GENERAL AGREEMENT ON
TARIFFS AND TRADE

Committee on Trade and Development
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ACTIVITIES OF THE CONTRACTING PARTIES IN THE FIELD
OF PRIMARY COMMODITIES

Note by the Secretariat

INTRODUCTION AND SUMMARY

1. At the last meeting of the Committee on Trade and Development, it was suggested that the secretariat might prepare an account of the activities of the CONTRACTING PARTIES relating to trade in primary commodities (COM.TD/30, paragraph 35). The present note is intended to outline (a) the relevant provisions of GATT; (b) the more important work which has been done by the CONTRACTING PARTIES in the past and (c) the arrangements and procedures relevant to commodity problems which are in force at present.

2. It will be seen that the GATT provides a set of commitments assumed by contracting parties on access to markets of primary products and specific procedures for consultation and negotiation on problems affecting commodity trade. In this context, the GATT has provided a forum for the following types of action:

(a) Periodic or ad hoc consultations on developments in international commodity trade, particularly in so far as they relate to commercial policy measures affecting international markets for commodities and the prices and demand for primary products.

(b) Confrontation on a country-by-country basis in respect of agricultural policies affecting international trade in and demand for primary agricultural products.

(c) Relaxation and elimination of restrictions affecting primary commodities in terms of the provisions of the General Agreement and through the specific procedures established for dealing with residual restrictions and restrictions affecting products of particular interest to developing countries.

(d) The reduction or elimination of trade barriers affecting primary products through the GATT trade negotiations, culminating at the present time with the Kennedy Round.
(c) A specific procedure for confrontation on production and trade policies affecting agricultural primary products and the negotiation of arrangements covering the different elements affecting access of these products to world markets within the framework of the objectives accepted by GATT Trade Ministers that the trade negotiations should provide for acceptable conditions of access to world markets for agricultural products.

3. The acceptance of Part IV has served to underline the relevance of GATT action in the commodity field to the problems of developing countries and to strengthen and improve the machinery for consultation in respect of the particular interests of these countries in these matters. It is, at the same time, pertinent to note that from the very outset the United Nations, and subsequently the UNCTAD, have concerned themselves with the major problems created for developing countries by the instability of commodity markets and with the negotiation of arrangements aimed at stabilizing or improving the earnings of these countries from primary products. Thus a number of commodity agreements on items such as sugar, tin, wheat and coffee have been negotiated within the United Nations framework. Discussions aimed at the negotiation of an international arrangement on cocoa are also currently taking place in the UNCTAD.

4. Where GATT can make a contribution is in permitting policies affecting international trade in primary products to be the subject of review, consultation and negotiation against the background of the specific obligations accepted by the contracting parties in terms of the General Agreement. It is also possible that the procedures and techniques for arriving at satisfactory arrangements in respect of certain commodities evolved in the context of the Kennedy Round would lend themselves to application to a wider group of commodities of interest to developing countries and thus provide some of the elements for successful commodity action in respect of these items.

A. PROVISIONS OF THE GENERAL AGREEMENT RELEVANT TO COMMODITY TRADE

5. The provisions of GATT concerning commercial policy and governmental action generally make no distinction between trade in manufactured products and trade in primary commodities, and the rights enjoyed and the obligations assumed by contracting parties are valid with regard to the latter as well as the former. A few special provisions are, however, included to take account of the particular nature of the trade in agricultural products and in primary commodities, notably the following:
Article XI:2(c)

This sub-paragraph provides for the use of quantitative restrictions on agricultural and fisheries products in defined circumstances relating to domestic production or the supply condition.

Article XVI

Under this Article contracting parties are required to seek to avoid the use of export subsidies on primary products and to observe certain rules if any export subsidies are granted on primary products. Export subsidies are not to be maintained as from an agreed date on products other than primary products.

Article XX(h)

Paragraph (h) of Article XX stipulates that nothing in the Agreement shall be construed to prevent the adoption or enforcement by a contracting party of measures "undertaken in the pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the CONTRACTING PARTIES and not disapproved by them or which itself was submitted and not so disapproved". (It may be noted that the original text of this paragraph, in force until 1958, read as follows: "undertaken in pursuance of obligations under intergovernmental commodity agreement conforming to the principle approved by the Economic and Social Council of the United Nations in its Resolution of March 28, 1947, establishing an Interim Co-ordinating Committee for International Commodity Arrangements").

Article XVIII:5

Paragraph 5 of Article XVIII specifically notes that where exports of primary commodities of a developing contracting party depending on the export of a small number of primary commodities are seriously affected by measures taken by another contracting party, it may have resort to the consultation procedures of Article XXII of the Agreement, providing for representations and the consultations "with respect to any matter affecting the operation of this Agreement".

Article XXXVIII:2(a)

Paragraph 2(a) of Article XXXVIII states that the CONTRACTING PARTIES shall "where appropriate, take action, including action through international arrangements, to provide improved and acceptable conditions of access to world markets for primary products of particular interest to less-developed contracting parties and to devise measures designed to stabilize and improve conditions of world markets in these products including measures designed to attain stable, equitable and remunerative prices for exports of such products".
6. Apart from these specific references to primary commodities, paragraph 1 of Article XXIX which is still in force, provides that:

"the contracting parties undertook to observe to the fullest extent of their executive authority the general principles of Chapters I-VI inclusive and of Chapter IX of the Havana Charter pending their acceptance of it in accordance with their constitutional procedures".

By virtue of this provision contracting parties are, to the extent specified, bound by the principles of Chapter VI of the Havana Charter relating to the use of intergovernmental commodity agreements.

B. PAST ACTIVITIES OF THE CONTRACTING PARTIES

Efforts to set up a framework for commodity arrangements

7. Early in the 1950's when it became clear that the Havana Charter was unlikely to enter into force, proposals were put forward by certain contracting parties for the incorporation of the provisions of Chapter VI of the Charter in the General Agreement. In 1954/55 when the CONTRACTING PARTIES undertook a general review of the provisions of the Agreement at their ninth session, several delegations proposed the insertion in the General Agreement of provisions along the lines of Chapter VI of the Charter. This matter was referred to Review Working Party IV dealing with proposals on administrative and legal questions and on the scope of the Agreement. The report of the Working Party states on this subject that:

"... Whilst there was not any general support for this proposal, a substantial majority of the Working Party were in favour of the CONTRACTING PARTIES making appropriate arrangements for the study of commodity problems under the aegis of the General Agreement and of the establishment for this purpose at the present Session of a Working Party. This Working Party would consider proposals for principles to be included in a separate instrument to govern international action designed to overcome problems arising in the field of international trade in primary commodities, taking into account organizational questions involved in the administration and application of such principles, and report thereon to the CONTRACTING PARTIES". (BISD, Third Supplement, page 238.)

8. The Working Party thus established at the ninth session was instructed "to consider, in the light of the Interim Report of Review Working Party IV, specific proposals for principles and objectives to govern international action designed to overcome problems arising in the field of international trade in primary commodities and the form of an international agreement necessary to administer and apply those principles; to consider the relationship between such an agreement and the General Agreement; to consider also the relationship between the parties to such an agreement with, on the one hand, the CONTRACTING PARTIES and, on the other hand, with any other international organizations exercising responsibilities in the field of international trade in primary commodities; and to make recommendations to the CONTRACTING PARTIES". (Ibid page 238.)
9. The Working Party met for a considerable period in 1955 and submitted a report (L/416) together with the draft of an agreement generally known as the Special Agreement on Commodity Arrangements or SACA. When this was examined by the CONTRACTING PARTIES at the tenth session, no agreement was reached on the draft. The Working Party was reappointed at the eleventh session in 1956 to study what approaches to the question of primary commodity trade should be developed by the CONTRACTING PARTIES, taking into account the previous discussions relating to the SACA. The report of the Working Party was considered at the same session. As no agreement could be reached along the lines of SACA, the CONTRACTING PARTIES agreed on 17 November 1956 on the adoption of a resolution as suggested by the Working Party. The operative paragraphs of this resolution provides that the CONTRACTING PARTIES resolve:

"1. that they shall, at every session, review the trends and developments in international commodity trade upon the basis of the report which they have decided to request the Chairman of the Interim Co-ordinating Committee for International Commodity Arrangements to submit in his capacity as nominee of the CONTRACTING PARTIES and on the basis of other relevant documents;

"2. that, apart from the consideration of such special difficulties arising out of the trade in primary commodities as may be brought to their attention with reference to their general functions under Article XXV, they shall in the course of consultations undertaken under Article XII and, after the entry into force of the revised text of the General Agreement, under Article XVIII, Section B, take account of problems relating to international commodity trade among other difficulties which may be contributing to the disequilibrium of the balance of payments and compelling certain contracting parties to maintain import restrictions;

"3. that it would be appropriate for them to enter into consultations on problems arising out of the trade in primary commodities pursuant to the provisions of paragraph 2 of Article XXII and of paragraph 5 of Article XVIII after the entry into force of the revised text of the General Agreement;

"4. that when the CONTRACTING PARTIES, as a result of such consultations or of such review as provided for in paragraph 1 above, are of the opinion that an international joint action could usefully contribute to the solution of problems in the field of commodity trade, they could make arrangements, having regard to the competence of the United Nations and of the other intergovernmental organizations concerned, for an intergovernmental meeting, the composition of which should not be limited only to the countries which are contracting parties to the General Agreement but should be determined according to the nature and importance of the interests concerned both of producers and consumers ...." (BISD, Fifth Supplement, page 26.)
10. In presenting this draft resolution the Working Party noted that it had taken as a point of departure the ruling made at the tenth session that:

"...having regard to the objectives of the General Agreement, the CONTRACTING PARTIES, in conformity with the functions conferred upon them under paragraph 1 of Article XXV, are competent to deal, upon the request of one or more contracting parties, with special difficulties arising in connexion with international trade in primary commodities". (BISD, Fifth Supplement, pages 87-88.)

This broad competence, in the view of the Working Party, "would make it possible for any contracting party to submit to the CONTRACTING PARTIES any particular difficulties which it was experiencing in connexion with trade in primary commodities, and which difficulties were in its view such as to impede the attainments of the objectives of the General Agreement".

11. With respect to paragraph 4 of the resolution, the Working Party explained that the CONTRACTING PARTIES, if they decided that joint international action was appropriate, "would not themselves immediately proceed to make arrangements for an intergovernmental meeting, but would first determine whether some other international body having special competence in the field should be requested to make suitable arrangements to that end. It would only be in the event that it appeared that no other international body had special competence in the field or that an international body having such special competence was unable to make suitable arrangements that the CONTRACTING PARTIES would consider doing so themselves". (Ibid.)

Review of commodity problems

12. It is on the basis of this resolution that the CONTRACTING PARTIES have each year since 1957 reviewed the trends and developments in international commodity trade, using the report of the Chairman of ICCICA as a starting point.

13. At their thirteenth session in 1958, the CONTRACTING PARTIES established a Working Party to consider and make recommendations concerning their future activities pursuant to the Resolution of 17 November 1956 on particular difficulties connected with trade in primary commodities. The CONTRACTING PARTIES endorsed the views of the working party that the annual reviews should be more closely related to the particular competence and responsibility of the CONTRACTING PARTIES, and that in future the review provided for in paragraph 1 of the Resolution of 17 November 1956 should be focused on the impact of commodity problems upon international trade, and should be based on the annual report of the Chairman of ICCICA and reports of the Commission on International Commodity Trade, the Food and Agriculture Organization and other intergovernmental agencies. It was also agreed that a working party should be appointed during
the last session in each year to make arrangements for the review. This working party should submit a report to the CONTRACTING PARTIES indicating the extent to which commodity problems have influenced international trade, in particular by affecting the export earnings of primary producing countries and their ability to pay for their imports. In the report it would be open to the working party to make suggestions directed to the alleviation or solution of problems in the field of international trade having regard to the competence of the United Nations and other intergovernmental organizations as provided for in paragraph 4 of the Resolution of 17 November 1956. (cf. Seventh Supplement, pages 42-46.)

14. The Working Party established at the thirteenth session to prepare the basis for a review of the "impact of commodity problems upon international trade" submitted a report to the fifteenth session. In the concluding part of the report the working party noted that many of the important questions alluded to in the report were being dealt with by various international organizations, and "draws particular attention to the studies of these organizations which might lead to progress in avoiding excessive fluctuations in trade and prices of primary products or in alleviating their effects. More generally, these organizations provide forums in which contracting parties may seek solution for, or alleviation of, the particular difficulties which they encountered in their international commodity trade. The Working Party believes the mitigation of some of these difficulties may be found through this existing international machinery. ... As for action by the CONTRACTING PARTIES apart from the programme for the expansion of trade, the Working Party feels it is important to emphasize the availability of the consultation procedures, which so far have been little used. The Working Party suggests that contracting parties should keep these procedures prominently in mind whenever they are faced with difficulties, either as exporters or importers, or when contemplating action on problems arising in commodity trade. ... The problems in commodity trade should be taken fully into account by all committees and working parties established by the CONTRACTING PARTIES which deal with questions with a bearing on commodity trade. Because of their basic importance, and the extent to which they impinge on the work of the GATT, these issues merit constant scrutiny by the CONTRACTING PARTIES". (BISD, Eighth Supplement, page 85.)

15. The annual review of commodity problems since 1957 generally took place at plenary meetings of the CONTRACTING PARTIES, often without the aid of a working party. The discussions are therefore generally reflected in the summary records of the sessions.
Consultations conducted in Committee II

16. Committee II was established under the Programme for the Expansion of International Trade launched in 1958.

17. During the period 1959-61 the Committee consulted with forty GATT Member countries on their agricultural policies. In these consultations the Committee assembled data regarding the use by GATT Members of non-tariff measures for the protection of agriculture or in support of incomes of agricultural producers and concerning the agricultural policies from which these measures derive. The Committee also examined the effects of these measures on international trade as a whole, and in particular on the trade in products entering importantly into international trade. The Committee's general findings and conclusions regarding the use and effects of these non-tariff measures were laid down in its second and third reports.

18. At the nineteenth session the CONTRACTING PARTIES decided that GATT countries should be invited to notify any substantial changes in their agricultural policies so that the information assembled from past Committee II consultations could be kept up to date. It was further decided that Committee II should be authorized to consider, when so requested, the carrying out of consultations with particular contracting parties. Subsequently, Committee II was requested to carry out a consultation with the European Economic Community, examining during such a consultation the changes in the agricultural policy of the principal States following the coming into effect of the Common Agricultural Policy of the Community. This consultation was held in November 1962 and dealt with the groups of products for which the Common Policy had at that time been implemented, namely, cereals, pigmeat, eggs, poultry, fruit and vegetables and wine.

19. In January and February 1965 Committee II carried out consultations with the EEC, the United States and the United Kingdom on the changes in their agricultural policies.

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1 The report on these individual consultations was published in a volume entitled "Trade in Agricultural Products. Reports of Committee II on Country Consultations. June 1962".

2 Published as "Trade in Agricultural Products. Second and Third Reports of Committee II. June 1962".

3 See the publication "Trade in Agricultural Products. Report of Committee II on the Consultation with the EEC. Geneva 1962".

4 See "Trade in Agricultural Products. Reports of Committee II on Consultations with the EEC, United States and United Kingdom."
C. PRESENT ACTIVITIES

Annual reviews of impact of commodity problems upon international trade

20. As noted above, the CONTRACTING PARTIES have been reviewing each year since 1958 the impact of commodity trade. At the twenty-third session in April 1966, the annual review took place on the basis of a note prepared by the secretariat, since on the replacement of ICCICA by the Advisory Committee to the Trade and Development Board of the United Nations, the usual report from the Chairman of ICCICA was no longer available. As regards the future basis for the review, the Council was requested to consider, in the light of discussion at the twenty-third session, how this question could best be dealt with by the CONTRACTING PARTIES at future sessions. It was also agreed that the secretariat would provide documentation for consideration of these problems at future sessions.

Annual analysis of trends in international trade

21. Each year the GATT secretariat prepares an analysis of trends and developments in international trade over the preceding year. These studies enable contracting parties to draw attention to any matters of concern to them. An important section of the "Annual Report" is devoted to commodity trade.

Action on commodities in the Kennedy Round negotiations

22. At the launching of the Kennedy Round of trade negotiations in 1964, the Trade Negotiations Committee reaffirmed that the trade negotiations should provide for acceptable conditions of access to world markets of agricultural products, and agreed that it would pursue further the question of trade in tropical products with a view to working out procedures and arrangements for their treatment in the trade negotiations. Discussions on these matters are being pursued through various mechanisms established by this Committee (BISD, Thirteenth Supplement, page 110).

Activities of the Committee on Trade and Development

23. The Committee on Trade and Development established a Group on International Commodity Problems in March 1965 to consider specific proposals for dealing with problems of trade in primary products of trade interest to developing countries. The Group has addressed itself to problems affecting international trade in cocoa, cotton and tropical timber. On the basis of the work of this Group, the Committee has brought to the urgent attention of the Trade Negotiations Committee's Special Group on Trade in Tropical Products, the need to explore the possibility of speedy progress in the removal of barriers affecting trade and consumption of cocoa. The Committee has also drawn the attention of the International Cotton Advisory Committee to the discussions in the Working Group relating to developments affecting international trade in cotton.
24. For many years the CONTRACTING PARTIES have been collaborating with other intergovernmental organizations in the field of commodity trade, in particular the United Nations, the FAO and the various commodity study groups and councils. The Director-General of GATT participates in the work of the Administrative Co-ordination Committee of the United Nations and its Sub-Committee on Commodity Problems. On the invitation of the United Nations Economic and Social Council the GATT participated in meetings of the Commission on International Commodity Trade, until the Commission's functions were taken over by the Committee on Commodities of the UNCTAD. The GATT has always maintained close contact with the FAO and regularly attended the meetings of its Committee on Commodity Problems.

Collaboration with other intergovernmental agencies

25. In accordance with the standing resolution and the provisions of Article XXXVIII:2(a), the CONTRACTING PARTIES continue to collaborate with other intergovernmental agencies in the commodity field. It takes part, for example, in consultations with the executive heads of other international organizations on the question of multilateral food aid to examine the means and arrangements which would be required for international action of a multilateral character. When the Advisory Committee to the United Nations Trade and Development Board and to its Committee on Commodities was established to replace ICCICA pursuant to paragraph 23 of the United Nations Resolution 1995 (XIX), the CONTRACTING PARTIES participated in its formation in accordance with the arrangement agreed upon by the UNCTAD, by nominating one of its members. The GATT follows closely developments in commodity problems in the ACC, the Committee on Commodities and other relevant bodies of the United Nations and the FAO on the basis of reports submitted regularly by the secretariat.