, August 1946.

The rapid expansion of exports to Russia from the rate of about 20 million kronor per year to, say, 200 million per year in 1947-48 would mean a diminution of shipments to other countries. This is particularly evident when one examines the list of commodities which Russia hopes to obtain. Out of total Swedish exports valued at 1,169 million kronor during the first half of 1946, about 360 million represented base metals and metal products (including bearings), machinery, electrical equipment, and transportation equipment. It is within these groups of commodities that Russia would like to make most of her purchases. As a buyer in these fields, Russia will compete principally with the countries of Western Europe. Our own imports from Sweden, and those of Great Britain, are chiefly from another category, woodpulp and paper, which has no important place on the list of commodities desired by Russia.

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German Assets in Austria

J. Herbert Furth

After the annexation of Austria, Germany acquired control of virtually all important Austrian banks and other credit institutions, transportation and public utility systems, mining enterprises, steel mills, and metallurgical, chemical, textile, and paper industries. This acquisition was facilitated by two facts: The Austrian Government had been the majority shareholder of the large Austrian banks, which in turn had gained control of the leading industrial corporations by taking over shares in lieu of defaulted credits during the depression of 1929-35. Furthermore, a relatively large portion of those firms that had been independent of either bank or government influence had been "tainted" by the participation of Jewish capital, which was speedily eliminated and supplanted by Nazi capital, assisted by the big German banks. The restoration of Austrian ownership of these enterprises is essential for the creation of an independent Austria. In consequence, the problem of German assets in Austria has become one of the main points of disagreement between the Western Allies, which want to bolster Austria's independence, and the Soviet Union, which wants to incorporate Austria into its economic bloc.

The Western Allies take the position that all transfers of non-German property to German ownership that occurred after the annexation, are invalid. They base their contention upon the Declaration of the United Nations of January 5, 1943 (Appendix A), and the Moscow Declaration on Austria (Appendix B). The Soviet Union concedes that transfers made under duress or without full compensation may be voided, but maintains that all other transfers are valid. Under the terms of the so-called Potsdam Agreements (Appendix C), the Soviet Union is entitled to reparations from "appropriate German external assets," which include "German foreign assets in . . . Eastern Austria." The Soviet Union has therefore claimed possession of all German property in Eastern Austria (Appendix D), excepting property acquired by Germany or German nationals without compensation and, to some degree, property acquired under duress or for insufficient compensation (Appendix E).

The position of the Soviet Union finds some support in the drafts of peace treaties with the Axis satellites. These treaties (see Appendix F) stipulate that the ex-enemies "accept the principles of the United Nations Declaration of January 5, 1943." They provide, however, only for the return of property "removed by force or duress by any of the Axis powers from the territory of any of the United Nations irrespective of any subsequent transactions by which the present holder of any such property may have secured possession," and invalidate transfers of property of United Nations nationals only if they result "from force or duress exerted by Axis governments or their agencies during the war." Nationals of the United Nations (and a fortiori Austrian nationals), therefore, cannot claim the return of property voluntarily transferred to German purchasers.

On the other hand, the Soviet Union has not conformed to the principles of the Declaration, as interpreted in the drafts of the peace treaties, in its treatment of property transfers made under duress. By analogy with the drafts, such transfers would have to be treated as unconditionally void, and the Soviet Union could not claim the right to acquire property thus transferred by paying to the former owner the difference between the "real" value and the value received. This is important because the Soviet Union, under the title of "occupation costs," has accumulated an amount of Austrian currency sufficient to pay for any industrial enterprise which it may want to "purchase."1/ Moreover, by analogy with the drafts, the Soviet Union could not claim the right to decide unilaterally whether or not a transfer was made under duress but would have to shoulder the burden of proof that any transfer to German ownership was not made under duress, and disputes would have to be decided by an impartial authority.

The Declaration on Austria does not provide a clear answer to the question under consideration. Austria has been promised freedom, independence, and political and economic security, but it has also been threatened with responsibility for participation in the war. Despite the inconsistency of putting the responsibility for the events of 1939-45 upon a state the existence of which was forcibly suspended between 1938 and 1945, any financial sanction could be justified under that title.

The position of the Western Allies, however, is supported by the wording of the so-called Potsdam Declaration. This declaration does not expressly transfer all German assets located in the territories of certain Axis satellites and in Eastern Austria to the Soviet Union. It only states that the Western Allies renounce their claims to such assets and, more significantly, limits reparations to "appropriate" German external assets. The term "appropriate" may simply mean assets located in the territories just mentioned, but it may also be interpreted, by analogy with the provision relating to the removal of assets from Germany proper, to exclude assets the local control of which is necessary for the peace economy of the country in question. It is true that the drafts of the peace treaties with the Axis satellites do not make such a distinction, but this omission may be due to the fact that nowhere except in Austria do German assets play a vital role in the local economy. Moreover, the drafts of the peace treaties declare the Soviet Union to be entitled to all German assets in the territories of the Axis satellites "transferred to the Soviet Union by the Control Council for Germany." This provision may be interpreted to mean that the Soviet Union is entitled only to those assets that have been expressly transferred by the Control Council. The Control Council thus could refuse to transfer those German assets in Eastern Austria the local control of which is necessary for Austria's "economic security," or which became German only as the result of the "null and void" annexation of Austria. The Council could also develop a reasonable interpretation of the questions whether or not land, natural resources, and

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1/ See Review of Foreign Developments, July 15, 1946, p. 4.

intangibles are included in "German assets;" whether "Eastern Austria" means only the Russian zone of occupation or also those parts of Vienna that are occupied by the Western Allies; and whether the site of corporate property is judged according to the location of the physical assets or the headquarters of the company. In the latter case, the Soviet Union could claim virtually all German assets in the whole of Austria since virtually all major Austrian companies have their headquarters in Vienna.

In the case of Soviet opposition to the Western interpretation, the Western Allies, by making use of their veto power over Control Council decisions, could delay approval of the transfer of the remainder until such time as the Soviet Union is willing to drop its claim to the exempted assets. As long as the Soviet Union, however, is determined to enforce unilaterally its own interpretation in the territories occupied by its armies, there is little hope of a final solution of the problem.

Appendix A.

Declaration regarding forced transfers of property in enemy-controlled territory (released January 5, 1943; Department of State Bulletin, January 9, 1943, p. 21):

The . . . United States of America, . . . the Union of Soviet Socialist Republics . . . hereby issue a formal warning to all concerned . . . that they intend to do their utmost to defeat the methods of dispossession practiced by the governments with which they are at war against the countries and peoples who have been so wantonly assaulted and despoiled.

Accordingly the governments making this declaration . . . reserve all their rights to declare invalid any transfers of . . . property, rights, and interests of any description whatsoever which are, or have been, situated in territories which have come under the occupation or control . . . of the governments with which they are at war or which belong, or have belonged, to persons, including juridical persons, resident in such territories. This warning applies whether such transfers . . . have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected.

The governments making this declaration . . . solemnly record their solidarity in this matter.

Appendix B

Declaration on Austria (released November 1, 1943; Department of State Bulletin, November 6, 1943, p. 310):

The Governments of . . . the Soviet Union and the United States of America are agreed that Austria, the first free country to fall a victim to Hitlerite aggression, shall be liberated from German domination.

They regard the annexation imposed upon Austria by Germany on March 15, 1938, as null and void. They consider themselves as in no way bound by any changes effected in Austria since that date. They declare that they wish to see re-established a free and independent Austria, and thereby to open the way for the Austrian people themselves, as well as those neighboring states which will be faced with similar problems, to find that political and economic security which is the only basis for lasting peace.

Austria is reminded, however, that she has a responsibility which she cannot evade for participation in the war on the side of Hitlerite Germany, and that in the final settlement account will inevitably be taken of her own contribution to her liberation.

Appendix C

Tripartite Conference at Berlin, IV. Reparations from Germany (released August 2, 1945; Department of State Bulletin, August 5, 1945, p. 157):

In accordance with the Crimea decision . . . the following agreement on reparations was reached:

1. Reparation claims of the U.S.S.R. shall be met by removals from the zone of Germany occupied by the U.S.S.R. and from appropriate German external assets.

. . .

6. . . . The determination of the amount and character of the industrial capital equipment unnecessary for the German peace economy and therefore available for reparations shall be made by the control council . . .

. . .

The Governments of the United Kingdom and the United States of America renounce their claims in respect of reparations to shares of German enterprises which are located in the eastern zone of occupation in Germany, as well as to German foreign assets in . . . Eastern Austria.

Appendix D

Order of the Supreme Commander of Soviet occupation troops in Austria (Unclassified cable, C. G. USFA Vienna, July 6, 1946):

In accordance with the decision of the Berlin Conference of the Three Powers concerning the transfer of German property in eastern Austria to the Soviet Union as partial reparation for the damage inflicted by Germany upon the USSR, I command:

1. All Austrian authorities and the entire population of the Soviet zone of occupation are to be informed that German property located in eastern Austria which belonged to the German Reich, to German firms, societies, organizations, and other natural or legal persons have passed into the possession of the Union of the Socialist Soviet Republics as German reparations.

. . .

4. The stocks, shares and mine shares of any value whatsoever which belonged to the German owners and are not delivered in accordance with this order, are to be considered null and void.

. . .

5. All contracts, business transactions, and other legal negotiations which are injurious to the property rights of the Soviet Union concerning these German properties are declared null and void.

. . .

Appendix E

Translation of letter dated July 16, 1946, from Major General Tsoniev to Chancellor Figl:

. . .

1. All German rights and assets in Eastern Austria are considered by the Soviet Command to be transferred to the ownership of the Soviet Union if they meet any one of the following conditions:

(a) German property before March 15, 1938.

(b) Transferred to Germany from her Allies and satellites since March 15, 1938, by any means whatsoever.

(c) Transferred to Germany and German citizens and associations since March 15, 1938, by purchase from firms or citizens of the United Nations, neutral countries, or Austria. If in the latter cases an element of duress or insufficient compensation is established, the Soviet Command will either return the assets to their former owner on condition that reparation be made to the Soviet Command for all sums received by the former owner from the Germans; or the Soviet Command may decide to retain the rights of ownership, in which case the difference between the real value and the sum actually received by the former owner will be paid by the Soviet Command. Settlements will be made in any case in currency or goods at prices corresponding to the real value received by the owner at the time of the property transfer.

(d) All enterprises established and developed after March 15, 1938, on the basis of German investments, and all rights acquired after that date by German firms or private persons to exploit the country's natural resources.

(e) Trade marks and patents of German legal and natural persons.

(f) Deposits and securities of all kind belonging to German legal and natural persons in Austrian bank and credit institutions.

(g) German public property and the property of Reich organizations and German private citizens in so far as it has not been taken by duress from its former owners.

2. Property which belonged to the Austrian state or to Austrian citizens before March 15, 1938, and later passed into the hands of the German state or German citizens without any compensation whatsoever, by means of credit or other organizations, must be returned to the former owners. In cases of a voluntary transfer and an increase in capital resulting from German investments, the return to the former owners is excluded.

Appendix F

Draft of Peace Treaty with Hungary (New York Times, July 31, 1946, p. 15):

Article XXII

1. Hungary accepts the principles of the United Nations Declaration of January 5, 1943, and will return property from United Nations territories.

2. The obligation to make restitution applies to all identifiable property at present in Hungary which was removed by force or duress by any of the Axis powers from the territory of any of the United Nations irrespective of any subsequent transactions by which the present holder of any such property has secured possession.

. . .

7. The burden of identifying the property and of proving ownership shall rest upon the claimant Government, and the burden of proving that the property was not removed by force or duress shall rest on the Hungarian Government.

. . .

Article XXIII

. . .

3. The Hungarian Government undertakes to invalidate transfers involving property rights and interests of any description belonging to United Nations nationals, where such transfers resulted from force or duress exerted by Axis Governments or their agencies during the war.

. . .

Article XXIV

Hungary recognizes that the Soviet Union is entitled to all German assets in Hungary transferred to the Soviet Union by the Control Council for Germany and undertakes to take all necessary measures for facilitating such transfers.