DRAFT INTERIM REPORT OF THE WORKING PARTY
ON COMMODITY PROBLEMS

On 22 December 1954, the CONTRACTING PARTIES established the Working Party on Commodity Problems to consider "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 to consider the form of an international agreement in this field, the relationship between such an agreement and the General Agreement, and the relationship between the parties to such an agreement and other competent international organizations (document L/301).

The Working Party was instructed by the CONTRACTING PARTIES to submit a report at the end of the present Session in the event that it was not possible at that date to submit final recommendations. The Working Party has reached the conclusion that its recommendations will be of much greater value if those recommendations are put in final form after interested governments have had an adequate opportunity to consider its tentative suggestions and to indicate their reactions. Since there would be no time for this sort of careful consideration by governments before the end of the Review Session, the Working Party is submitting this interim report to the CONTRACTING PARTIES, containing a text of a draft Agreement to govern international action in the field of commodity problems. As suggested in further detail below, the Working Party contemplates that this draft Agreement should be subjected to careful examination by governments. The comments and suggestions obtained in this way would then be considered by the Working Party at a later session this year, and incorporated in a new draft Agreement that could then be transmitted by the CONTRACTING PARTIES to interested governments as the basis for the negotiation of a final Agreement.

The procedures followed-

The Working Party conducted its work initially on the basis of a draft Agreement submitted by the delegation of the United Kingdom. It quickly became apparent that because this draft was not available to members until the opening meeting of the Working Party, no representatives would be in a position to commit their governments. It was therefore decided that the Working Party could only work during the present Session as experts, thus avoiding the necessity of recording a multitude of reservations. The accompanying text of a draft Agreement is submitted by the Working Party in this light, and with the understanding not only that each member has fully reserved the position of his government on the entire text, but also that in most cases no effort has been made to record individual differences of view on specific points. Early in its session, the Working Party appointed a Drafting Group under the chairmanship of Mr. Wilson (Canada) and including the representatives of Ceylon, the United Kingdom, the Dominican Republic, France and Australia. The Chairman wishes to record his appreciation of the efficiency and speed with which the Drafting Group did its work and the contribution that this made to the completion of the text of the draft Agreement.

Spec/98/55
Special problems

While the draft text will itself provide an adequate guide to most of the organizational and policy questions with which the Working Party had to deal, there were a number of special problems for which some further explanation is needed.

(a) Relations with the General Agreement - The Working Party was faced with the problem of considering two aspects of the relationship between an "Agreement on Commodity Arrangements" and the General Agreement. The Agreement on Commodity Arrangements contemplates the negotiation among governments of arrangements which could, unless special provision is made, conflict with commitments of contracting parties under the General Agreement and which might not be covered by the present exception in Article XX:1(h). An initial effort to attempt to foresee the safeguards that the CONTRACTING PARTIES might require as the basis for granting an exception to such agreements was abandoned for the time being. The Working Party considered that it was not essential to attempt to spell out all these safeguards in the draft Agreement itself, since the CONTRACTING PARTIES would in any event have the right to attach such conditions as they might consider necessary in an eventual release. Signatories of the Agreement on Commodity Arrangements who were also contracting parties would be bound by those conditions. In certain cases, however, the Working Party retained provisions designed to establish the special responsibilities of the Signatories of the Agreement on Commodity Arrangements towards the CONTRACTING PARTIES where it appeared that these provisions, if adopted, belonged properly in the Agreement. Since the Working Party considered that final recommendations concerning the legal relationship between the two Agreements could best be made after the form of the Agreement on Commodity Arrangements is known and after comments have been received from governments, references to the General Agreement have been included in square brackets.

A distinct category of questions arose in connexion with the administrative relationships between the two Agreements; here again, it was decided that firm recommendations could better be made at a later date, and proposals for combining co-ordinating the budgets and secretariat services of the two Agreements have been retained in square brackets.

(b) Relations with other organizations - It was necessary for the Working Party to give consideration to the relationships between the Agreement on Commodity Arrangements and other intergovernmental organizations which have responsibilities in the field of primary commodities. It was not necessary to include in the Agreement itself all the details of such relationships, since many of them could undoubtedly be worked out in supplementary agreements with the organizations concerned. It was necessary, however, to make certain assumptions concerning the intent of the CONTRACTING PARTIES in establishing the Working Party to devise an agreement in this field.
The Working Party has taken it to be the wish of the CONTRACTING PARTIES that the proposed Agreement should not merely be additional to any measures already taken or likely to be taken by other international organizations in the field of commodity policy. On the contrary, the Working Party has conceived it to be the wish of the CONTRACTING PARTIES that the new Agreement should become the main centralizing and co-ordination organization for all Commodity Arrangements. If this view is correct, it is clear that the new organization must be empowered to take the initiative in summoning commodity Study Groups and Negotiating Conferences. Without prejudice to the powers of such bodies as the ECOSOC Commission on International Commodity Trade or the Food and Agriculture Organization of the United Nations, it is clear that at present the Interim Co-ordinating Committee for International Commodity Arrangements established by the ECOSOC resolution of 28 March 1947 does possess such powers over the whole commodity field, and has in fact exercised them. The Working Party have accordingly assumed in preparing their text that if the new Agreement secured the adhesion of a substantial number of countries, the necessary arrangements would be made, by whatever means, for the transfer to the new Agreement of the powers at present exercised by ICCICA.

It might well be that acceptance of the new Agreement by a large number of governments might also lead to a review by other international organizations of the way in which they will exercise any powers they may possess in the field of commodity policy. The Working Party have, however, kept their assumptions in this direction to the absolute minimum necessary to produce a text which would conform with the general principle mentioned above. These minimum assumptions are that other international organizations which may be empowered to summon Study Groups or Negotiating Conferences will agree that such Groups or Conferences will conform to the rules of the Agreement in addition to any rules that may be laid down for them by their parent organizations.

It is on the basis of the assumptions above that a text has been prepared which contains no references to the existence of ICCICA but which provides for the recognition of Study Groups and Negotiating Conferences convened by other competent international organizations so long as they observe the rules of the Agreement. Provisions to this effect are contained in Article II, paragraph 5, and related provisions recognizing the competence of other international organizations or of existing Study Groups and commodity arrangements will be found in Articles III, IX and XI.
(c) Territorial application — The Working Party found particular difficulty in dealing with the provisions governing the territorial application of the Agreement (Article XX). It finally decided to retain the text of paragraphs (a) and (b) of that Article, subject to the general reservation mentioned earlier in this report. The representative of Brazil in particular, however, asked that his special reservation on those two paragraphs be recorded. The draft text originally submitted by the representative of the United Kingdom as a basis for discussion contained a third paragraph — (c) — dealing with the representation of metropolitan territories and their dependencies in Study Groups, Negotiating Conferences and Commodity Council on the basis of the Havana Charter. As indicated in the text of the draft Agreement, at that point the Working Party was unable to reach an agreed view upon this question.

In addition to these specific problems, one member of the Working Party raised a question as to the appropriateness of an attempt by the Working Party to draft a detailed Agreement on such short notice. Because of his belief that the Working Party should have limited its efforts to recommendations of a general and preliminary character, the Turkish representative asked that this report record his special reservation with respect to the procedures followed by the Working Party. The text of a statement submitted by that representative is attached to this report as Annex A.

Three delegations expressed the wish to include a new paragraph to Article XI providing for the possibility of excluding from the Agreement regional intergovernmental arrangements concluded between more exporting and importing countries.

There was general agreement that the assembly should have the power to conduct its own studies of commodity problems, but most of the Working Party believed that the draft text would permit this without further specific reference.

Conclusion

Paragraph 2 of the terms of reference of the Working Party on Commodity Problems (L/301) require that it "submit a report to the CONTRACTING PARTIES at the end of the present Session in the event that it is not possible at that date to submit final recommendations". Subject to any contrary view of the CONTRACTING PARTIES, the Working Party understands this to mean that it is expected to carry its work to a more final conclusion following this interim report. The Working Party therefore proposes the following procedure which it will carry out unless otherwise instructed:
1. It will request that the Executive Secretary transmit copies of the
draft text to contracting parties, to appropriate intergovernmental
organizations and to governments which are not contracting parties but
which are entitled to send observers to meetings of the CONTRACTING
PARTIES under rule 8 of the rules of procedure;

2. The Executive Secretary will be asked to invite any interested con­
tracting party not a member of the Working Party to participate in
the next meeting of the Working Party, and similarly to invite the
governments and intergovernmental organizations mentioned above to
send observers to that meeting. Contracting parties and observers
who do not expect to attend will be invited to submit written comments
and suggestions;

3. The Working Party will reconvene at a time to be determined by the
Executive Secretary. The objective in selecting this date would be
to allow the maximum time for consideration by governments of the
draft text but still permit the Working Party to complete its work
before the Tenth Session of the CONTRACTING PARTIES. The Working
Party considers that in order to accomplish this, its second session
would probably have to begin not later than July of this year.