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Interim Commission for the
International Trade Organization

REPORT OF WORKING PARTY ON CHAPTER VI

Provisional Application of Chapter VI

of the Havana Charter

As requested by the emergency session of the Executive Committee on 22nd July (ICITO 1/19), the Working Party has considered possible alternative methods to give effect to the provisions of Chapter VI pending the entry into force of the Charter but without prejudice to the final decision as to whether the Chapter should be put into effect or not. A proposal submitted by the United Kingdom Delegation in the form of a draft Protocol of provisional application is contained in document ICITO 1/W.1 and the Working Party presents an alternative method which might be adopted, namely a Decision to be taken by the Contracting Parties under Article XXV of the General Agreement on Tariffs and Trade. A draft Decision which might be recommended to the Contracting Parties by the Executive Committee is annexed to this Report.

In presenting this draft Decision, the Working Party wishes to draw the attention of the Executive Committee to the differences between the two methods. The main points of difference are summarized in the following paragraphs. (For the sake of brevity, the draft protocol of provisional application proposed by the United Kingdom Delegation will be referred to as "the Protocol", and the draft decision of the Contracting Parties given in the Annex to this Report will be referred to as "the Decision"):-

(1) Extent of obligations

The nature of the obligations under the two methods might in practice not be greatly different. The Protocol would indirectly impose on its signatories the obligations of Chapter VI on a provisional basis and would provide for their administration through machinery similar to that contemplated in that Chapter. The Decision, in order to implement the obligation to observe the principles of Chapter VI, would also set up machinery which would be operated substantially in accordance with the provisions of that Chapter.

(ii) The extent to which the Contracting Parties would be bound

The Protocol would bind those contracting parties accepting it whereas the Decision would bind all contracting parties. The Working Party considers, however, that neither the Protocol nor the Decision would bind contracting parties to any obligations additional to those to which they are already bound as contracting parties to the General Agreement, but both would establish machinery for implementing those obligations.

(iii) The extent to which non-contracting parties would be bound

The Protocol would bind non-contracting parties accepting it equally with contracting parties accepting it. Under the Decision non-contracting parties which participate in the consideration would be bound to observe the principles of Chapter VI by virtue of their acceptance of the ECOSOC Resolution mentioned in the Decision as a condition of their participation.

(iv) Entry into force

The Decision would be formally in effect immediately. The Protocol would pre-suppose signature by a nucleus of countries of importance in the commodity field; after they had signed the Protocol there might be delay in obtaining the signatures of other countries. It would be difficult at this time to foresee under which method more speedy action could be taken.

(v) Secretariat

The Protocol would allow the I.C.C.I.C.A. to pass out of existence, which possibility was implied in its letter to the Secretary-General of the United Nations, and another international entity would be created. Under the Decision, on the other hand, I.C.C.I.C.A. would probably continue and expand its activities pending the establishment of the International Trade Organization.

Procedural Questions

It is provided in the draft decision that from time to time the matters referred to therein will be considered in accordance with a procedure to be established. The preparation and adoption of a detailed procedure is a task which must be left to the Contracting Parties. But, in view of the fact that the procedure to be adopted might in some particulars affect the consideration of this proposal by the Executive Committee, the Working Party wishes to mention the two main procedural questions involved:

1. The responsibility for convening meetings

It is contemplated that meetings to consider the matters referred to in the Decision would be convened by the Chairman of the Contracting Parties after consultation with the Chairman of the I.C.C.I.C.A.. Such meetings would be

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convened by the Chairman on the request of a contracting party or of I.C.C.I.C.A.; if a government which is not a contracting party or an inter-governmental organization should desire to request a meeting, this request would be addressed to I.C.C.I.C.A.;

2. Rights and obligations of non-contracting parties at such meetings -

It is suggested that a government which is not a contracting party, which is invited to participate in the consideration by the CONTRACTING PARTIES of matters referred to in the decision, should have the right to full participation including voting rights with the sole exception of voting on matters referred to in sub-paragraph (c) of the decision. It would be understood that a decision on any matter arising from sub-paragraph (c) would not be binding on governments which are not contracting parties.

ANNEX

DECISION TAKEN BY THE CONTRACTING PARTIES
AT THE THIRD SESSION, Annecy, 1949

DECISION OF AUGUST 1949 CONCERNING JOINT ACTION BY THE
CONTRACTING PARTIES ON INTERNATIONAL TRADE IN
PRIMARY COMMODITIES

WHEREAS special difficulties which may jeopardize the general policy of economic expansion are occurring or are likely to occur in the international trade in primary and related commodities, which difficulties are giving rise to international discussion of inter-governmental commodity agreements relating to these commodities, and

WHEREAS the solution of these difficulties on appropriate lines is essential to the objectives of the General Agreement on Tariffs and Trade as set out in the preamble thereto, and

WHEREAS the General Agreement provides in paragraph I (h) of Article XX that nothing in the Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures undertaken in pursuance of obligations under inter-governmental commodity agreements conforming to the principles approved by the Economic and Social Council of the United Nations in a Resolution of March 28, 1947, and now incorporated in Chapter VI of the Havana Charter, and

WHEREAS the Interim Co-ordinating Committee for International Commodity Arrangements established by the aforementioned Resolution of the Economic and Social Council in a letter addressed to the Secretary-General of the United Nations has expressed doubt whether at the present time an interim body not composed of representatives of governments can effectively exercise the functions assigned to the International Trade Organization in this matter by Chapter VI of the Havana Charter,

WHEREAS paragraph 1 of Article XXIX of the General Agreement provides that the Contracting Parties undertake to observe to the fullest extent of their executive authority the aforesaid principles pending their acceptance of the Havana Charter in accordance with their constitutional procedures, and

WHEREAS Article XXV of the General Agreement provides that representatives of the Contracting Parties shall meet from time to time for the purpose of giving effect to those provisions of the Agreement which involve joint action and, generally, with a view to facilitating the operation and furthering the objectives of the Agreement:

The Contracting Parties decide -

- a) to consider from time to time as may be necessary in accordance with a procedure to be established, the matters referred to in this Decision;
- b) to invite other governments which are eligible for membership in the International Trade Organization to participate in such consideration on condition that they accept the principles of the Resolution of the ECOSOC referred to in this Decision;
- c) to review, having regard to paragraph I (h) of Article XX, existing commodity agreements, in which one or more contracting parties participate, to ascertain whether or not they conform to the principles referred to in Article XXIX of the General Agreement;
- d) to take or recommend such other action as may be appropriate in the light of the aforesaid principles, including the convening of commodity study groups and/or conferences; and
- e) to request the Interim Commission for the International Trade Organization to furnish such additional secretariat services as may be necessary for the carrying out of these functions.