EDITORIAL COMMENT

SECRETARY HULL'S TRADE AGREEMENTS

The recently concluded trade agreements with Cuba, Brazil, and Belgium are of unusual interest from several points of view. In the first place, they are the first fruits of the Administration's policy to lower trade barriers in order to revive international commerce and thereby materially to assist economic recovery. They indicate that Secretary of State Hull has succeeded in his efforts to negotiate agreements based upon the unconditional most-favored-nation clause. His contention is that this will be in line with the American policy of the open door in trade relations and will aid us in resuming our triangular trade without which we may be subjected to the strangulation of the bilateral balancing system, which seeks to equalize the value of exports and imports between each pair of countries. It is argued that this latter system tends to national isolation and would in last analysis deprive the world of the benefits of industrial improvements made in the different countries, to say nothing of the friction and international irritation by which such a readjustment would be accompanied. As Assistant Secretary of State Sayre has said:

> In the dynamic world in which we live, a policy of progressive economic nationalism, if unchecked, will result in independent price structures in all countries. Maintenance of that independence in prices will, in turn, require insulation; that insulation will ultimately become isolation. Under a system of isolated national price structures the great gains in productive technique in each country would be lost to the rest of the world, with a consequent lowered standard of living for all.[1]

The Belgian agreement, which constitutes a notable step in the direction of the policy of leveling international trade barriers, evinces, nevertheless, a praiseworthy caution in regard to avoiding any serious and unexpected injury to our national economy. Although it runs for an indefinite period, it may be terminated on six months' notice, and it provides:

> (1) In the event that a wide variation occurs in the rate of exchange between the currencies of the United States of America and the Belgo-Luxemburg Economic Union, the Government of either country, if it considers the variation so substantial as to prejudice the industries or commerce of the country, shall be free to propose negotiations for the modification of this Agreement or to terminate it on thirty days' written notice.
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> (2) The Government of each country reserves the right to withdraw the concession granted on any article under this Agreement, or to impose

[1] Address before the American Association for the Advancement of Science, Pittsburgh, Dec. 31, 1934.

> quantitative restrictions on any such article if at any time there should be evidence that, as a result of the extension of such concession to third countries, such countries will obtain the major benefit of such concession and in consequence thereof an unduly large increase in importations of such article will take place: Provided that before the Government of either country shall avail itself of the foregoing reservation, it shall give notice in writing to the other Government of its intention to do so, and shall afford such other Government an opportunity within thirty days after receipt of such notice to consult with it in respect of the proposed action; and if an agreement with respect thereto is not reached within thirty days following receipt of the aforesaid notice, the Government which proposes to take such action shall be free to do so at any time thereafter, and the other Government shall be free within fifteen days after such action is taken to terminate this Agreement in its entirety on thirty days' written notice.

These limiting provisions do not prevent the agreement from constituting a real achievement in the face of almost unsurmountable difficulties. It should help to revive trade not only between the signatories but, to some extent also, with other countries. Secretary Hull has announced that agreements are being negotiated or contemplated with other states. The announced list includes the following European countries: Sweden, Spain, Switzerland, The Netherlands, Finland, and Italy. On this continent an important negotiation is that announced on January 21, with Canada.

In the second place, these trade agreements are of especial interest because they were concluded under the very broad Congressional delegation of authority to the President without requirement of the concurrence or consent of the legislative branch of the Government. The enabling Act [2] bases this delegation of authority upon the existence of an emergency and the obvious need of reviving our foreign trade, and by its terms has been careful to limit the duration of the grant to three years. The agreements themselves may not run for a longer period, although they may be continued by tacit consent, subject to denunciation upon not more than six months' notice. Congress has further limited its authorization of the executive action by providing that the President may, in order to facilitate the negotiation of these agreements, vary the "duties and other import restrictions" by not more than 50 per cent. up or down the scale, and no article may be transferred from the dutiable to the free list or *vice versa.* Although such modifications of existing tariff rates are made to apply equally to all foreign countries, the President may suspend the benefits of such modifications to any country discriminating against American commerce. This gives him an effective means to induce other countries to enter the field of operation of the unconditional most-favored-nation clause.

The delegation of such broad powers, even when so limited, indicates a growing realization of the fact that those who negotiate our trade agree-

[2] Act approved June 12, 1934. This Act was in the form of an amendment to the Tariff Act of 1930.

ments must be placed in the same advantageous position as are the negotiators in foreign states. They must be able to act with dispatch and to make commitments which do not run the risk of being made the football of internal politics perhaps with the result that the agreement may fail of ratification.

The enabling Act contains another limitation which denies to the President in the negotiation of these agreements any "authority to cancel or reduce, in any manner, any of the indebtedness of any foreign country to the United States." The wisdom of this limitation may be questioned. Why should we nurse a grievance which may be perpetuated indefinitely, when we might find a favorable opportunity to bury it in the provisions of a trade agreement to the benefit of more cordial relations between the States concerned and possibly with an additional advantage derived from some compensating concessions in return for such cancellation? We are not likely to gain by insisting upon our strict right. For pure folly, it would be hard to equal the conduct of these debt negotiations by all parties concerned.

In the third and last place, these trade agreements are important because of the extremely interesting and effective machinery evolved for the purpose of their negotiation. It was first necessary for the Government to decide what general policies it should adopt and what methods it should employ to carry them out. This high function was entrusted to an Executive Committee on Commercial Policy, with Assistant Secretary of State Francis B. Sayre as chairman, and one or more representatives from the departments or agencies particularly concerned in the negotiation of foreign trade agreements.[3]

The organization responsible for the trade agreements program centers around the Interdepartmental Committee on Foreign Trade Agreements, of which Mr. Henry F. Grady is chairman. On this committee are representatives of the departments and governmental agencies specially interested in the negotiations, and through their representation the information and facilities of all the governmental agencies interested in tariffs and other measures affecting our foreign trade are utilized and coördinated. The names of the members of this committee, except that of the chairman, are not made public, so that they may be free from the importunities of individ-

[3] This committee was first constituted by a Presidential letter dated Nov. 11, 1933, and later by Executive Order No. 6656, March 27, 1934. As a former legal adviser of the Siamese Government, Mr. Sayre has had wide experience in treaty negotiation. The other members of the Executive Committee from the State Department are Economic Adviser Herbert Feis, and Mr. Henry F. Grady, Chief of the Trade Agreement Section. From the Treasury, George C. Haas; from Commerce, Assistant Secretary John Dickinson, Mr. Claudius F. Murchison, Director of the Bureau of Foreign and Domestic Commerce; from Agriculture, Under Secretary Rexford G. Tugwell, Mr. Leslie A. Wheeler, in charge of the Bureau of Foreign Agriculture Service; Agriculture Adjustment Administration, Mr. L. R. Edminster; N.R.A., Mr. H. B. Gresham; Tariff Commission, Chairman Robert L. O'Brien, Mr. Oscar B. Ryder; Special Advisor to the President on Foreign Trade, Mr. George N. Peek.

uals interested in the negotiations and be able the better to serve the general public interest. The Interdepartmental Committee appoints subcommittees or Country Committees for each country.

Directly under the supervision of Assistant Secretary of State Sayre there has been created in the Department of State a Trade Agreement Section, of which Mr. Henry F. Grady, chairman of the Interdepartmental Committee of Foreign Trade Agreements, is chief. This section acts as an office or bureau for the Interdepartmental Committee and assumes the burden of the administrative details incident to the preparation and conduct of the negotiations with the representatives of the different governments. It also coördinates the efforts of the several interested divisions of the State Department as well as the governmental agencies above indicated.

The Department of Commerce makes the preliminary studies and recommendations for consideration by the Country Committees relative to the concessions that may be asked from that foreign country, and the Tariff Commission studies what concessions may be granted. On the basis of the recommendations thus formulated, the Department of State initiates exploratory conversations with the governments of the countries with which trade agreements are contemplated. If it appears that there are definite possibilities of arriving at mutually advantageous trade agreements, public announcements are made that this Government intends to negotiate such agreements with the countries concerned, and provision is made for receiving the views of all persons interested in the proposed agreements.

That "reasonable public notice of the intention to negotiate an agreement" may in accordance with the terms of the Act "be given in order that any interested person may have an opportunity to present his views," the President has constituted a Committee for Reciprocity Information, composed of representatives from the different departments and agencies, with a chairman designated from among the members of the committee. Mr. Thomas Walker Page, Tariff Commissioner, has been so designated.[4] Thirty days before the conclusion of an agreement, the Secretary of State is required to publish in the press and certain official publications a notice of that intention. It would of course be impracticable to notify interested individuals as such, but the Department of State gives to the press a carefully prepared statement of the exports and imports from the country concerned with the expectation that those interested will take heed and present any written or oral representations they may choose to the Committee on Reciprocity Information in conformity with the regulations governing the procedure of the committee. Thereafter the chairman prepares digests of briefs, oral views and correspondence for the use of the Country Committees referred to above. These digests make available to the Country Committees the criticisms, suggestions, and technical information received by the Committee for Reciprocity Information from producers, manufacturers,

[4] Executive Order No. 6750, June 27, 1934.

importers, exporters, and trade associations interested in the agreements. Every article or item of interest in the trade with the particular country is carefully studied and the information brought together in a compact and readily available form. One set of volumes contains the data relative to articles which the other country exports or might export to us, while another set of volumes includes similar information in regard to articles which we might ourselves expect to export to that country.

This comprehensive and necessarily somewhat complicated machinery for the successful conclusion of our trade agreements has been made to work with remarkable dispatch and effectiveness because the supervision of all the details of negotiation is centered in the Department of State and placed under the direction of a thoroughly competent expert in the matter. This expert, Chairman Grady,[5] is himself directly under Assistant Secretary of State Sayre, who presides over the discussions of the important policy-forming committee, and every decision of policy as well as each important step of the negotiation is through this contact or channel communicated to Secretary of State Hull and through him to the President. At each step the appropriate governmental department or agency is consulted for the technical information required, but the Department of State rightly assumes the responsibility for coördinating this information and conducting the actual negotiations. It is impossible to divorce foreign commercial relations from foreign policy, and the Administration is to be congratulated upon this appropriate division of the work between the Department of State and the Department of Commerce, with the coöperation of all the other governmental agencies concerned. We shall await with interest the further development of the commercial policy which Secretary of State Hull has initiated through the conclusion of the Brazilian and Belgian trade agreements.

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INTERNATIONAL LAW AND INTERNATIONAL TRADE

The advice of a prominent publicist, whose "liberal" views have long been familiar to the American public, that the United States should abandon its past policies in respect to the promotion of foreign trade and turn its attention to the development of its natural resources and its industrial technique within the range of its own domestic market, calls attention once more to the need of examining the principles of international law in the light of inter-

[5] Grady, Dr. Henry Francis, Professor of International Trade and Dean of College of Commerce, University of California, 1928–34. In addition to holding several other academic positions, he was special expert of the United States Shipping Board, 1918–19; United States trade commissioner in Europe to report on post-war financial conditions, 1919–20; acting commercial attaché at London, August 1919–February 1920, and at The Hague, April–July 1920; and acting chief of Division of Research, Bureau of Foreign and Domestic Commerce, 1921.