

D.E. Pollard

Law and Policy of  
Producers' Associations

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# LAW AND POLICY OF PRODUCERS' ASSOCIATIONS

D. E. POLLARD

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## Preface

The purpose of this book is to further the understanding of the role and functions of producers' associations. Ever since the beginning of the energy crisis commentators from the developed countries have showed a tendency to over-react to the activities of producers' associations. And although much has been written about these organizations, no serious attempt appears to have been made to analyse in depth their structure and functions as a basis for evaluating them. This book attempts to correct this omission.

As one associated with a producers' association from its very inception and who enjoys access to information about these organizations, I am in a position to write knowledgeably about their structure, objectives, and functions. Admittedly, this in itself increases the possibility of bias, consciously or unconsciously, in favour of these organizations. This circumstance notwithstanding, I have endeavoured to be dispassionate in my analysis of these institutions. I shall leave it to the reader to decide the measure of success accompanying this endeavour. As a national of a developing country I would be expected to have internalized certain values associated with developing regions of the world. For this I make no apology. My fervent hope, however, is that this circumstance is no insuperable obstacle to my appreciating the more enduring values of developed regions which have also contributed in great measure to my own value system.

I am indebted to Dr Gonsalvo Martner of the UN Secretariat for bringing me into contact with numerous officials of the producers' associations examined in this book. I am also grateful to Mr K. Ampadu-Fofie of the IBA Secretariat who read the manuscript and made many valuable comments. However, the ultimate responsibility for the views and opinions expressed in this study is mine. I would also like to thank the editors of the *International and Comparative Law Quarterly*, the *Texas International Law Journal*, and the *Caribbean Yearbook of International Relations* for their kind permission to reproduce various sections of this book which

### *Preface*

appeared as articles in their journals. Finally, I would like to thank my Secretary, Mrs J. Scudder, for her forbearance in retyping various drafts of the text.

Duke E. Pollard

Kingston, October 1982

## Abbreviations

### *1. Producers' Associations*

AGC	African Groundnut Council
ANRPC	Association of Natural Rubber Producing Countries
APCC	Asian and Pacific Coconut Community
APEF	Association of Iron Ore Exporting Countries
CIPEC	Intergovernmental Council of Copper Exporting Countries
COPAL	Cocoa Producers' Alliance
GEPLACEA	Group of Latin American and Caribbean Sugar Exporting Countries
IACO	Inter-African Coffee Organization
IBA	International Bauxite Association
ITPA	International Tea Promotion Association
OAB	Organization of Wood Producing and Exporting African Countries
OAMCAF	African and Malagasy Coffee Organization
OPEC	Organization of Petroleum Exporting Countries
PC	Pepper Community
SEALPA	S.E. Asia Lumber Producers' Association
UBEC	Union of Banana Exporting Countries

### *2. General*

ADB	African Development Bank
APEC-TTI	Action Programme for Economic Co-operation among Developing Countries—Trade, Transport and Industry
BP	British Petroleum Company Limited
ECLA	Economic Commission for Latin America
ECOSOC	Economic and Social Council of the United Nations

### *Abbreviations*

ESCAP	Economic and Social Commission for Asia and the Pacific
FAO	Food and Agricultural Organization
GATT	General Agreement on Tariffs and Trade
GSP	Generalized System of Preferences
IBRD	International Bank for Reconstruction and Development
ICA	International Commodity Agreement or Arrangement
ICB	International Commodity Body
ICO	International Commodity Organization
ILO	International Labour Organization
IMCO	Intergovernmental Maritime Consultative Organization
IMF	International Monetary Fund
IPC	Integrated Programme for Commodities
MFR	Maximum Financial Requirement (re Common Fund)
NIEO	New International Economic Order
OECD	Organization for Economic Co-operation and Development
STABEX	Stabilization of Export Earnings
UNAPEC	United Nations Action Programme for Economic Co-operation among Developing Countries
UNCTAD	United Nations Conference on Trade and Development
UNIDO	United Nations Industrial Development Organization

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## The Setting

### I. CLAIMS FOR A NEW INTERNATIONAL ECONOMIC ORDER

The dramatic appearance of producers' associations<sup>1</sup> as influential actors in international economic relations with power to affect, decisively, the structure of advanced industrial economies must be considered an important development in modern international institutional relations.<sup>2</sup> In the submission of their third world advocates, producers' associations of developing countries are potentially effective instruments for restructuring the traditional international economic order, involving, among other things, a net transfer of resources from the wealthy countries of the North to the indigent nations of the South. The significance of the role ascribed to producers' associations may easily be appreciated in the context of developing countries' heavy reliance on the production of primary commodities to generate external income to finance their national economic and social development,<sup>3</sup> perceptions of the behaviour of international commodity trade, and notions of the efficacy of producers' associations of developing countries in correcting allocative inequities in the enjoyment of material values issuing from the development of natural resources. However, developing countries' perceptions of the structure and operation of international commodity markets constitute merely one aspect of their total vision of the functioning and impact of the post-war, international economic system. And a better appreciation of developing countries' attitude towards

<sup>1</sup> Producers' associations within the contemplation of this study are the following: AGC, ANRPC, APCC, APEF, CIPEC, COPAL, GEPLACEA, IACO, IBA, ITPA, OAB, OAMCAF, OPEC, PC, UBEC.

<sup>2</sup> See Paul Japper, 'Conflict and Cooperation in OPEC; Prospects for the Next Decade', *International Organization*, Vol. 32, No. 2, 1978, pp. 377-400.

<sup>3</sup> See *Instability in Export Markets of Underdeveloped Countries* (United Nations: New York, 1952), p. 1; also L. N. Rangarajan, *Commodity Conflict* (Cornell University Press: Ithaca, New York, 1978), p. 77.

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producers' associations and of the role ascribed to them as an instrument of distributive justice in world economic relations must take into consideration the nature and quality of the norms defining the parameters of international economic relations and the modifications sought in the structure of the global economy.

Ever since Raul Prebisch presented his Report to the First United Nations Conference on Trade and Development which convened in Geneva (1964),<sup>4</sup> discussions about the structure, operation, and impact of the international economic system established since the Second World War have been characterized by marked divergences of opinion associated with commentators from developed and developing countries. Irrespective of the credibility attaching to one or another perception, the dominant fact of modern international intercourse is the impact of those perceptions on the evolving structure of international economic relations. Competent decision-makers are not normally concerned with canvassing the claims of competing perceptions of reality as a basis for decision and action in matters considered of vital importance in the absence of infallible mechanisms for their verification. More often than not, they are constrained to react to their own perceptions of reality as these are informed by national opinion makers. Inevitably, perception and reality tend toward synonymy.<sup>5</sup>

Developments since the Second World War have been said to underscore the need for change in the organization and functioning of the international economic system.<sup>6</sup> Among the more important of these developments are the creation of numerous new sovereignties with national interests and perspectives materially different from those of the authors of Bretton Woods; the establishment of the EEC and the growing incidence of protectionism among its members; the collapse of the post-war international monetary system;

<sup>4</sup> See *Towards a New Trade Policy for Development: Report by the Secretary-General of the United Nations Conference on Trade and Development* (United Nations: New York, 1964).

<sup>5</sup> See P. D. Reynolds, *International Commodity Agreements and the Common Fund* (Praeger Publishers: New York, 1978), p. 64.

<sup>6</sup> See *New Directions and New Structures for Trade and Development: Report by the Secretary-General of the United Nations Conference on Trade and Development to UNCTAD IV* (United Nations: New York, 1977), p. 6.

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the growing dependence of advanced industrial societies on raw materials from developing countries and the increasing importance of resource politics; the exponential growth of transnational corporate enterprise and its perceived negative impact on national economic development in the Third World, and the growing confrontation between North and South.<sup>7</sup> These developments may be viewed as both cause and effect of underlying changes in the global distribution of power within recent times.

The international developments mentioned above, coupled with equally significant developments at domestic level, occasioned in large measure by the energy crisis, have been expressed to confirm the need for some modifications in the global economic system from the perspective of developed market-economy countries. For example, insulation of the states with centrally-planned economies from the main stream of the international financial and economic system, which is explained in part by the cooling off in relations between East and West during the post-war period, is now viewed as an unwarranted impediment to the expansion of international trade. From the perspective of the developing countries, however, the required modifications in the global economic system are fundamentally different from the changes perceived to be desirable by developed market-economy countries. In the submission of the former, the system was never really designed with their interests in mind. Consequently, the changes said to be required should not be cosmetic but must deal with structural modifications of the institutional framework that operates to stunt their national economic development.<sup>8</sup>

The growing conviction among developing countries of the irrelevance of the post-war international economic system for their own national development efforts was the basis of their initiative in getting the General Assembly of the United Nations to adopt Resolutions 3201 (S-VI), 'Declaration on the Establishment of a New International Economic Order',

<sup>7</sup> See J. R. Behrman, *Development, The International Economic Order, and Commodity Agreements* (Addison-Wesley Publishing Co.: Mass., 1978), p. 22.

<sup>8</sup> See 'Assessment of the Progress Made Towards the Establishment of the New International Economic Order', UNCTAD document TD/B/757, p. 2.

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3202 (S-VI), entitled 'Programme of Action on the Establishment of a New International Economic Order', and 3362 (S-VII), 'Development and International Economic Cooperation'. An appraisal of the measures set out in these instruments is extremely instructive in affording an insight into the perceptions of the principal advocates of a New International Economic Order (NIEO) concerning the structure and impact of the existing global economic system and its allocative imperfections in the distribution of material benefits issuing from its operation. In summary, these measures include market regulation as a mechanism for transferring resources from centre to peripheral economies; transfer of technology from developed to developing countries; trade liberalization; international relocation of industries; regulation of the activities of transnationals, and beneficial modifications in the distribution of power in major international monetary and financial institutions. The prescriptions tendered in the relevant resolutions of the General Assembly also endorse the principle of collective self-reliance in terms of their mutual co-operation on a preferential basis. Implementation of this principle would in itself constitute a significant institutional change in the structure of international economic relations. Given their importance both in terms of identifying the developing countries' perception of the structure and operation of the traditional international economic system and of indicating the thrust of their current demands for the establishment of a New International Economic Order, an attempt has been made to adumbrate those measures under the following heads:

#### *raw materials*

adoption of measures by developing countries:

- for the recovery, exploitation, development, marketing and distribution of their natural resources;

- to facilitate the functioning and further the aims of producers' associations, including their joint marketing arrangements, orderly commodity trading, improvement of the export income and terms of trade of their members and sustained growth of the world economy;

- to evolve a just and equitable relationship between prices of raw materials in semi-processed and processed forms,

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exported from developing countries, and those of similar commodities and capital equipment imported by them from developed countries; and to work towards a link between these two categories of prices. In this connection, the Secretary-General of the UNCTAD was mandated to study direct and indirect indexation schemes and other options and to make concrete proposals to UNCTAD IV.<sup>9</sup>

### *international trade*

adoption of measures to promote expansion and diversification of the production capacity of developing countries; to improve access to markets in developed, consuming countries through the removal of tariff and non-tariff barriers within the framework of multilateral trade negotiations, and to eliminate restrictive business practices;

expeditious formulation of commodity agreements, where appropriate, in order to regulate, as necessary, and to stabilize the world markets for raw materials and primary commodities;

preparation of an overall, integrated programme for a comprehensive range of commodities of export interest to developing countries, which should have regard to the following:<sup>10</sup>

(i) appropriate international stocking and other forms of market arrangements for securing stable, remunerative and equitable prices for commodities of export interest to developing countries and for promoting equilibrium between supply and demand including, where possible, long-term multilateral commitments;<sup>11</sup>

(ii) adequate international financing facilities for such stocking and market arrangements;<sup>12</sup>

(iii) where possible, promotion of long-term and medium-term contracts;<sup>13</sup>

<sup>9</sup> These studies are contained in UNCTAD documents TD/B/603; TD/B/563; TD/B/503 Supp. 1 and TD/B/503 Supp. 1/Add. 1.

<sup>10</sup> See UNCTAD documents TD/B/C.1/166; TD/B/573; TD/B/C.1/188; TD/B/C.1/189; TD/B/C.1/194; TD/B/C.1/185 and TD/B/C.1/185 Add. 1.

<sup>11</sup> See UNCTAD documents TD/B/C.1/166 Supp. 1 and TD/B/C.1/Supp. 1/Add. 1.

<sup>12</sup> See UNCTAD documents TD/B/C.1/166 Supp. 2; TD/B/C.1/184; TD/B/C.1/184/Add. 1; TD/B/C.1/196 and TD/B/C.1/196 Add. 1.

<sup>13</sup> See UNCTAD document TD/B/C.1/186.

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(iv) substantially improved facilities for compensatory financing of export revenue fluctuations through the widening and enlarging of existing facilities;<sup>14</sup>

(v) promotion of processing of raw materials in developing countries; of transport, marketing and distribution of their primary commodities, and encouragement of measures for the transformation of their infrastructure and secondary capacity from the production of primary commodities to production, transport, marketing, distribution and exchange of finished manufactured goods, including advanced financial and exchange institutions for the remunerative management of trade transactions;

reimbursement in full to developing countries of receipts derived from customs duties, taxes and other protective measures, imposed by developed countries;

establishment of general principles for pricing policies for exports of developing countries designed to achieve satisfactory terms of trade for such countries;<sup>15</sup>

establishment of improved compensatory financing schemes for meeting the development needs of developing countries;

implementation, improvement and enlargement of the Generalized System of Preferences (GSP) to processed and semi-processed non-agricultural commodities; in this connection the Generalized System of Preferences should not terminate at the end of a period of ten years as originally envisaged, but should be improved through wider coverage, deeper cuts and other measures;

establishment of buffer stocks within the framework of commodity arrangements and their financing by international financial institutions;

imposition of constraints on new investments in substitutes where natural materials are in adequate supply to satisfy the requirements of the market;

further expansion of trade between developing countries and the centrally-planned economy countries of Eastern Europe.

<sup>14</sup> See UNCTAD document TD/B/C.1/166 Supp. 4.

<sup>15</sup> See UNCTAD document UNCTAD/CD/Misc. 60.



## *The Setting*

### *transportation and insurance*

promotion of increased and equitable participation of developing countries in world shipping tonnage;

arrestment and reduction of escalating freight rates;

minimization of the cost of insurance and re-insurance for developing countries and the establishment, as appropriate, of institutions at national or regional level towards this end.

### *international monetary system*<sup>16</sup>

review of the methods of operation of the International Monetary Fund in order to improve:

substantially the system of compensatory financing of export revenue fluctuations through the enlargement and liberalization of the existing facility;

the terms of buffer stock financing to allow the Fund to provide direct assistance to international buffer stocks of primary products and to enable developing countries to make more effective use of them.

### *industrialization*

contribution by the agencies of the United Nations System towards establishing in developing countries new capacities, including raw materials and commodity transforming facilities, as a matter of priority;

expansion by the agencies of the United Nations System of the operational and instruction-oriented technical assistance programmes, including vocational training and management development of national personnel of developing countries in the context of their special development requirements;

establishment of a system of consultations at the global, regional, inter-regional, and sectoral levels within the United Nations Industrial Development Organization (UNIDO) and other appropriate international bodies, between developed and developing countries, in order to facilitate the re-deployment of production capacities existing in developed countries and the creation of new industrial facilities in developing countries.

<sup>16</sup> The measures and programmes identified here are also contemplated under international trade.