working party on commodity problems

first draft of the preamble and articles i - xii*
prepared by the drafting committee of the
draft agreement on commodity arrangements

preamble

the governments of ........ , recognizing

(a) that producers and consumers of primary commodities have a common interest in the availability of adequate supplies of these commodities at prices which are reasonably stable and are fair to producers and consumers alike;

(b) that there are many countries whose economic welfare depends upon the export of a limited number of primary commodities, and that the import of primary commodities plays an important part in the welfare of the populations or the continued operation of the industries of many other countries;

(c) that in the conditions in which primary commodities are produced, consumed and exchanged, the common interest of producers and consumers may be adversely affected by such difficulties as a tendency towards disequilibrium between production and consumption, pronounced short-term fluctuations in price and the emergence of burdensome surpluses or of acute shortages;

(d) that such difficulties jeopardize the efforts of both producing and consuming countries to raise standards of living, to ensure full employment, and to develop a large and steadily growing volume of real income; and

(e) that the interests of both producing and consuming countries lie in preventing these difficulties and in developing the best use of the resources of the world by reducing short-term discrepancies between production and consumption and by alleviating the economic hardships created by persistent disequilibrium between production and consumption;

agree

that they will co-operate with one another and with the contracting parties to the general agreement on tariffs and trade for the purpose of taking such action as may be practicable in this field and

decide

in consequence to conclude an agreement on commodity arrangements, hereinafter called the "agreement".

* key table showing the relation between the new articles and the original united kingdom draft (w.9/140) - see annex.

spec/72/55
ARTICLE I

Objectives

The objectives of this Agreement are, by joint action of the Signatories:

1. where the conditions under which a primary commodity is produced, consumed or distributed or any other factors create a tendency towards a world disequilibrium between production and consumption and where ordinary market forces may not be sufficient to remove the special difficulties thereby created,

(a) to achieve a reasonable degree of stability on the basis of prices that are fair to consumers and producers, and to prevent or moderate any pronounced fluctuation in prices, bearing in mind the desirability of securing long-term equilibrium between the forces of supply and demand and the efficient utilization of the productive resources of the world as a whole;

(b) to prevent where possible the development of a shortage in world supplies or the burdensome accumulation of stocks, and to minimize their adverse effects if they develop;

(c) to accomplish the equitable distribution of a commodity in short supply;

(d) where production of any commodity appears to be, or to be likely to be in excess of long-term demand, to alleviate economic hardship in producing countries during the period necessary for the orderly transfer of resources into new and productive occupations;

(e) to expand consumption and production where this can be accomplished with advantage to consumers and producers, bearing in mind the desirability of maintaining and developing the natural resources of the world, while protecting them from unnecessary exhaustion;

(f) to afford as far as practical increasing opportunities for satisfying national consumption and world market requirements from sources from which such requirements can be satisfied in the most effective and economic manner, bearing in mind the social and economic standards of all countries concerned.

2. to facilitate the formulation and conclusion of intergovernmental arrangements which are consistent with the objectives of the General Agreement on Tariffs and Trade in order to accomplish these ends in a manner that will take fully into account the interests of both producers and consumers.
ARTICLE II

Examination of difficulties in International Trade in Primary Commodities

1. Any Signatory or any non-Signatory Government or any intergovernmental organization may submit to the Standing Committee of the Signatories a statement of special difficulties which exist or are likely to arise in international trade in any primary commodity or commodities. Subject to the provisions of paragraph 21, the Standing Committee, unless it decides by a two-thirds majority that the case put forward in support of the submission does not warrant further action, shall forthwith make arrangements for its immediate examination. This examination shall be carried out by a Study Group convened by the Standing Committee except in the circumstances provided for in paragraphs 5. and 6. below.

2. Where a submission of the kind envisaged in the previous paragraph is made by a body or Agency of the United Nations having world-wide competence, the Standing Committee shall arrange forthwith for its immediate examination.

3. A Study Group shall promptly investigate the production, consumption and trade situation and prospects in regard to the commodity or commodities, taking into consideration any work on the same subject by other intergovernmental 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 may exist or may be expected to arise. The Study Group shall promptly transmit its findings and recommendations to the Signatories and to any other Participating Governments. A Study Group, after presenting its initial report, may remain in existence for as long as its members wish for the exchange of information and views between Governments about the commodity or commodities.

4. Any Signatory may appoint representatives to a Study Group. Intergovernmental organizations and bodies or organizations of the United Nations may send observers to any Study Group, and non-Signatory Governments may be invited by the Signatories to send observers. Observers may, at the wish of the Study Group, be invited to take part in its deliberations. Each Study Group shall nominate its own independent Chairman.

5. For the purposes of this Article, the Signatories may deem a Study Group to have been convened by them if it is established by any body or Agency of the United Nations having special knowledge of the commodity or commodities in question and provided that the Study Group is authorized by the body or Agency in question to conform to the provisions of the two preceding paragraphs.

6. Where the Standing Committee considers any subject inappropriate to a Study Group, it shall refer the subject either to a Committee or Signatories, or to any existing body or organization having special knowledge of the commodity or commodities in question, or to an expert or experts whom the Signatories shall select, provided that reference to a single expert must be approved by the submitting government or body. The terms of reference shall fix a time for a report to the Signatories and shall cover any matters required by the submitting government or body. Unless the Signatories decide otherwise, the terms of reference and subsequently the report shall be promptly published.
ARTICLE III

Formulation of Commodity Arrangements

1. The Standing Committee shall, unless they decide by a two-thirds majority that such a conference would not have a reasonable prospect of success, summon a negotiating conference for any commodity on behalf of the Assembly,

(a) on the recommendation of a Study Group,

(b) at the request of Signatories whose interests represent a substantial part of world production or consumption of or trade in that commodity, or

(c) at the request of Signatories who consider that their economies are dependent to an important extent on that commodity, or

(d) on its initiative as a result of a report issued after an examination in accordance with Article II:6, or on the basis of information agreed to be adequate by the Assembly substantially interested in the production or consumption of or trade in that commodity;

(e) at the request of an intergovernmental organization having world-wide competence.

2. The Standing Committee may, on behalf of the Assembly, summon a negotiating conference at the request of any Signatory having specific measures to propose for intergovernmental action to deal with serious difficulties in international trade in a single primary commodity, provided that this request is made by:

(a) a Signatory whose interests represent a considerably part of world production or consumption of or trade in that commodity, or

(b) a Signatory which considers that its economy is dependent to a large extent on that commodity.

3. Where a number of Signatories with a special interest in any commodity desire to negotiate an agreement, they may summon a conference of those Signatories which they consider to have a substantial interest in the conclusion of the agreement. They shall notify the Standing Committee of their intentions and the Standing Committee shall inform all Signatories. Any Signatory may send an observer to such a conference but may participate in it only if the Standing Committee decides that the conclusion of the proposed agreement would substantially affect their interests.
4. A negotiating conference may draw up a commodity arrangement or recommend to governments any other form of specific action to deal with particular difficulties which exist or are expected to arise concerning a commodity or a sector of the commodity field.

5. Decisions made in respect of paragraphs 1, 2, 3 and 4 above shall take into consideration any action that has been or is being taken by other intergovernmental organizations in the same field.

6. Any signatory may appoint representatives to a negotiating conference. The Assembly may invite any government substantially interested in the production or consumption of or trade in that commodity and any government, intergovernmental organization or body or agency of the United Nations which may appear to them to be interested in the measures in question.

7. Subject to the next succeeding paragraph the provisions of this Article shall be deemed to have been complied with if an arrangement resulting from a negotiating conference convened by another intergovernmental organization having world-wide competence and special knowledge of the commodity or commodities concerned is approved by the Assembly.

8. The provisions of the last preceding paragraph shall apply only after agreement has been reached between the Assembly and the intergovernmental organization concerned, that in convening negotiating conferences, the organization will act consistently with the provisions of this Agreement applicable to the conduct of negotiating conferences.

ARTICLE IV

General Principles governing provisions of all Commodity Arrangements

1. Consistent with the provisions of Article I any arrangements concluded under this Agreement shall conform to the following principles:

   (a) Such arrangements shall be open to participation initially by any Signatory and thereafter only in accordance with such provisions as may be established in the arrangement.

   (b) The Assembly may invite the participation of non-signatories who shall take part on the same terms.

   (c) In every arrangement an opportunity for adequate participation shall be provided both to countries substantially interested in the import and also to those substantially interested in the export of the commodity with which the arrangement is concerned.
(d) Where a commodity arrangement includes any undertaking by participants to enter into contracts for specific amounts and at specified prices, or separately or collectively to engage in, or to authorize, the buying or selling of the commodity, but includes no provision for the restriction of imports, exports or production, participants mainly interested in imports of the commodity concerned shall, in decisions on substantive matters have together a number of votes equal to that of participants mainly interested in exports, provided that the Assembly may except an arrangement from the provisions of this paragraph if it is satisfied that the total volume of production of the commodity which enters into international trade, other than between countries which are substantial producers of it, is so small as to make equal representation of consuming and producing countries on the Council unreasonable; in such a case the Assembly may permit the Council to decide on the voting power which shall be given to exporters, on the one hand, and importers on the other. The Assembly may, however, make recommendations to the Council upon this subject and may require that in deciding upon matters of vital interest to consumers, the Council shall provide for equality of voting power.

(e) The provisions relating to votes in the preceding paragraph shall also apply to arrangements which involve the continuous regulation of prices in international trade of any commodity or the regulation of production or any quantitative control of exports or imports of them which have the purpose or might have the effect of reducing, or preventing an increase in, the production of, or trade in that commodity. In addition, such arrangements shall provide for the study by the participants of measures designed to enable the elimination of such regulation or control consistently with the objectives of this Agreement.

(f) Where an arrangement of the type in the preceding paragraph is designed, inter alia, to afford a respite to enable an orderly transfer of resources into new and productive occupations, the participants shall formulate and adopt, as far as practicable, programmes of internal economic adjustment designed to ensure progress within the duration of the agreement towards solution of the commodity problem involved.

(g) In the operation of every arrangement the participants shall take into consideration its effects on the production and consumption of other commodities.
2. Where this Agreement does not require equal representation of consumers and producers on a commodity council the Assembly may, if they so decide by a two-thirds majority, make any recommendations concerning the distribution of votes within a commodity council.

3. Each negotiating conference shall give consideration to the inclusion within the terms of the arrangement of suitable procedure for:

(a) renewal, including participation in the negotiations therefor by any Signatory and, at the invitation of the Commodity Council, by any interested country;

(b) amendment, with proposals therefor to be considered by the Commodity Council, within the duration of the arrangement upon the request of one or several of its participants representing a substantial percentage of the world trade in the commodity concerned; and

(c) settlement of disputes arising from the operation of the arrangement such as a provision that, if the Council has experienced serious difficulties in resolving a dispute, it may before settling the issue, refer it for an opinion to a consultative committee consisting of two representatives of the exporters' interests, two representatives of the importers' interests, and a chairman nominated by the Executive Secretary of the Signatories;

(d) accession and withdrawal during the period of operation of the arrangement on terms to be laid down by the Commodity Council.

4. Commodity arrangements negotiated under the provisions of this Agreement shall be concluded or renewed for periods of not more than five years. The provisions of renewed arrangements shall conform to the provisions of this Agreement.
ARTICLE V

Administration of Commodity Arrangements

1. When an arrangement is ended, the Assembly shall either take charge of the archives and statistical material relating to the Agreement, or assign them to any body designated by the participating countries.

2. Commodity arrangements falling within the provisions of Article IV:1(d) and (e) shall, in addition to any other provisions of this Article, provide for

(a) the establishment of a governing body, herein referred to as a Council which shall operate in conformity with the provisions of this Section, and on which each participating country shall have one representative. The voting power of the representative shall be in accordance with the provisions of Article IV (d) and (c);

(b) the appointment by the Signatories of a non-voting representative to each Council and for the attendance of non-voting representatives of such inter-governmental organizations as the Council may desire;

(c) the appointment of a non-voting Chairman who, if the Council so requests, may be nominated by the Signatories or by the Standing Committee on their behalf.

ARTICLE VI

Consideration of questions concerning the conformity of an arrangement with the provisions of the Special Agreement

1. (a) In any case in which Signatories do not represent a majority of the participants in a negotiating conference leading to a commodity arrangement, the text of the arrangement shall be submitted to the Standing Committee before it is open for signature. The Standing Committee shall examine the text promptly and deliver an opinion within sixty days to the negotiating conference either that it sees no objection to the arrangement or that the arrangement does not conform with the provisions of the Special Agreement. Until such an opinion has been rendered, the arrangement shall not be open for signature.
(b) If the Standing Committee finds that the arrangement is not in conformity with the Special Agreement, it shall specify the points on which the arrangement fails to conform. The negotiating conference shall amend the arrangement accordingly but the negotiating conference or any Signatory may appeal to the Assembly against the decision of the Standing Committee and the Assembly shall have the final decision in the matter.

2. Where circumstances make it impracticable to conform precisely to the provisions of Articles III and IV, a negotiating conference may draw up an arrangement which does not conform precisely to the provisions of those Articles but which appears otherwise to accord with the general principles and objectives underlying this Special Agreement. Any such arrangement shall be submitted to the Signatories before it is put into operation and shall not operate if they disapprove it.

3. Whether or not an arrangement has been submitted to the Standing Committee under the provisions of paragraph 1 or 2, any Signatory may, either before or after the arrangement comes into effect, ask the Standing Committee for a decision as to whether the arrangement conforms to the provisions of the Special Agreement. The Standing Committee shall examine the matter promptly. If it finds that the arrangement does not conform with the provisions of the Special Agreement, it may recommend to the negotiating conference such changes as it may consider necessary in order to bring the arrangement into conformity. Subject to the right of appeal to the Assembly, the negotiating conference shall amend the arrangements or, if the arrangement is in operation, the Council shall take steps to amend it as soon as practicable.

4. In the deliberations of the Standing Committee, or in the consideration by the Assembly of any appeal under this Article or under Article VI, the complainant State and all members of the negotiating conference of the council of the arrangement shall be entitled to participate. They shall have the right to vote only if they are members of the Standing Committee or the Assembly as the case may be.

ARTICLE VII

Consideration of complaints concerning the operation of a commodity arrangement

1. Any Signatory or any Non-Signatory participant in a commodity arrangement who considers that the arrangement is being operated in a manner that is not in conformity with the provisions of the Special Agreement may ask the Standing Committee to make a finding in the matter.

2. The Standing Committee shall promptly examine the question and may make such recommendations to the council of the arrangement as it considers necessary in order to bring the operations into conformity with the Special Agreement. Subject to appeal to the Assembly, the council of the arrangement shall conform with the recommendations of the Standing Committee.
ARTICLE VIII
Commodity Councils and non-participating Signatories

1. Where the council of a commodity arrangement considers that the action of a non-participant Signatory is frustrating the arrangement, the council may, with a view to a satisfactory adjustment of the matter, make written representation or proposals to the non-participant which shall give sympathetic consideration to them. A non-participant Signatory shall not be held to frustrate a commodity arrangement by any action which is consistent with normal commercial practice.

2. Where a non-participant Signatory considers that the participants are operating an arrangement in such a way as to inflict commercial injury upon it, the non-participant may, with a view to a satisfactory adjustment of the matter, make written representations or proposals to the council of the arrangement and the council shall give sympathetic consideration to them.

3. Where no satisfactory conclusion is reached as a result of the representations or proposals referred to in paragraphs 1 or 2 above, the Assembly may summon a special conference of the parties concerned with the object of enabling them to reach a satisfactory conclusion by further consultation. The Assembly may invite other Signatories to such a conference if this course seems likely to facilitate a satisfactory conclusion.

ARTICLE IX
Existing Commodity Study Groups and Arrangements

Although this Agreement does not apply to existing study groups or to the operation and renewal of existing commodity arrangements conforming to the principles approved by the Economic and Social Council of the United Nations in its resolution of 28 March 1947, the Assembly may, at the invitation of such study groups or of the councils of such arrangements, perform in regard to them any of the functions which they shall perform in regard to study groups convened, or commodity arrangements concluded after the coming into force of this Agreement.

ARTICLE X
Publicity and Reports

1. Full publicity shall be given to the intention to conclude any commodity arrangement and to the summoning of any study group or negotiating conference in connection with such an arrangement; and after the conclusion of any arrangement full publicity shall be given to its purposes and terms.
2. A study group which remains in existence after presenting its initial report, shall present annual reports to the Assembly on its activities.

3. The council of every arrangement shall make an annual report to the Assembly on the operation of the arrangement; and, in addition, any reports on subjects within their competence which the Signatories may desire.

4. The Assembly shall make an annual review of the operation of each arrangement in the light of the principles set forth in this Agreement and may make recommendations for the guidance of the participants.

5. The Assembly shall publish either itself or jointly with other intergovernmental organizations an annual report reviewing, to the extent that they consider necessary consistently with paragraph 6 below, developments in international commodity trade, including the operation of arrangements and any other intergovernmental consultation and action in the primary commodity field.

6. The Assembly may arrange for the exchange of information and for the avoidance of duplication of work with any other intergovernmental organization.

ARTICLE XI

Exceptions to this Agreement

1. The provisions of this Agreement shall not apply:

(a) to any intergovernmental commodity arrangement involving no more than one exporting country and no more than one importing country;

(b) to those provisions of any intergovernmental commodity arrangement which are necessary for the protection of public morals or of human, animal or plant life or health, provided that the arrangement is not used to accomplish results inconsistent with the objectives of this Agreement;

(c) to any intergovernmental arrangement relating solely to the conservation of fisheries resources, migratory birds or wild animals, provided that the arrangement is not used to accomplish results inconsistent with the objectives of this Agreement and is given full publicity; if the Assembly find upon complaint by a non-participating Signatory, that the interests of that Signatory are seriously prejudiced by the arrangement, the arrangement shall become subject to such provisions of the Agreement as the Assembly may prescribe.
2. Nothing in this Agreement or in an arrangement negotiated in accordance with this Agreement shall be construed:

(a) to require any Signatory or Participant to furnish any information the disclosure of which it considers contrary to its essential security interests, or

(b) to prevent any Signatory or Participant from taking any action which relates to fissionable material or ammunition and implements of war or which it considers necessary for the protection of its essential security interests in time of war or other emergency in international relations; or

(c) to prevent any Signatory or Participant from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

ARTICLE XII

Obligations of Individual Signatories

1. Signatories to this Agreement shall negotiate or conclude a commodity arrangement only in accordance with provisions of this Agreement.

2. Each Signatory shall recognize the Signatories collectively the Assembly as the deciding authority in all matters of principle relating to commodity arrangements (except those provided for in Articles VIII and X), subject, as provided elsewhere, to reference to the CONTRACTING PARTIES to the GATT.
**ANNEX**

Relation between Revised and Original United Kingdom Texts

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**Note:** Where revised text includes new material, no United Kingdom equivalent is given. Otherwise the Article indicated under the heading "United Kingdom Text" is the nearest parallel to the corresponding new Article.