GENERAL AGREEMENT ON TARIFFS AND TRADE

CONTRACTING PARTIES
Ninth Session

Working Party on Commodity Problems

DRAFT AGREEMENT ON COMMODITY PROBLEMS

Resolution to be moved by the Ceylon Delegation after the "first reading" of the Draft Agreement

"In as much as Commodity Problems are a primary responsibility of the CONTRACTING PARTIES to the General Agreement as the body most appropriate and qualified to deal with such matters and in as much as it is undesirable and unnecessary to set up a new authority while the CONTRACTING PARTIES or an organization created by them is in existence.

"The Working Party on Commodity Problems recommends to the CONTRACTING PARTIES the insertion in any appropriate part or in any appropriate way in the General Agreement which is being reviewed the specific proposals regarding Commodity Problems set forth in the annexure to this Resolution".
DRAFT SUBMITTED BY THE CEYLON DELEGATION
OF
ARTICLES DEALING WITH COMmodity ARRANGEMENTS
TO BE INSERTED INTO THE
GENERAL AGREEMENT ON TARIFFS AND TRADE

The CONTRACTING PARTIES, 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, owing to the conditions in which primary commodities are produced, consumed or exchanged, this common interest may be adversely affected by such special difficulties as pronounced fluctuations in prices, a tendency towards persistent disequilibrium between production and consumption, and the emergence of burdensome surpluses or serious scarcities;

(e) that the adverse effects of such difficulties on both producers and consumers, and their more widespread repercussions may jeopardize the general policies of raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world, and expanding the production and exchange of goods, which are the objective of the General Agreement on Tariffs and Trade;

agree to take joint action to prevent or alleviate these special difficulties. In doing so they shall give due consideration to the desirability of:

(a) achieving a reasonable degree of price stability, by restraining excessive short-term price fluctuations; and taking such measures as are practicable to facilitate those gradual movements in prices which are essential to ensure a long-term equilibrium between supply and demand consistent with the efficient allocation of productive resources in the world as a whole;

(b) encouraging so far as is practicable the expansion of consumption or production of primary commodities as a means of alleviating conditions of surplus or of shortage;

(c) providing, where production appears to be, or to be likely to be, in excess of long-term demand, machinery to give such respite as may be necessary to enable the orderly transfer of resources in producing countries into new and productive occupations including, in appropriate cases, the development of secondary industries;
(d) assuring the equitable distribution of primary commodities in short supply and in appropriate cases the distribution of basic foods at special prices;

(e) maintaining and developing the natural resources of the world and protecting them from unnecessary exhaustion

and further agree as follows:

**ARTICLE I**

*Examination of special Difficulties in International Trade in Primary Commodities*

1. Any contracting party or any inter-governmental organization or any body or agency of the United Nations may submit to the CONTRACTING PARTIES a statement of special difficulties which exist or are likely to exist in international trade in any primary commodity or commodities and shall be entitled to ask that a study of the commodity be made.

2. Unless the CONTRACTING PARTIES decide that the case put forward in support of the request does not warrant such action, it shall promptly invite each contracting party to appoint representatives to a study group for the commodity, if the contracting party considers itself substantially interested in the production or consumption of, or trade in, the commodity. Non-contracting parties may also be invited.

3. The study group shall promptly investigate the production, consumption and trade situation in regard to the commodity, and shall report to the participating governments and to the CONTRACTING PARTIES its findings and its recommendations as how best to deal with any special difficulties which exist or may be expected to arise. The CONTRACTING PARTIES shall promptly transmit to the contracting parties these findings and recommendations.

**ARTICLE II**

*Negotiation of Commodity Arrangements*

1. The CONTRACTING PARTIES shall promptly convene an inter-governmental conference to discuss measures designed to meet the special difficulties which exist or are expected to arise concerning a particular primary commodity:

(a) on the basis of recommendations of a study group, or

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

(c) at the request of contracting parties which consider that their economies are dependent to an important extent on that commodity, unless the CONTRACTING PARTIES consider that no useful purpose could be achieved by convening the conference, or
(d) on its own initiative, on the basis of information agreed to be adequate by the contracting parties substantially interested in the production or consumption of, or trade in, that commodity.

2. Each contracting party which considers itself substantially interested in the production or consumption of, or trade in, the commodity concerned, shall be invited to participate in such a conference. Non-contracting parties may also be invited to participate.

3. The conference may draw up a commodity arrangement or recommend governments to take any other form of specific action to deal with particular difficulties which exist or are expected to arise concerning a primary commodity or a sector of the primary commodity field.

ARTICLE III

General Principles governing Commodity Arrangements

1. The CONTRACTING PARTIES shall observe the following principles in connection with the conclusion and operation of all types of inter-governmental commodity arrangements:

   (a) The negotiation or operation of such arrangements shall be open to participation initially by any contracting party; thereafter only in accordance with such provisions as may be established in the arrangement.

   (b) The CONTRACTING PARTIES may invite non-contracting parties to participate. All participants shall take part on the same terms.

   (c) Full publicity shall be given to the intentions to conclude an arrangement, its purpose and terms, its conclusion and, from time to time, its operation.

   (d) Every arrangement shall provide for the adequate participation both of countries substantially interested in the import and also of those substantially interested in the export of any commodities with which it is concerned. This provision shall not, however, be taken to prohibit the conclusion of commodity arrangement if a country substantially interested in trade in such commodities should refuse to participate.
(e) Under every arrangement there shall be equitable treatment as between participating countries and non-participating contracting parties; and the treatment accorded by participating countries to non-participating contracting parties shall be not less favourable than that accorded to non-participating non-contracting parties, due consideration being given in each case to obligations assumed and advantages conferred under the arrangement.

(f) Each arrangement shall include provision for such adjustment as the participants may decide upon in the light of the principles set out in this Agreement.

2. The CONTRACTING PARTIES, including contracting parties not parties to a particular commodity arrangement, shall give favourable consideration to any recommendation made under the arrangement for expanding consumption of the commodity in question.

ARTICLE IV

Additional Principles Governing Certain Types of Commodity Arrangements

1. Where any intergovernmental commodity arrangement involves the regulation of prices in international trade of any primary commodities or the regulation of production or the quantitative control of exports or imports of them, the CONTRACTING PARTIES shall observe the following principles in addition to those in Article III:

(a) Such arrangements shall be designed to promote and assure the availability of supplies adequate at all times for world demand at prices fair both to consumers and producers and, when practicable, shall provide for measures to expand world production or consumption of the commodity as appropriate.

(b) Under such arrangements, participating countries which are mainly interested in imports and consumption of the commodity concerned shall, in decision on substantive matters, have together a number of votes equal to that of exporting and producing countries. Any participating country which is interested in the commodity but which does not fall substantially under either of the above classes, shall have an appropriate voice within such classes.

(c) Where the arrangement is designed, inter alia, to afford producing countries a respite to enable an orderly transfer of resources into new and productive occupations, they shall formulate and adopt programmes of internal economic adjustment to ensure as much progress as practicable within the duration of the arrangement towards solution of the commodity problem involved.
2. The CONTRACTING PARTIES shall decide whether a proposed intergovernmental arrangement falls under the types covered by the provisions of this Article.

3. Where conditions of acute shortage or burdensome surplus of a single commodity exist, or are clearly imminent, and if a negotiating conference has failed within three months to agree to the conclusion of a commodity arrangement, any contracting parties who consider themselves substantially interested in the production or consumption of, or trade in, that commodity, may proceed by direct negotiation to the conclusion of an arrangement. Such an arrangement shall conform as closely as is practicable to the provisions of this Agreement and shall make provision for modification within a period of [one year] to bring it into full conformity. The period of [one year] may be extended only with the consent of the CONTRACTING PARTIES.

ARTICLE V

Administration of Commodity Arrangements

1. Each commodity arrangement shall provide for the establishment of a governing body, herein referred to as a Commodity Council, which shall operate in conformity with the provisions of this article.

2. Each participating country shall be entitled to have one representative on the Commodity Council. Under such arrangement, participating countries which are mainly interested in imports and consumption of the commodity concerned shall, in decisions on substantive matters, have together a number of votes equal to that of exporting and producing countries. Any participating country which is interested in the commodity but which does not fall substantially under either of the above classes, shall have an appropriate voice within such classes.

3. The CONTRACTING PARTIES shall be entitled to appoint a non-voting representative to each Commodity Council and may invite any competent intergovernmental organization to nominate a non-voting representative for appointment to a Commodity Council.

4. Each Commodity Council shall appoint a non-voting chairman who, if the Council so requests, may be nominated by the CONTRACTING PARTIES.

5. The secretariat of each Commodity Council shall be appointed by the Council after consultation with the CONTRACTING PARTIES.

6. Each Commodity Council shall adopt appropriate rules of procedure and regulations regarding its activities. The CONTRACTING PARTIES may at any time require their amendment if they consider that they are inconsistent with the provisions of this Agreement.
7. Each Commodity Council shall make periodic reports to the CONTRACTING PARTIES on the operation of the arrangement which it administers. It shall also make such special reports as the CONTRACTING PARTIES may require or as the Council itself considers to be of value to the CONTRACTING PARTIES.

8. The expenses of a Commodity Council shall be borne by the participating countries.

9. When an arrangement is terminated, the CONTRACTING PARTIES shall take charge of the archives and statistical material of the Commodity Council.

ARTICLE VI

Initial Term, Renewal and Review of Commodity Arrangements

1. Commodity arrangements shall be concluded for a period of not more than five years. Any renewal of a commodity arrangement shall be for a period not exceeding five years. The provisions of such renewed arrangement shall conform to the provisions of this Chapter.

2. The CONTRACTING PARTIES shall prepare and publish periodically, at intervals not greater than three years, a review of the operation of each arrangement in the light of the principles set forth in this Chapter.

3. Each commodity arrangement shall provide that, if the CONTRACTING PARTIES find that its operation has failed substantially to conform to the principles laid down in this Chapter, participating countries shall either revise the arrangement to conform to the principles or terminate it.

4. Commodity arrangements shall include provisions relating to withdrawal of any party.

ARTICLE VII

Settlement of Disputes

1. Each commodity arrangement concluded in accordance with the provisions of this Chapter shall provide that:

   (a) Any question of difference among the participants concerning the interpretation of the provisions of the arrangement or arising out of its operation shall, in the first instance, be discussed by the Council;

   (b) if the question or difference cannot be resolved by the Council or by machinery established under the arrangement, it shall be referred to the CONTRACTING PARTIES;
(c) if the question or difference relates to the application of the principles of this Chapter to the arrangement, it shall be referred to the CONTRACTING PARTIES.

2. The CONTRACTING PARTIES shall give a final ruling in the event of any such question.

3. Where the Council of a commodity arrangement considers that the arrangement is being frustrated by the action of a non-participant contracting party, the Council may, with a view to a satisfactory adjustment of the matter, make written representations or proposals to the non-participant contracting party in question and the non-participant contracting party shall give sympathetic consideration thereto.

4. Where no satisfactory conclusion is reached as a result of such representations or proposals, the CONTRACTING PARTIES may summon a special conference of the parties concerned with the object of enabling them to reach a satisfactory conclusion by further consultation. Any contracting party may send representatives to such a conference and all shall use their best endeavours to enable a satisfactory conclusion to be achieved.

5. Where any contracting party not being a participant in the commodity arrangement, considers that the participants are operating in such a way as to inflict commercial injury upon it, a procedure similar to that in Sections (3) and (4) above shall be followed.

ARTICLE VIII

Existing Commodity Study Groups and Arrangements

1. Existing study groups and commodity agreements conforming to the principles approved by the Economic and Social Council of the United Nations establishing an Interim Co-ordinating Committee for International Commodity Arrangements shall not, so long as the Committee exists, be affected by this Agreement. Thereafter;

2. Existing Commodity Councils may invite the CONTRACTING PARTIES to perform in regard to them any of the functions which they shall perform in regard to commodity arrangements concluded after the coming into force of this Agreement.

3. The CONTRACTING PARTIES may similarly perform, at the invitation of existing Commodity Study Groups any of the functions which they shall perform in regard to study groups set up under this Agreement.
ARTICLE IX

Exceptions to this Agreement

1. The provisions of this Agreement shall not apply:

   (a) to any bilateral intergovernmental agreement in respect of a commodity bought or sold under that agreement by a State enterprise;

   (b) to any intergovernmental commodity agreement involving no more than one exporting country and no more than one importing country and not covered by sub-paragraph (a) above; provided that if, upon complaint by a non-participating contracting party, the CONTRACTING PARTIES find that the interests of that contracting party are seriously prejudiced by this Agreement, the agreement shall become subject to such provisions of this Agreement as the CONTRACTING PARTIES may prescribe;

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

   (d) to any intergovernmental agreement relating solely to the conservation of fisheries resources, migratory birds or wild animals, provided that such an agreement is not used to accomplish results inconsistent with the objectives of this Agreement and is given full publicity; if the contracting parties find, upon complaint by a non-participating contracting party, that the interests of that contracting party are seriously prejudiced by the agreement, the agreement shall become subject to such provisions of the agreement as the Signatories may prescribe.

2. Insert Article XXI of GATT (Security Exceptions).

ARTICLE X

Obligations of Individual Contracting Parties

1. No contracting party shall negotiate or conclude or join a commodity arrangement except in accordance with provisions of this Chapter.

2. Each contracting party shall recognize the CONTRACTING PARTIES collectively as the deciding authority in all matters of principles relating to commodity arrangements (except those provided for in Article VII).
ARTICLE XI

Territorial Application

For the purpose of this Chapter, the terms "contracting party" and "non-contracting party" shall include the dependent territories of a contracting party and non-contracting party of the CONTRACTING PARTIES respectively. If a contracting party or non-contracting party and its dependent territories form a group, of which one or more units are mainly interested in the export of a commodity and one or more in the import of the commodity, there may be either joint representation for all the territories within the group, or, where the contracting party or non-contracting party so wishes, separate representation for the territories mainly interested in exportation and separate representation for the territories mainly interested in importation.

ARTICLE XII

Definitions

For the purpose of this Agreement -

Commodity means a Primary Commodity

Primary Commodity means any product of farm, forest or fishery or any mineral in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade. The term Primary Commodity may also include, at the discretion of the CONTRACTING PARTIES, commodities closely related to a Primary Commodity as regards conditions of production or utilization.

Commodity Arrangement means an intergovernmental arrangement wholly or mainly designed to achieve some or all the objectives of this Agreement.