

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.9/146

18 January 1955

Special Distribution

CONTRACTING PARTIES  
Ninth Session

Original: French

Working Party on Commodity Problems

## DRAFT AGREEMENT ON COMMODITY ARRANGEMENTS

### Amendments proposed by the French Delegation to Working Paper W.9/140

PREAMBLE - The Preamble to conclude with paragraph 4 which should end as follows:

"... to prevent or alleviate these special difficulties, and decide in consequence to conclude a Special Agreement on commodity arrangements, hereinafter called the "Special Agreement".

Article I - note: The general aims of the Special Agreement, which in the United Kingdom Working Paper are set out in the second part of the Preamble, should, in order to retain the full legal value of the corresponding provisions of the Havana Charter, be included in the actual text of the Agreement as, possibly, the basis of Article I.

This Article might read as follows:

#### General aims of the Special Agreement:

"1. The principal aim of the Special Agreement, due regard being had to the general principles of the General Agreement on Tariffs and Trade, shall be to encourage the conclusion of inter-governmental commodity agreements for the following purposes:

"(a) to combat all tendencies towards a persistent disequilibrium between the production and consumption of a given commodity, and notably:

"(i) to prevent or alleviate any burdensome accumulation of stocks on the market;

"(ii) to prevent or alleviate shortages of any commodity put on the market;

"(iii) to maintain and develop the natural resources of the world and protect them from unnecessary exhaustion;

- "(b) to prevent or moderate pronounced fluctuations in the price of a primary commodity with a view to achieving a reasonable degree of stability on the basis of such prices as are fair to consumers and provide a reasonable return to producers, having regard to the desirability of securing long-term equilibrium between the forces of supply and demand.
- "2. To that end these agreements shall encourage:
- "(a) the expansion of production and of consumption:
- "(i) the expansion of production at prices compatible with the need to avoid the excessive fluctuation in prices referred to in paragraph (b) below, and when this can be accomplished with advantages to consumers and producers, including in appropriate cases the distribution of basic foods at special prices;
- "(ii) the expansion of national consumption and the supplying of the world market with a given commodity.
- "(b) the establishment of a framework for the consideration and development of measures which have as their purpose economic adjustments designed to promote the expansion of consumption or a better utilization of existing means of production, due regard being had to the need for an extensive use of the most efficient and economic sources of production, in order to satisfy the requirements of internal consumption and of world markets in accordance with the aims of the present Agreement. These economic adjustments may result in the shift of resources and man-power out of over-expanded industries into new and productive occupations and shall as far as possible be based on the intention to establish and expand, in appropriate cases, the transforming industries, by national primary commodities;
- "(c) the equitable distribution of a commodity in short supply;
- "3. The Special Agreement shall not lose sight of the implications of measures taken concerning a given commodity for the production and consumption of other commodities."

ARTICLE I

1. Second line, delete:

"Or any body or agency of the United Nations".

Between (1) and (2) insert the following paragraph:

"Any body or agency of the United Nations may submit to the Standing Committee of the Signatories a statement of special difficulties which

appear to exist in international trade in primary commodity or commodities and proposals for their solution. The Standing Committee shall then be required forthwith to make arrangements for the immediate examination of the question in accordance with the procedure laid down by the body or agency in question."

2. This paragraph should read as follows:

"A Study Group shall promptly investigate the production, consumption and trade situation and prospects in regard to the commodity, due regard being had to any work undertaken on the same subject by other inter-governmental organizations, and shall report to the Signatories its findings and any recommendations it may have as to how best to deal with any special difficulties which exist or may be expected to arise. The Secretariat of the Special Agreement shall promptly transmit its findings and recommendations to the member States and the participating governments. A Study Group, after presenting its initial report, may remain ....."

#### ARTICLE II

2. Add in fine:

".... provided that this request is made by:

- "(a) a Signatory whose interests represent a considerable part of world production, consumption or trade in the commodity concerned, or
- "(b) a Signatory who considers that his economy is dependent to a large extent on the commodity concerned."

Insert between (2) and (3) the following new paragraph:

"The Standing Committee may, on behalf of the Signatories, summon a negotiating conference at the request of any body or agency of the United Nations. If this request has been transmitted to the Standing Committee by virtue of a recommendation adopted unanimously by the body or agency concerned, the Standing Committee shall be required to summon this negotiating conference."

#### ARTICLE III

1. This paragraph should read as follows:

"The Signatories, having due regard to the general aims enumerated in Article I, shall observe ....."

- (d) Note: This paragraph, which has been taken from the article relating to the general aims, might be deleted. On the other hand, it would be necessary to reproduce in a paragraph to be inserted between (e) and (f) paragraph (b)

of Article IV the provisions of which would then appear as general principles governing all commodity agreements. The text of that Article should then be slightly amended to read: countries participating in a commodity agreement and mainly interested in imports and consumption of the commodity concerned .....

ARTICLE IV

1. This paragraph should read as follows:

"Where any inter-governmental commodity arrangement involves direct or indirect action on prices in international trade ...."

Note: A special Article shall discuss questions of conformity between commodity agreements on the one hand, the revised General Agreement and the Special Agreement on the other hand, Paragraph 1(d) of Article IV might, therefore, be deleted.

3. This paragraph should read as follows:

"..... if a negotiating conference has failed to agree to the conclusion of a commodity agreement, any Signatories ....."

ARTICLE ...

Consideration of complaints relating to lack of conformity of the text of an agreement with the Special Agreement and with GATT

1. Only a contracting party to GATT shall be authorized to lodge a complaint relating to an infringement of the General Agreement. Such complaint may be submitted to the Signatories if the complainant state is a party to the Special Agreement.

Only a State party to the Special Agreement shall be authorized to lodge a complaint relating to an infringement of the Special Agreement. Such complaint necessarily falls within the jurisdiction of the Signatories.

2. Complaints relating to infringements of GATT and the Special Agreement may be lodged only during the period for which the commodity agreement remains open for signature of countries participating in the negotiating conference. On the expiry of such period, the following provisions relating to the consideration and possible outcome of complaints shall not be applicable.

3. A complaint shall result in a stay of action until its examination has been completed.

4. The Assembly of the Special Agreement or in its absence the Standing Committee shall examine complaints submitted to it in accordance with the following procedure:

- (a) A Special Committee, appointed by it to include an equitable proportion of the States party to the Special Agreement and non-member States which participated in the preparatory conference, proceeds to study the question in the first instance. Each member of the Committee shall be entitled to vote.
- (b) The Assembly, or in its absence the Standing Committee, takes a definitive decision on the Special Committee's Report. States not party to the Special Agreement, which have taken part in the preparatory conference, shall be entitled to be represented without voting rights, whether or not they were members of the Special Committee.
- (c) When an infringement of the provisions of GATT or of the Special Agreement is found to exist, the Assembly without in any way being able to delegate its powers to the Special Committee, proceeds to make the necessary amendments in the faulting text, unless it prefers to reconvene for such purposes the preparatory conference, or unless one third of the States which participated in that conference have made a request to that effect.

If, however, a similar complaint relating to the Agreement's lack of conformity with the General Agreement has been lodged with the CONTRACTING PARTIES to GATT, the Assembly of Signatories shall refrain from giving an opinion until it knows the decisions taken by the CONTRACTING PARTIES. It shall not be entitled in any way to act contrary to the decisions of the CONTRACTING PARTIES, if the latter find there has been no infringement of the provisions of the General Agreement or that the deviation was admissible.

When the CONTRACTING PARTIES submit amendments to the denounced text, the Assembly of the Special Agreement shall be required to draw up the definitive text of the Agreement in question, due regard being had to the CONTRACTING PARTIES' recommendations.

ARTICLE ...

Consideration of Complaints relating to lack of  
conformity in the application of a commodity Agreement  
with the Special Agreement and with GATT

1. A complaint shall be accompanied by a recent statement of the facts and shall be put on the agenda of the Assembly of the Special Agreement,

(i) by the complainant State, if it is a party to the Special Agreement,

(ii) by the Secretary-General in other cases.

In the latter case, and unless the complaint is made not against a given member State of the Special Agreement but against a group of States or there is a relevant resolution of the Council of the agreement concerned, inclusion shall not be automatic and the complaint shall first be put on the provisional agenda submitted at the beginning of each session for the approval of the Assembly.

2. A complainant State, if not a party to the Special Agreement, shall be entitled to participate without voting rights.

The State or the group of States accused shall be entitled to be represented in similar conditions.

In all cases, the Council of the commodity agreement concerned shall be entitled to be represented without voting rights.

3. Any recommendations adopted by the Assembly of Signatories shall be communicated not only to the accused State or group of States, but also to the Council and to all States participating in the agreement concerned.

ARTICLE V

Delete 3) c)

ARTICLE V 4)

Replace the penultimate phrase by the following text:

"In such a case the Signatories may, when adopting voting rules  
make recommendations concerning the number of votes to be granted  
to the producers and consumers respectively."

ARTICLE VI 1)

Between a) and b) insert the following:

"It would be open to the Council, before settling the matter, to request the opinion of a consultative committee consisting of two representatives of producers' interests, two representatives of consumers' interests and a chairman designated by the Executive Secretary and the Special Agreement."

ARTICLE VI 1) b)

This sub-paragraph should read as follows:

"If the question or difference cannot be resolved by the Council or by machinery established under the arrangement, it shall be open to the Council to refer the question or difference to the Signatories to the Special Agreement."

ARTICLE VIII 1)

The following should be substituted for the existing text:

"Upon the request of a number of governments the territories of which account for a certain percentage of the world consumption of, or trade in the commodity concerned any arrangement concluded for a period of more than three years, may be revised upon the expiration of an initial period of three years following its entry into force."

Add the following paragraph 3:

"On the occasion of the renewal of any commodity arrangement, such arrangement shall be open to any Signatory and any interested country which states that it accepts the provisions of that arrangement."

ARTICLE IX 1) a)

Substitute the following for the existing text:

"Make any useful comments relating to such periodical reports on the developments in international commodity trade, as the Economic and Social Council and FAO may prepare."

ARTICLE XII 2)

Delete the words:

"and the secretariat shall be provided by the CONTRACTING PARTIES."

ARTICLE XIII 1)

The French delegation are of the opinion that the membership of the Standing Committee should be based on the criteria which shall be adopted as regards the composition of the Executive Committee of the GATT.

ARTICLE XIII 2)

Delete the following sentence:

"The secretariat shall be provided by the CONTRACTING PARTIES to the GATT."

ARTICLE XIV 2)

This paragraph should read as follows:

"For the purpose of administering this Special Agreement, the Signatories shall make contributions assessed under the same criteria as the contributions of the contracting parties to the General Agreement."

ARTICLE XIV 3)

This paragraph should read as follows:

"The Signatories shall appoint a secretariat."

ARTICLE XIV 4)

This paragraph should read as follows:

"The secretariat appointed for the purpose of administering the Special Agreement shall be placed under the authority of the Executive Secretary of the GATT."