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FOREWORD

One lesson of the post-World War II period is that international trade, whatever the situation may have been before, is required to serve national, as well as entrepreneurial, ends. In other words, trade is an instrument of national policy—obviously so for the state-trading nations, but probably equally so for such nations as the United States, the last bastion of professed adherence to the doctrines of classical economics. Trade is manipulated to the extent considered necessary to serve certain non-commercial and non-economic ends. These may be political, such as the recent measures taken by the American government against Cuba; or they may be strategic, the statutory limitations upon trade with the Sino-Soviet bloc being an example. In addition, there is a range of policies designed to further such domestic goals as protection of the business enterprise and job opportunities (*e.g.*, the Buy American legislation and the recently promulgated multilateral textile agreement), income security of the farmers (evidenced by the GATT waiver in 1955 through the operation of which the United States may impose import restrictions on agricultural products), and maintenance of the mobilization base for national security (*e.g.*, the restrictions on petroleum imports). Tariffs, of course, are another important governmental intervention. The result is a pervasive system of unilateral and multilateral controls and prohibitions which clearly evidences that trade is indeed an instrument of American foreign economic policy. (The same conclusion is valid for other nations.) By and large, accordingly, it may be said that the state intervenes in privately conducted trade transactions to the extent deemed necessary to further the over-all goals of the American people. "In this matter of trade," an observer asserted a decade ago, "the most significant fact to be grasped is the great and growing importance of the state as a directing and organizing power in economic life and the consequent predominance of state policies and interests in the economic field."¹ That comment is as valid for the United States as for any other nation. Adam Smith maintained that "defense is more important than opulence"—and, accordingly, would permit variations from free trade for security purposes; what the United States hopes to achieve through intervention in trade is both defense *and* opulence.

¹ Webb, *The Future of International Trade*, 5 *WORLD POLITICS* 423, 435 (1953). See Miller, *Foreign Trade and the "Security State": A Study in Conflicting National Policies*, 7 *J. PUB. L.* 37 (1958).

Among those interests now considered important by the United States, and other industrialized nations, is improvement in the economic well-being of the peoples of what are now called the "developing" nations.² However phrased, it seems to be an accepted tenet of policy to take measures designed to ameliorate the bleak poverty of the former colonial areas. Such an acceptance of responsibility stands in marked contrast to the historical relationship between the industrialized West and the raw material producers. The reasons for this change are doubtless multiple. Not the least of them is the need to counteract penetration by Soviet Russia, a principal battleground of the Cold War being the developing nations. "As far as the United States is concerned, the central issue with respect to trade is how it affects the relative power positions of the several national states."³ No doubt there are reasons in addition to the Cold War imperatives. Even so, it is against the background of the political and strategic necessities of the era that the question of international commodity agreements may profitably be viewed.

So far as the facts of the situation are concerned, there is little dispute. As is either explicit or implicit in the articles in this symposium by Professors Gerhard, Mikesell, and Schmidt, the bedrock fact is that the economic terms of trade have been, and are, running strongly against the nations with economies based largely on primary products. In addition, it is fair to say that few commentators seriously challenge the view that international trade, as it has been carried on, tends to further the ends of the economically strong—the industrialized nations, mainly of the Western bloc—with the result that the rich tend to get richer, both absolutely and vis-à-vis the poorer nations.⁴ Furthermore, some sort of consensus exists that extraordinary measures are necessary, measures taken by the rich powers, to improve the material lot of the poverty-rows of the world. Those measures may be said to be extraordinary in the sense that they involve some sort of tinkering with the market. Those who consume the primary products are called upon to help those who produce them.

What *is* under dispute, and the subject of sharp challenge and controversy, is what should be done about the problem of economic growth. Agreement that a problem exists and that something should be done about it is mainly on the level of abstract principle. Far less agreement exists on the "solution" to the problem. (Most observers assume that some sort of reasonable solution will be forthcoming, although one may perhaps be permitted some expression of pessimism on that

² The human penchant for euphemism has changed the label during the past several years from "backward" to "underdeveloped" to "less developed" and now to "developing." Perhaps this is an instance of the power of words: if the label is changed, then what it symbolizes may, for some of the more primitive minds, also be altered. If so, then it is appropriate to say that examples of such primitive minds may be found in even the most highly developed nations.

³ JAMES R. SCHLESINGER, *THE POLITICAL ECONOMY OF NATIONAL SECURITY* 135 (1960).

⁴ Compare, among others, GUNNAR MYRDAL, *RICH LANDS AND POOR* (1958) with BARBARA WARD, *THE RICH NATIONS AND THE POOR NATIONS* (1962) and SIDNEY DELL, *TRADE BLOCS AND COMMON MARKETS* (1963).

score.⁵) International commodity agreements are one of the "solutions" which have received wide attention in the post-war period. While relatively few have been negotiated and put into effect, in 1962 some eighteen commodities were reported as being "under consultation and study": cocoa, coffee, copper, cotton, grains, hard fibres, jute, lead and zinc, olive oil, petroleum, rice, rubber, sugar, tin, tungsten, wheat, and wool.⁶ "Study groups," established for the purpose of inquiring into certain products to determine whether a formal agreement would be useful, were in operation in 1962 for cocoa, coffee, cotton, lead and zinc, rubber, and wool. (The coffee agreement, signed in 1962, is now provisionally in force; it is the subject of Mr. Bilder's comprehensive analysis in this symposium.) Trade in primary commodities is of great importance: "By the end of the nineteen-fifties, total international trade, excluding trade among the centrally planned economies, was of the order of \$100 billion. Of this, world trade in primary commodities amounted to somewhat less than half."⁷ As Dr. Walker notes in his article in this symposium, President Kennedy has recently indicated that the United States would be willing to move ahead and enter into other agreements designed, as is the coffee agreement, to stabilize the prices of other commodities.

In terms of public law, the agreements are noteworthy for several reasons. First, what is involved is a significant example of economic planning conducted on a larger than national scale. However, it is not a systematic attempt to plan; rather, the agreements seem to be expedients, taken in an *ad hoc* fashion for each of the commodities involved, expedients which hopefully will help the primary producers to bridge the gap between an agricultural economy and developing industrialization.⁸ They have been called governmental cartels. Certainly they are official interventions in agricultural (and other) problems of the same type that have become familiar in recent years in domestic affairs. And they raise problems similar to those occasioned by domestic economic planning, not the least of which may be an inability to reconcile the conflicting goals of national planning (as in agriculture and in full employment policies) and multinational planning (as in commodity agreements).⁹ Second, to some limited extent at least, the agreements are exercises in supranational-

⁵ There are no easy economic solutions. As Schlesinger, *op. cit. supra* note 3, at 265, puts it: ". . . such hopes are illusory. It is typical of the American attitude, cultivated as it has been in isolation and based on the premises of liberalism, to believe that any problem has a solution, and that the basis of the solution is usually economic."

⁶ The list is taken from the UN publication, *1963 Review of International Commodity Problems*, p. 2, issued by the Interim Coordinating Committee for International Commodity Arrangements (Economic and Social Council, Document E/3731, May 14, 1963, mimeographed).

⁷ The quotation comes from the UN publication, *International Compensation for Fluctuations in Commodity Trade, Report by a Committee of Experts Appointed by the Secretary General*, p. 3 (E/3447, E/CN. 13/40) (Pub. Sales No.: 61.II.D.3) (1961).

⁸ The justification for the American use of commodity agreements may be found in Blumenthal, *International Commodity Problems*, 46 DEP'T STATE BULL. 997 (1962); Blumenthal, *The Economic Situation and Outlook*, 47 DEP'T STATE BULL. 840 (1962); Blumenthal, *U.N. Conference Opens in New York*, 47 DEP'T STATE BULL. 234 (1962); Blumenthal, *Commodity Stabilization and Economic Development in Africa*, 47 DEP'T STATE BULL. 616 (1962).

⁹ Cf. GUNNAR MYRDAL, *BEYOND THE WELFARE STATE* (1959).

ism. Their administration is in the hands of "councils" made up of representatives of both the producing and the consuming nations. In a small way these councils seem to be able to operate on a level rather higher than the purely national. In addition, as instances of international administration, they are of interest to students of constitutional and administrative law. Third, as Dr. Walker shows in his article, the negotiation and administration of these agreements have important consequences in international law. Finally, there are domestic ramifications, not only in the economic sense of the higher prices for some of the commodities which must be paid by the consuming nations, but also with respect to the internal political situation. The article by Professor Berman and Mr. Heineman discusses one such internal effect involving the attempt to control sugar.

These are important questions and important problems. However, it is the economic problems brought about by the limited greater-than-national economic planning that produce the greatest difficulties, as the articles by Professors Mikesell, Gerhard, and Schmidt indicate. Together, these articles show that decisions, perhaps taken mainly for political and military reasons, cannot escape economic consequences. The gist of the message of the three authors is that the agreements at best may be nothing more than temporary sedatives or palliatives, possibly productive of adverse effects in the long run for both the producers and the consumers. Such an attenuated form of governmental intervention in transnational economic affairs does not seem to be particularly promising.

If that be so, why, then, are international commodity agreements used? And what is the alternative? As suggested above, the short answer to the first question is that there are important strategic and political considerations lying behind them, at least so far as the United States is concerned. These considerations include not only the desire that governments of the developing nations should be oriented toward the Western bloc, important as that may be. Also involved is the basic fact that the producer nations involved are the sources of raw materials (as well as markets for manufactured goods) considered vital to the economic well-being of the industrialized Metropolis. Perhaps certain moral overtones may also be present; leaders in the rich nations can no longer be blind to the explosive social conditions in the developing nations,¹⁰ and it is possible to envelop policies taken for more hard-headed reasons in the garb of altruism. Finally, change is in the air and it is incumbent upon those who do not want to be inundated by that change to try to manage it;¹¹ commodity agreements are thus an attempt to manage and direct change by the leaders of the Western bloc in cooperation with the leaders of the developing nations. They are segments of the foreign aid programs of the United States and its allies.

¹⁰ See BARBARA WARD, *THE RICH NATIONS AND THE POOR NATIONS* (1962). An analogy might be drawn to the present-day domestic turmoil over the position of the Negro in American society; no longer can national leaders, executive or legislative, dismiss the problem with a gesture or two.

¹¹ As Raul Prebisch, the Latin-American economist and diplomat put it: "It is no longer a question of whether or not . . . changes will take place, but of who will make them, by what methods and under what political philosophies." Quoted in DELL, *op. cit. supra* note 4, at 134.

The alternative to the agreements is not a reversion to "free trade" or the absence of intervention and multinational regulation. Clearly, some controls are needed. But a little bit of control, as with the commodity agreements, does not seem to be enough. The critical questions are: How much is enough, and in what form? The answers to those questions must come from an evaluation based on more than purely economic criteria. But economic considerations are not irrelevant and cannot be ignored; if the commodities do not make sense economically, it is not likely that they will politically or strategically either. As Boris C. Swerling has put it, "What is under test is the viability and flexibility of the liberal institutions of Western civilization."¹² The purpose of this symposium is to ventilate some of the problems involved in the use of international commodity agreements as a technique of international economic planning. No attempt has been made to propose alternatives, for surely such an inquiry would involve a far greater endeavor. If, as Dr. Karl Brandt asserts, commodity agreements "are not the answer," no one yet has produced a better one. Brandt goes on to maintain that "it is high time that the Western industrial powers close ranks and coordinate their policies."¹³ The dialogue over what those policies should be, particularly toward the developing nations, is in full swing. Our modest hope for this symposium is that it is a contribution to that dialogue.

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¹² BORIS C. SWERLING, *CURRENT ISSUES IN COMMODITY POLICY* 7 (Princeton Essay in International Finance No. 38, 1962).

¹³ Brandt, *Commodity Agreements Are Not the Answer*, Challenge: The Magazine of Economic Affairs, February 1963, pp. 33, 36.

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