

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Working Party on
Commodity Problems

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FINAL REPORT OF THE WORKING PARTY
ON COMMODITY PROBLEMS

1. At their Ninth Session the CONTRACTING PARTIES established the Working Party on Commodity Problems to consider proposals for intergovernmental action to overcome problems arising in the field of international trade in primary commodities. The Working Party held its first meeting during the Ninth Session and submitted an Interim Report (L/320, 11 February 1955) to the CONTRACTING PARTIES to which was annexed a draft Agreement on Commodity Arrangements. The CONTRACTING PARTIES agreed that this report, together with the draft Agreement, should be distributed to contracting parties, to other interested governments and to certain inter-governmental organizations for comments and that the Working Party should reconvene at a time to be determined by the Executive Secretary with the object of producing a revised draft that could be considered by the CONTRACTING PARTIES at their Tenth Session.

2. The Working Party reconvened for their second meeting and met from 1 September to 30 September under the same Chairman, Mr. G. Peter of France. In addition to the original membership of the Working Party the following contracting parties sent representatives to this meeting, namely, Austria, Indonesia, Italy, the Netherlands, Sweden, and these representatives were co-opted as members of the Working Party. One government which is not a contracting party, Ecuador, sent an observer, as did the United Nations, the Food and Agriculture Organization, the European Coal and Steel Community, the Organization for European Economic Co-operation, and the International Labour Organisation.

3. As was made clear in the Interim Report, representatives at the first meeting found it necessary to deal with a draft which had not been studied by their governments and accordingly served as a body of experts. Before the present meeting, however, most governments had had an opportunity to examine the draft Agreement, and the positions taken during the meeting should reflect more closely the views of the respective governments involved. Nevertheless, it was recognized that there would not be time for the representatives to obtain detailed instructions on all points and that no government would be bound by the results of the meeting either concerning the attitude that it would finally adopt towards the proposed Agreement or concerning any specific provision in the draft. Certain representatives, however, have considered it desirable to record a general reservation for their governments with respect to the draft as a whole, and many representatives have recorded reservations concerning specific points in the draft to which they attach particular importance.

4. The representative of Cuba explained that his Government had great sympathy toward the project on which the Working Party was engaged. Since his Government had not had an opportunity, however, to study with care the draft or the issues involved, it was necessary for the time being for him specifically to reserve the position of his Government with respect to this report as a whole. The representative of India wished it to be recorded that the draft Agreement departed in a number of respects from the Agreement his Government desired and that his Government would need to subject the draft to the most careful scrutiny before it could determine its general position on the proposed Agreement. The representative of Australia informed the Working Party that the revised draft Agreement which it had prepared would be unacceptable to his Government since most of the principal Australian objections to the earlier draft in document L/320 applied also to the revised draft. Australia considered that the distribution of votes as between consumers and producers in each commodity arrangement should be left for determination on the merits of the case when a commodity agreement was being negotiated. It further considered that any proposed criteria for governing the conditions under which measures taken pursuant to commodity arrangements would be excepted from the provisions of the General Agreement, should be of a simple and objective character, not related to rigid procedures, but such as to facilitate the conclusion of arrangements which conformed to agreed objectives and were in the general interest of contracting parties to the General Agreement. He explained the sort of criteria which Australia considered to be appropriate. Australia considered that an Agreement on Commodity Arrangements should not by its terms preclude contracting parties from submitting directly to the CONTRACTING PARTIES, under the last phrase in Article XX(h), arrangements negotiated outside the terms of the proposed Agreement on Commodity Arrangements.

5. The Working Party, as instructed at the Ninth Session, submits the annexed draft Agreement to the CONTRACTING PARTIES for their consideration. This draft has been prepared on the assumption that it will be accepted by the CONTRACTING PARTIES as embodying the criteria to which intergovernmental commodity arrangements should conform in order to benefit from the exception provided in the first part of paragraph (h) of Article XX of the General Agreement as revised at the Ninth Session. The Working Party assumes that, if the CONTRACTING PARTIES find this Agreement satisfactory for that purpose, they will record their intention of recognizing formally when the revised GATT comes into effect that the Agreement has been considered under Article XX(h) and not disapproved. The Working Party also agreed that this report and the draft Agreement should be transmitted immediately to the Secretary-General of the United Nations so that any comments may be available to the CONTRACTING PARTIES at the Tenth Session, at which the CONTRACTING PARTIES will examine the draft Agreement and decide on the manner in which the Agreement should be brought into effect.

6. Before discussing some of the special problems that were considered it is necessary to record the general agreement of the Working Party on certain important points which affected its attitude on many of the more detailed issues that arose. In its Interim Report the Working Party had recorded its understanding that it was the wish of the CONTRACTING PARTIES that the Signatories to the proposed Agreement should constitute the main centralizing and

co-ordinating organization for all commodity arrangements. It was apparent that this could be achieved only if the Agreement were of a "universal" character. It should be so drafted as to make possible the adherence of the largest possible number of governments. The Working Party was also unanimous in its belief that every possible effort should be made to avoid unnecessary duplication between the activities of the Signatories and those of other intergovernmental organizations.

Relations with GATT and with other intergovernmental organizations

7. One of the most difficult problems with which the Working Party dealt was that of establishing an appropriate relationship between the Agreement on Commodity Arrangements and the General Agreement on Tariffs and Trade. Because of obtaining the approval of the CONTRACTING PARTIES under Article XX(h) of the General Agreement, the draft prepared at the first meeting had included a number of provisions designed to permit review by the CONTRACTING PARTIES in special circumstances. A number of representatives felt that any such subordination of the new Agreement to the CONTRACTING PARTIES would be contrary to the concept of a universal Agreement. Some felt that instead of a close link with the General Agreement, the new Agreement should be tied directly to the United Nations. The general solution to this problem that was agreed by the Working Party was to provide that the special authority of the CONTRACTING PARTIES required for the purpose of avoiding conflict between arrangements under the new Agreement and the obligations of governments under the GATT apply not to all the Signatories but only to those who also are contracting parties to GATT. For example, in paragraph 2 of Article VI of the draft Agreement it is provided that under certain circumstances a negotiating conference may draw up an arrangement which does not conform entirely with the other provisions of the Agreement, subject to approval by the Assembly. In order to preserve the authority of the CONTRACTING PARTIES with respect to the obligations in the General Agreement this paragraph also provides that such an arrangement shall be submitted to the CONTRACTING PARTIES and that no Signatory which is a contracting party shall participate in it if the arrangement is disapproved by them. Similarly, the new draft provides that no Signatory which is a contracting party to GATT shall accept any amendment to the Agreement which has been disapproved by the CONTRACTING PARTIES. The earlier draft had contained a provision which gave any contracting party the right to accede to the Agreement without the prior approval of the Assembly. In the revised draft this automatic right is limited to acceptance of the Agreement during the period when it is open for signature, and the same right is extended to any member of the United Nations.

8. As regards the avoidance of duplication with the work of other intergovernmental organizations where practicable, the earlier draft contained certain specific provisions under which study groups or negotiating conferences convened by other organizations could be recognized and co-ordinated within the terms of the Agreement. The Working Party felt, however, that the precise relationship with other organizations can best be determined after the Agreement comes into effect and on the basis of discussions between the

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Signatories and those organizations. They therefore deleted the specific provisions referred to and substituted a general Article on Co-operation with Other Intergovernmental Organizations (Article XVII). This Article requires that the Assembly make appropriate arrangements with bodies and agencies of the United Nations having responsibilities in the field of commodities and permits the Assembly to make similar arrangements with other intergovernmental organizations. It was understood that this provision is sufficiently broad to permit an arrangement with the CONTRACTING PARTIES to the General Agreement if it is found desirable to establish relationships with them on matters that are not specifically covered by the Agreement.

9. In this connexion the Working Party considered the nature of the arrangements that should be made for the administration of the Agreement and the relationship, if any, with the CONTRACTING PARTIES at that level. They agreed that the Signatories should appoint an Executive Secretary and should have a separate budget, but provided that the Assembly might approve a contractual arrangement with an intergovernmental organization for the provision of the services required for the operation of the Agreement. It was the opinion of several members of the Working Party that the Assembly should enter into such an arrangement with the contracting parties to GATT. The Indonesian representative was, however, of the view that any such an administrative link should be with the United Nations.

Regional Arrangements

10. At the previous meeting of the Working Party the question of the status of regional commodity arrangements was considered at length, but was not resolved. During the present meeting a joint proposal was presented by the delegations of Brazil, Chile and Turkey which provided that such arrangements would be excepted from the provisions of the Agreement. This proposal, in its final form, was approved by the majority of the Working Party as paragraph 1(c) of Article X. This exception is qualified by a number of safeguards and is subjected to a procedure for review by the Assembly upon request. The representatives of Canada and the United Kingdom reserved their positions with respect to two aspects of this exception, namely that such a provision was incapable of precise interpretation in the absence of an agreed definition for the term "regional arrangement", and that it was contrary to the basic principles of this Agreement that interested Signatories could be excluded from participating in any commodity arrangement. Reservations were also registered to this paragraph by the delegations of Ceylon, Denmark, Dominican Republic and Rhodesia and Nyasaland.

11. The attention of the Working Party was called to the question of the implications which the proposed Agreement might have on an intergovernmental "community" which involved the partial surrender of sovereignty of member governments, but there was not enough time for members to seek instructions from their governments to enable them to engage in a substantive discussion of this matter. Accordingly, it was considered that it should be left for consideration by the CONTRACTING PARTIES at their Tenth Session.

Producer and Consumer Agreements

12. In the case of the provisions of paragraph 4 of Article III the Working Party found it necessary to consider whether the Agreement should in special circumstances cover arrangements to which all the participants might be producers or all the participants consumers. They decided that any Agreement of this character was clearly covered by the definition of a "commodity arrangement" in Article XXIV and, therefore, by the obligation of paragraph 1 of Article IX. Therefore, no arrangement of this character would be permitted unless it were included in the provisions for emergency action in Article V:4. It was agreed that the emergency provisions should be broad enough to permit such an arrangement under the circumstances described in that paragraph, but the paragraph was amended in order to make clear that it would not permit a producer agreement at a time of shortage of the commodity nor a consumer agreement at a time when the commodity is in surplus supply. The representative of Chile was opposed to any provision that would permit arrangements of this kind and reserved the position of his Government on the entire paragraph.

Territorial Application

13. As recorded in its Interim Report, the Working Party at its earlier meeting had found itself unable to reach agreement on certain provisions dealing with the territorial application of the Agreement. Paragraph 1 of Article XXIII (formerly Article XX) provided that a Signatory could itself determine whether to accept the Agreement in respect of a territory for whose international relations it is responsible, and paragraph 2 permitted the withdrawal of such an acceptance by the Signatory concerned. At the present meeting the Working Party again adopted these paragraphs, subject to the reservations mentioned below.

14. Paragraph 3 of Article XXIII gave rise to a prolonged discussion in the Working Party. Because of failure to agree during its first meeting, no provision of this sort had been included in the draft Agreement submitted with the Interim Report of the Working Party, as explained in paragraph 4(c) of that Report. At the present meeting the representative of the Netherlands submitted a draft paragraph which was essentially in the form finally adopted by the Working Party and which provided that a territory of a government participating in a negotiating conference or commodity council might be represented either jointly with or separately from the metropolitan territory. This provision was strongly opposed by a number of representatives. The representative of Brazil maintained that it was contrary to international law to permit separate representation by a territory which did not have legal responsibility for its international relations. He cited statements by the representatives of a number of metropolitan countries in other international organizations to support this view. He and other representatives argued that a territory which is not completely independent is likely to be influenced by the views of the metropolitan territory regardless of its own interests and that such representation could, therefore, result in upsetting the balance between producing and consuming interests. The representatives of countries with dependent territories pointed out their

general effort to provide a maximum of autonomy to their territories and their desire to give those territories as much practical experience as possible in international negotiations. They stated that in many cases the policies they had adopted toward their territories would not permit them to impose on such a territory their own views in a commodity matter which vitally affected the interest of the territory concerned and in which the interests of the territory and the metropolitan area might be divergent.

15. In the view of some members the Working Party was incompetent to consider a question of this nature and felt it should be reserved for discussion at the Tenth Session of the CONTRACTING PARTIES, but other members held the contrary view. Upon a vote by roll-call the Working Party decided that it was within its competence to recommend a text to deal with this matter. The result of the vote was as follows:

9 for (Australia, Canada, Ceylon, Denmark, France, India, Netherlands, Rhodesia and Nyasaland, United Kingdom),

8 against (Austria, Belgium, Brazil, Chile, Germany, Indonesia, Italy, Turkey),

2 abstentions (Dominican Republic and Japan).

16. A further roll-call vote was taken on the text of paragraph 3 proposed by the Netherlands delegation. The text was approved by:

10 for (Australia, Belgium, Canada, Ceylon, Denmark, France, India, Netherlands, Rhodesia and Nyasaland, United Kingdom),

6 against (Brazil, Chile, Dominican Republic, Germany, Indonesia, Italy),

2 abstentions (Austria and Japan),

1 member did not participate in the vote (Turkey).

17. Upon the conclusion of these votes the following reservations were recorded. The representatives of Chile and Indonesia reserved their positions on the entire Article, and the representative of Brazil reserved his position on paragraph 2 and paragraph 3.

Observations and Reservations on the Provisions of the Draft Agreement

18. In addition to the matters discussed above the Working Party wishes to put on record certain points of interpretation concerning various provisions in the draft Agreement. The reservations made by certain delegations with respect to specific provisions are also recorded below.

Article I: It was proposed by a member of the Working Party that one of the objectives of this Agreement should be to assure the orderly disposal of accumulated stocks in order to avoid disruption of the market. The Working Party, however, considered such a provision unnecessary but agreed to record its view that this objective is fully covered by the provisions of paragraph 2(a)(ii) of this Article.

Article II: In the earlier draft of the Agreement it was envisaged that the Standing Committee would consider statements submitted by governments or organizations on "special difficulties which exist or are likely to exist in international trade in any primary commodity." It was considered by a member of the Working Party that this phrase was too restrictive to cover all difficulties which should be dealt with under the Agreement. Consequently this sentence was changed to read as in the annexed text.

Article III: As stated in paragraph 12 above the Chilean representative reserved the position of his Government on paragraph 4 as a whole.

Article IV: The Working Party gave careful consideration to a proposal by the representative of Indonesia that there be inserted in Article IV a paragraph which would provide that each negotiating conference should consider the possibility of including in the proposed commodity arrangement a provision permitting a participant to take whatever action might be necessary to protect its economy in case of emergency. The Indonesian representative, supported by some members of the Working Party, felt that countries in the early stages of economic development must be left free to protect their interests. Other members considered that it would be difficult if not impossible to draft such a provision to apply to all commodity arrangements without conflicting with existing obligations of participants and that it should be left to each negotiating conference to determine the nature of any escape clause on the basis of the circumstances pertinent to the commodity in question. The Working Party decided not to insert a provision on escape clauses in the Agreement but wished to record that in their view there is nothing in the Agreement which would prevent a negotiating conference from including in a commodity arrangement any escape clause that may be appropriate in the circumstances.

Article X: Under paragraph 1(a) of this Article, the provisions of the Agreement shall not apply to existing study groups or to the operation or renewal of existing commodity arrangements which conform to specified principles. The representative of the Dominican Republic was opposed to the inclusion of such an exception in so far as it covers the renewal of existing commodity arrangements. The Working Party, however, agreed to retain this provision. The representative of the Dominican Republic consequently reserved his position. The representative of Rhodesia and Nyasaland reserved his position on paragraph 1(b) of that Article, which exempts from the provisions of the Agreement commodity arrangements involving not more than one importing and one exporting country. As noted in paragraph 10 above the representatives of Canada, Ceylon, Denmark, the Dominican Republic, Rhodesia and Nyasaland, and the United Kingdom reserved their positions on paragraph 1(c) of this Article.

Article XIII: The Indonesian representative proposed that the provisions of paragraph 5 of this Article, specifying the decisions of the Assembly that should be taken by a simple majority, should apply only to decisions on matters of procedure or interpretation and of no substantive importance. He proposed that for other decisions it should be left for the Assembly to establish its own voting rules. The Indonesian proposal was not accepted by the Working Party, and the delegations of Brazil and Indonesia reserved their positions on this paragraph as it now stands.

Article XIV: The representative of the Dominican Republic proposed that it should be expressly provided in paragraph 1 of this Article that, in addition to reasonable balance in geographical representation, the Assembly in electing the members of the Standing Committee should, in so far as practicable, give consideration to affording adequate representation to countries with different interests which were located in the same geographical area. The Working Party considered it unnecessary to add such a provision to this paragraph; in the view of the Working Party, the present version of the paragraph contains nothing which would preclude the election of more than one Signatory from the same geographical area to the Standing Committee in order to achieve a proper balance between producing and consuming interests.

Article XVIII: The provision concerning the registration of the Agreement with the Secretary-General of the United Nations is enclosed within square brackets because it was considered that further changes might be necessary in order to meet the procedural requirements of the United Nations. The Working Party agreed to request the Executive Secretary to recommend an improved text at the Tenth Session.

Article XXIII: The representatives of Chile and Indonesia reserved their positions on the Article as a whole, and the representative of Brazil reserved his position on paragraph 2. The problems connected with paragraph 3 of this Article have been discussed in paragraphs 13 to 17 above which record the result of a roll-call vote on the inclusion of this paragraph.

Article XVIII, paragraph 1: The Working Party has placed the words "two-thirds" in brackets. Though there was general agreement on the principle laid down in this paragraph, that the Agreement should enter into force only after it has been accepted by countries responsible for a very substantial part of the total world trade in primary commodities, the Working Party felt that the most appropriate percentage could only be determined after a more detailed examination of the statistics of each country's net imports and exports of primary commodities. The secretariat will distribute before the Tenth Session a statistical table which may serve as the basis for discussion of this point and which, when completed by governments for whom adequate statistics are not available, might be used as an annex to the Agreement in its final form.

Recommendation to the CONTRACTING PARTIES

19. The Working Party, in submitting this Report and the annexed draft Agreement for consideration by the CONTRACTING PARTIES recommends that they make every effort to conclude their consideration of it during the Tenth Session. Although many of the points of difference that existed at the time of the Working Party's Interim Report have been resolved during the present meeting, there remain a number of important points on which serious differences remain. It therefore appears desirable that the CONTRACTING PARTIES allow sufficient time for discussion of these issues and, if possible, for their resolution in a manner that will be acceptable to all. In the light of this consideration the Working Party recommends that the CONTRACTING PARTIES take up consideration of this Report and the draft Agreement early in the Tenth Session.

Document Number	Language	Short Title of Document
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Information Papers

Symbol: CWP/INF/

1	Bil.	List of Representatives
1/Add.1-3	Bil.	Addenda
2	E.F.	Information for Delegations