

Kabir-Ur-Rahman Khan

The Law and  
Organisation of  
International  
Commodity  
Agreements

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# THE LAW AND ORGANISATION OF INTERNATIONAL COMMODITY AGREEMENTS

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## FOREWORD

I wish I had had this book available to me when I was in UNCTAD dealing with problems of commodity stabilization, for indeed it offers a very comprehensive and penetrating analysis of these problems. Let me emphasize some of the merits of this work.

Kabir-ur-Rahman Khan has formulated the principles which should guide international law on this matter. He does so after a thorough examination of the facts and their relevance to the problems of the economic development of the world periphery. These principles are closely geared to the need to change an international order that is detrimental to developing countries. For that reason the author does not deal with abstract principles, but with principles oriented towards the solution of concrete problems. He puts these in a historical perspective, from the first attempts to deal with price fluctuations in the second half of the nineteenth century, to the more recent efforts of UNCTAD. The problem of economic development has been the constant concern of developing countries and although they have been supported from time to time by some enlightened voices of the North, this support has not been able to overcome the strong resistance of entrenched interests. This accounts for the failure of the Havana Charter to deal appropriately with commodity stabilization. As Kabir-ur-Rahman Khan mentions, the attitude of Western Governments at Havana has been essentially negative. They proclaimed insistently the need to respect the free play of economic forces, an idea that is still strongly adhered to.

I am referring not only to the stabilization of commodities, but also to the broad concept of development in which commodities constitute an element, although a very important one. Essentially, the Havana Charter does not see the process of industrialization as an unavoidable requirement of development. It considers protection as an exceptional measure and not as an indispensable tool to counterbalance the economic and technological superiority of the centers *vis-à-vis* the periphery.

Developing countries have long and continuously striven to modify this concept. They have not succeeded entirely. Even now some developed countries insist on reciprocity in discussing trade problems with developing countries. The idea of reciprocity continues to hang onto commodity negotiations

as well as on trade matters more generally. This clear misunderstanding is one of the causes of the great disparities between the centers and the periphery. Reciprocity is fully justified between equals, but not when there are appalling differences in economic and social development.

Behind the outdated principles generally guiding the centers in their negative attitude, there is the obvious force of private interests. Principles are good or bad, according to the way in which they respond to individual interests. I do not wish to discuss their legitimacy, but I do say that the free play of economic forces cannot by itself solve the development problems of the world. Collective actions, both at the national and international level, should be combined with the play of these forces.

Let me return to commodity stabilization. The integrated program of commodities was finally approved in UNCTAD after a regrettable procrastination — notorious case of antagonizing interests! These were not only present interests but also prospective ones. Behind the persistent resistance of the centers there is the idea that if commodity stabilization succeeds, this may be conducive to a renewed attempt by major producing countries to press for the improvement of their terms of trade, or rather a compensation for the deterioration of these terms. Here, again, the laws of the market are involved. When the U.S.A. or the EEC restrict supply in one way or another in order to counteract the fall of agricultural prices, they do not interfere with the laws of the market! But, when developing countries attempt to do so, they violate these laws. Big countries do not mean to violate principles: they substitute them for others when they are no longer suitable for them. Only the weak are the violators!

After the above remarks, the reader of this book will understand why I commend the work of Kabir-ur-Rahman Khan very highly. The objectivity of the analysis is properly combined with rational proposals for action — rationality inspired by principles of equity, by ethical principles of ethics. Two centuries of belief in the regulatory virtues of market forces have suffocated these ethical principles. It is time to underline their paramount importance in world development.

Washington

Dr. Raúl Prebisch

## ACKNOWLEDGEMENTS

In my research and teaching at the University of Edinburgh, I have been interested for some years in the legal aspects of international economic co-operation. This book has emerged from that interest. A monograph on the working of the Inter-governmental Producers and Exporters' Associations is also planned. I am indebted to Professor Georg Schwarzenberger, my former teacher at University College, London, who highlighted the topic of the book. The subsequent research and the recent developments in international economic co-operation have determined the direction and the contents of the study.

The research for the book was conducted in Geneva at the United Nations Library; in London at the Public Records Office and the British Reading Room; and in Edinburgh at the University Library and at the National Library of Scotland. The staff at these institutions were most helpful and invariably courteous. The National Library of Scotland, which is a depository library for the publications of the United Nations system, I have used most. I take this opportunity to thank the staff of that library for their assistance and the pleasant atmosphere which they engender. The University of Edinburgh provided me with a grant for my visit to Geneva.

For up-to-date reports documents and for clarification of various points I have called on the secretariat of the International Commodity Organisations located in London. Mr. B. J. Holzer, Head of Administration Services Division, International Cocoa Organisation, Mrs. C. Hunt, Research Assistant, International Tin Council, Mr. William K. Miller, Executive Director, International Sugar Organisation, and Mr. Peter Knox, International Coffee Organisation have all been of much assistance to me. The FAO Commodity Division, GATT/UNCTAD International Trade Centre and the Commonwealth Secretariat London, acceded promptly to my requests for information. Various government departments in the United States, the United Kingdom and Japan also answered my queries.

Academic study in international commodity agreements does not yet fall within the mainstream of public international law, my own discipline. Such work by an international lawyer can be a lonely task. But I have been fortunate. Professor Schwarzenberger extended me opportunities to test my

initial ideas before his post-graduate seminar at University College, London. I found the questions stimulating and the comments most helpful. Bin Cheng, Professor of Air and Space Law, University of London, my friend and former teacher, very kindly read some of the chapters of the earlier draft and made most helpful comments on methodology. Dennis J. Driscoll, another friend and former colleague, now at University College Galway, Ireland, painstakingly read through the major part of the study amidst his multifarious commitments. His comments and queries have acted as buoys in the progress of this work. I am indebted to him for his expression of friendship in this tangible manner. Isobel Khan, my wife, read through every stage of the draft with the care which only a loving wife can bestow. She forthrightly pointed out obscurities in the text, raised questions to which at times I had not yet formulated the answers and made very constructive comments. Dr. Alan Davies, Department of Linguistics, University of Edinburgh, very kindly read some of the chapters and alerted me to the linguistic blemishes. Najmi Khan, my daughter, still at school, helped me in collecting materials from daily papers for which she also prepared an index.

The earlier drafts were typed by Annette Stoddart who also prepared a part of the manuscript. Most of the manuscript has been prepared by Maureen Cook and Eleanor Prentice.

It is a great honour that Dr. Raúl Prebisch, the architect of the New International Economic Order, has so graciously agreed to write a foreword to this book. I am indebted to him in another way. My academic impetus for this study has largely come from his work and contributions at the United Nations.

I cannot imagine that without the love, care, humour and sustained encouragement of my family I could have completed this study. Nothing gives me more pleasure than to be able to dedicate this book to my wife and my daughter.

Old College,  
Edinburgh

K.R.K.

# LIST OF INTERNATIONAL COMMODITY AGREEMENTS AND RELATED ARRANGEMENTS

## COCOA

|      |                               |
|------|-------------------------------|
| 1972 | International Cocoa Agreement |
| 1975 | International Cocoa Agreement |

## COFFEE

|      |                                 |
|------|---------------------------------|
| 1940 | Inter-American Coffee Agreement |
| 1962 | International Coffee Agreement  |
| 1968 | International Coffee Agreement  |
| 1976 | International Coffee Agreement  |

## OLIVE OIL

|      |   |
|------|---|
| 1955 | International Olive Oil Agreement                                   |
| 1963 | International Olive Oil Agreement                                   |
| 1967 | Protocol for the Extension of the International Olive Oil Agreement |
| 1979 | International Olive Oil Agreement                                   |

## RUBBER

|      |   |
|------|---|
| 1922 | Rubber Regulation Scheme  |
| 1934 | Agreement for the Regulation and Export of Rubber                 |
| 1938 | Agreement for the Regulation and Export of Rubber                 |
| 1944 | Agreement on Establishing an International Rubber Study Committee |
| 1979 | International Natural Rubber Agreement                            |

## SUGAR

|      |  |
|------|--|
| 1864 | Paris Sugar Convention   |
| 1902 | Brussels Sugar Convention  |
| 1937 | Agreement Concerning the Regulation of Production and Marketing of Sugar |
| 1953 | International Sugar Agreement  |
| 1956 | International Sugar Agreement  |
| 1958 | International Sugar Agreement  |



## XII

|      |                               |
|------|-------------------------------|
| 1968 | International Sugar Agreement |
| 1977 | International Sugar Agreement |

### TEA

|      |                             |
|------|-----------------------------|
| 1933 | International Tea Agreement |
| 1938 | International Tea Agreement |
| 1951 | International Tea Agreement |

### TIN

|      |  |
|------|--|
| 1931 | Agreement on the International Tin Control Scheme                          |
| 1931 | International Tin Pool Agreement   |
| 1933 | Agreement on the International Tin Control Scheme                          |
| 1934 | Agreement on the Tin Buffer Stock Scheme                                   |
| 1937 | Agreement on the International Tin Control Scheme                          |
| 1938 | Agreement on the Tin Buffer Stock Scheme                                   |
| 1942 | Agreement on the International Control of the Production and Export of Tin |
| 1956 | International Tin Agreement  |
| 1960 | International Tin Agreement  |
| 1965 | International Tin Agreement  |
| 1970 | International Tin Agreement  |
| 1975 | International Tin Agreement  |

### WHEAT

|      |                               |
|------|-------------------------------|
| 1933 | International Wheat Agreement |
| 1949 | International Wheat Agreement |
| 1953 | International Wheat Agreement |
| 1956 | International Wheat Agreement |
| 1959 | International Wheat Agreement |
| 1962 | International Wheat Agreement |
| 1967 | International Grain Agreement |
| 1971 | International Wheat Agreement |

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 South-West Africa (Voting Procedure) Case (1950)  
 Trail Smelter Case (1941)

## ABBREVIATIONS

|        |  |
|--------|--|
| ACP    | African, Caribbean and Pacific Countries (Lomé Convention)               |
| ASEAN  | Association of South-East Asian Nations                                  |
| BSM    | Buffer Stock Manager   |
| CDI    | Cotton Development International   |
| CIPEC  | Conseil Intergouvernemental des Pays Exporteurs de Cuivre                |
| FAO    | Food and Agriculture Organisation of the United Nations                  |
| GATT   | General Agreement on Tariffs and Trade                                   |
| GSP    | General Scheme of Preference   |
| IBA    | International Bauxite Association  |
| IBRD   | International Bank for Reconstruction and Development                    |
| ICA    | International Commodity Agreement  |
| ICCA   | International Cocoa Agreement  |
| ICCICA | Interim Co-ordinating Committee for International Commodity Arrangements |
| ICFA   | International Coffee Agreement   |
| ICJ    | International Court of Justice   |
| ICO    | International Commodity Organisation                                     |
| IGG    | FAO Inter-Governmental Group   |
| IMF    | International Monetary Fund  |
| INRA   | International Natural Rubber Agreement                                   |
| IOOA   | International Olive Oil Agreement  |
| IPC    | Integrated Programme for Commodities                                     |
| IQS    | International Quota System   |
| ISA    | International Sugar Agreement  |
| ITA    | International Tin Agreement  |
| ITPA   | International Tea Promotion Association                                  |
| IWA    | International Wheat Agreement  |
| LME    | London Metal Exchange  |
| LN     | League of Nations  |
| MFN    | Most Favoured Nation Treatment   |
| MSAN   | Most Seriously Affected Nations  |
| NIEO   | New International Economic Order   |
| OPEC   | Organisation of Petroleum Exporting Countries                            |

## **XVIII**

|               |   |
|---------------|---|
| <b>PCIJ</b>   | <b>Permanent Court of International Justice</b>           |
| <b>SDR</b>    | <b>Special Drawing Rights</b>                             |
| <b>UNCTAD</b> | <b>United Nations Conference on Trade and Development</b> |
| <b>UNDP</b>   | <b>United Nations Development Programme</b>               |
| <b>WMEC</b>   | <b>World Monetary and Economy Conference</b>              |

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