Chapter - XII

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Most developing countries are dependent on the export of non-fuel primary commodities for their export earnings. And quite a few of them rely on the export of one or two commodities for a significant part of their income. This dependence makes the economies of developing countries extremely vulnerable to the high instability which characterises primary commodities. And, indeed, instability in the export earnings of developing countries which has always been present in the past has intensified since the early seventies. An important reason for the instability of export earnings of primary commodity exporting countries is that the prices of many of these commodities are unstable. And excessive fluctuations in the prices and export earnings are a serious obstacle to the economic development of developing primary commodity exporter countries.

On the international plane, the commodity agreement is the principal instrument through which the objective of price stabilisation is sought to be achieved. At present, four commodities are covered by price regulating commodity agreements - tin, coffee, natural rubber, and cocoa. Until the beginning of 1985 sugar was also being thus regulated. These commodity agreements also set them-
selves a number of other objectives including the long-term development of the commodity, which reflect the diverse problems relating to international trade in primary commodities. In fact there are a number of commodity agreements - in olive oil, jute and jute products, and tropical timber - which do not have price stabilisation as their chief objective but the long-term development of the commodity.

In view of the significance of the problems which commodity agreements address for the developing primary commodity exporting countries, they constitute an important element in any plan to reform the existing international economic order, in particular the world commodity order. Some of the significant general features of contemporary commodity agreements are: it is an agreement between governments which is executed and embodied in a formal treaty, it seeks to promote international cooperation in a commodity, the parties to the agreement include both producers and consumers, and it is to cover the bulk of the world trade in the commodity concerned. It may be added that every commodity agreement establishes an ICO to implement its provisions. Finally, a commodity agreement is a recognised exception to the provisions of GATT, that is, to the MFN and other non-discrimination clauses.
Commodity agreements which have price regulation as their chief objective, incorporate regulatory mechanisms to stabilise prices, such as buffer stocks, export quotas and multilateral contracts. The first two mechanisms are used either alone or in combination. The buffer stock is the most widely advocated measure for stabilising commodity markets. In fact, developed countries have, in recent years, argued that reliance be placed on the buffer stock to the exclusion of export quotas which is considered an indefensible mechanism to stabilise prices. However, the available evidence, both theoretical and empirical, does not suggest that the mechanism of export quotas should be dispensed with, particularly as a supportive mechanism to the buffer stock.

While in the recent past commodity agreements have been recommended in the context of establishing a NICB, they had become common in the 1930s. The economic, legal and institutional elements, which constitute contemporary commodity agreements, have evolved over decade in response to major economic and political developments and the accumulating experience in the operation of commodity control schemes. Over the years, both the form and rationale of commodity agreements have undergone change. Intergovernmental commodity arrangements in the 1930s, for instance, did not provide for consumer rep-
resentation. Today the equal representation of consumers is an accepted norm. The rationale of commodity agreements has also undergone mutation. It has gone through many phases: from being instruments which served the interests of the Metropolitan countries, to the Havana Charter concept of a "necessary evil", to being considered instruments of economic development.

Commodity agreements are an inevitable component of any plan to reform the existing international economic order. However, they are exceedingly difficult to establish in practice. A significant reason for this is that the conclusion of commodity agreements requires, firstly, reconciliation of the diverse, and often opposing, short-term economic interests of the producer and consumer countries. Secondly, negotiations also founder because of the differences amongst the exporters themselves. Even where an agreement is successfully concluded it often represents a tenuous compromise of these differing interests and, as a result, can be congenitally defective in its structure. There are also a number of political factors which inweight commodity negotiations: historical (colonial) links, strategic-power relationship, regional solidarity, and the influence of domestic constituent interests. The impact of these factors need to be considered in individual negotiations.
While the reality of conflicting interests cannot be wished away, greater willingness needs to be shown by concerned states in arriving at commodity agreements, particularly effective agreements. In this context it is submitted that the provisions of the Programme of Action on the Establishment of New International Economic Order and the Charter of Economic Rights and Duties of States can be said to place on the concerned members of the international community an obligation to negotiate in good faith. This duty can be said to establish a pactum de negotiando between the producer and consumer countries. This perspective militates against the adoption of rigid ideological positions and the concern with merely short-term considerations. More positively, they require that attempts be made in good faith to arriving at more effective commodity agreements which seek to achieve, within their own framework, objectives of the NIEO.

In order to achieve its objectives, the commodity agreements establishes an appropriate institutional structure. The institutional structure is shaped, firstly, by the need to accommodate the divergent interests of the exporter and importer countries, as well as the conflicts of interests within these group of countries. Since the main contradiction is between the exporter and importer countries this fact moulds the institutional framework, beginning with the bipartite nature of the membership
and the mode through which the agreement enters into force, the contradiction encompasses nearly every organisational forum and the decision-making process. On the other hand, the adoption of the principle of weighted voting seeks to take into account the divergence of interests within the groups. Secondly, the institutional structure is sensitive to the functional nature of the agreement, the factor of effectiveness, and to the element of time, i.e. its short duration and changing market conditions.

It is to be pointed out that the fact that an ICA is for a very short period can prove to be a destabilising factor. For instance, in the case of the ICCA, its relatively short life (three years) has considerably hindered its effective functioning. It militated against long term planning, reduced the potential revenue from the levy and curtailed the credit limits of buffer stock operations. Furthermore, an agreement is difficult to negotiate every few years. And in case negotiations fail, the existing institutional structure may have to be destroyed. Therefore, consideration needs to be given to having agreements with a longer duration.

All commodity agreements function through an ICO which is set up to implement the agreement. The ICO, which is an international organisation, usually functions
through a Council and such other permanent and ad hoc bodies as are necessary to administer the agreement.
The highest authority in an ICO is the Council which is composed of all members of the Organisation. Commodity agreements contain an umbrella clause which confers on the Council all powers necessary for the execution of the agreement. Apart from the Council, the ICO may have an Executive Committee. Where it exists, the Committee is "a reflection of the Council with reduced dimensions".

There is usually an Executive Director who is the chief administrative officer of the Organisation. ICAs also establish a number of subsidiary bodies, keeping in view the objectives of the agreement. These subsidiary bodies establish an auxiliary framework of cooperation.

Where an agreement incorporated the buffer stock as a stabilisation mechanism, a Buffer Stock Manager is appointed by the Council. The role which a Buffer Stock Manager plays hinges on the discretionary powers vested in him. In some agreements like the ITA he is given greater discretion than in other agreements like the INRA. The former represents a step in the right direction for it allows the Buffer Stock Manager to perform his functions more effectively.

The staff of the ICO is generally appointed by the Executive Director in accordance with the rule and regu-
lations established by the Council. It is rather unfortu-
tunate that ICAs do not have any legal personnel. This
lapse needs to be rectified in view of the number of legal
issues which may arise in the operation and implementation
of the agreement, and in the context of the NIEO.

The decision making process incorporated in ICAs
is strikingly similar. There is parity of votes between
producers and consumers. The need to provide equal
representation to consumers can be traced to the desire
of devising effective and equitable instruments. Gen-
erally speaking, the exporting and importing countries
are assigned 1,000 votes each. The internal distribution
of these votes is essentially based on the principle of
weighted voting although the mode of distribution pays
nominal obeisance to the principle of sovereign equality
of states. An important feature of the voting structure
is that the decisions and recommendations require a
distributed majority vote. In actual practice, decisions
are taken by consensus voting. All decisions of the
Council are binding on members.

In order to achieve their objectives, commodity
agreements set out a bundle of obligations to be performed
by member states. Broadly speaking, they embody four
broad categories of obligations: general obligations,
functional obligations, equitable obligations and the
obligations concerning fair labour standards. It is these obligations which lend specificity to the framework of cooperation and articulate the legal basis on which the agreement is to be implemented. The assumption of these obligations within the framework of a multilateral treaty represents a significant step towards building an international commodity order based on consensus, and an intrinsic value needs to be attached to the endeavour.

Commodity agreements inevitably incorporate a general obligations provision which defines, in the matrix of the principle of good faith, the spirit in which the agreements are to be implemented.

Functional obligations encompass obligations aimed at stabilising prices, obligations relating to industry and trade, obligation to contribute to the administrative budget, and obligations relating to the provision of information. The obligations aimed at stabilising prices are determined by the nature of the stabilisation mechanism or mechanisms incorporated in a particular commodity agreement. Where the buffer stock is the stabilisation mechanism, the chief obligation relates to the financing of the stock. The principle of joint financing of buffer stocks by producer and consumer countries has been accepted in recent agreements like the INRA and ITA. The Agreement Establishing the Common Fund for Commodities endorses
this norm. In this respect, it is suggested that the principle of joint financing should be accepted as a binding norm. Where the export quota mechanism has been adopted either as a main or a supplementary mechanism in support of buffer stocks, the major obligation relates to full compliance with the provisions relating to quotas.

A number of industry and trade obligations are undertaken in commodity agreements pertaining to economic principles considered important to the effective implementation of both the stabilisation and developmental objectives of the agreement. Measures in this regard include those relating to improving market access, the promotion of consumption and increased processing in developing countries.

Measures relating to market access have as their objective the removal of obstacles to increased consumption. In this respect obligations are undertaken to reduce tariff and non-tariff barriers. The substantial content of the commitments which have been undertaken in this regard are more in the nature of a "quasi-obligation". However, in view of the fact that the content of an obligation does not affect its normative character the commitments in the present form are welcome. But there is a need to incorporate more precise, effective and binding obligations in commodity agreements. For this, it is
necessary that negotiations to improve market access should be conducted as an integral part of the negotiations to arrive at a commodity agreement; there appears to be no sound reason why questions relating to market access cannot be negotiated in commodity conferences rather than bilaterally or under the auspices of GATT.

The promotion of consumption is an important objective set by nearly all agreements. The promotion effort requires measures which involve a great deal of expenditure. At present consumer countries are quite unwilling to make contributions towards the programmes initiated to promote consumption. The ICCA and the ICFA are examples where the costs are met through contributions by the exporting members alone; the importing members can make voluntary contributions only if they so desire. It is recommended that in view of the bleak prospects facing many a commodity the obligation on the importing members be made equally mandatory.

While a number of agreements like the ICCA, the ICFA, the ITA and the INRA recognise the need to increase processing of primary commodities in developing countries they do not, with perhaps the exception of ICFA, cast any concrete obligations on members in this regard. If the goals expressed in these agreements are to have any pra-
ctical impact then practical measures need to be considered and embodied in commodity agreements.

Commodity agreements not only embody the interests of the exporting members, but also reflect the reciprocal interests of both the importing and exporting members. An important interest of the importing members is to have secure access to supplies. Commodity agreements incorporate appropriate obligations in this regard.

Equitable obligations seek to, within the framework of the commodity agreement, explicitly take into account the special needs of the developing countries and sub-groups thereof through granting of preferential treatment. There is, however, no extended practice in this regard. In the context of the export quota mechanism, ICAs also try to take cognisance of changes in the structure of production and trade of a commodity and thereby the needs of the small and emerging producers. They do so through various means, such as, adoption of the categories of major and minor exporter members, adjustment in basic export entitlements, and allocation of basic export entitlements on a historical-cum-variable basis. The ICFA, the ITA and the ISA have resorted to one or other of these means.

In recent years, the concept of social welfare and the human rights movement have drawn attention to the
fact that while states benefit out of the network of international economic cooperation these benefits often do not trickle down to the actual producers of commodities — the individual workers. Most commodity agreements, incorporate a fair labour standards clause which recognises the need to ensure for the workers on the plantations and mines an acceptable minimum standard of living and rights. The clause is, however, broad in nature and does not stipulate any specific method to implement the obligations undertaken. In these respects, it is suggested, firstly, that the content of the fair labour standards provision should be derived by construing the clause in conjunction with other relevant human rights instruments such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, 1967, and the innumerable ILO conventions and recommendations in this regard. In other words, the members must assume the larger legal obligation contained in these documents. Secondly, it is recommended that thought should be given to devising ways and means to give greater substance to the fair labour standards clause. Perhaps, to begin with, some sort of reporting procedure can be introduced and the Council allowed to make recommendations. Further, some form of consultation or other working relationship should be established with the ILO. Those agreements which do not incorporate a fair labour
standards clause like the ICFA, IAJJP and ITTA should do so when the agreements are renegotiated. Finally, it may be noted that the contention that the fair labour standards clause is not in accordance with the objectives of commodity agreements, that their implementation will only go to benefit the developed countries, and that it will reduce the competitive advantage of the exports is entirely misleading and erroneous.

Commodity agreements do not normally permit reservations to be made to the system of obligations that is established. There are several reasons for this practice. Firstly, in view of the fact that the agreement strikes a balance of interests and obligations permitting the practice of reservations would upset the integrity of the agreement. Secondly, since the agreements are for a short duration, and dissatisfaction which cannot be handled through normal (including dispute settlement) procedures can be resolved when the agreement comes up for renegotiation. Where a commodity agreement does not contain any provision relating to reservations, it is recommended that reservations should not be generally permissible. At the least, in keeping with the opinion of the International Court of Justice in the Reservations case and Article 19 of the Vienna Convention on the Law of Treaties, no reservation, which is incompatible with the object and purpose of the treaty, should be permissible.
While no reservations are permissible, the commodity agreements contain provisions relating to relief from obligations under special circumstances. The conditions under which relief can be granted are exceptional circumstances, emergency circumstances, and force majeure. For modification of the structure of obligations on a more permanent basis, resort can be had to the amendment provisions of the agreements.

While a fundamental principle governing the performance of legal obligations is the principle of good faith, there are perils in leaving agreements, particularly economic agreements, entirely to the good will of member states to achieve their objectives. Therefore, commodity agreements incorporate an enforcement regime which consists of both persuasive and coercive measures. The form and content of the regime depends upon the objectives which the agreement seeks to achieve. Where price stabilisation is the major objective, and regulatory mechanisms are included, the enforcement regime takes its colour from the type of mechanism adopted.

Persuasive measures encompass supervision of the agreement, consultations on specific issues, and the power of the Council and other authorised bodies to make recommendations. Persuasive measures, however, need to be supported by coercive measures or sanctions in the case of
breach of those legal obligations whose strict enforcement is critical to the survival and successful operation of the agreement. It is in this context that obligations aimed at stabilising prices are supported by a system of sanctions incorporated with specific reference to them. In the case of the export quota mechanism, sanctions are required to ensure that the exporting members do not export in excess of their entitlements, and imports from non-members are not introduced over and above the recognised level. In order to monitor the exports and imports, the agreements introduce control measures. These control measures - as the examination of the control system in coffee agreements showed - place serious responsibility on the importing countries whose cooperation is absolutely essential.

In so far as the buffer stock mechanism is concerned, sanctions are imposed to ensure that member states make their financial contributions in time. A significant problem which can arise in the operation of the buffer stock - as it does in the case of tin - relates to the disposal of surplus, for instance, from its strategic stockpile, by a non-member country. Successive tin agreements have had to face this threat. Two well-known instances are the exports from the USSR between 1957-60, and the release of stockpile surpluses in the US during 1962-68 and 1973. In both cases the International Tin Council
was able to arrive at some understanding with the two countries. Over the years "certain bases of good-neighbourliness and co-ordination [have] developed" to deal with disposals. Such a development would have been impossible in the absence of tin agreements.

Under the provisions of commodity agreements sanctions can also be imposed with reference to other obligations if a Council finds that a member is in breach of its obligations under the concerned agreement. Such a finding can be made by the Council either on the basis of a complaint made by another member, or, in some cases, otherwise. The limits of this general sanctions provision is defined by the content of the obligation in question and the requirement of a special vote. Therefore, sanctions will in all probability be imposed only where a member has flouted a decision of the Council.

The enforcement system embodied in commodity agreements suggests the following conclusions: Firstly, it is only within the framework of a multilateral agreement that commodity trade can be effectively regulated. Secondly the enforcement system is no substitute for an adequate agreement. Thirdly, in the case of legal obligations which essentially represent "quasi-obligations", their enforcement rests upon the good faith of member states. However, the system of persuasive measures can
play a role in seeing that these obligations are not brushed aside. In a decentralised international society, the communications function plays an important role in upholding the rule of law.

The process of enforcing the agreement may however, give rise to genuine differences between members. Commodity agreements establish a functional and pragmatic dispute settlement machinery to settle these differences. The machinery represents a departure from the traditional notions of dispute settlement in international law which advocate "impartial" judicial methods for settling disputes among nations. The chief characteristic of the disputes settlement system incorporated in the commodity agreement is that the mode of settlement is internal.

Three categories of disputes are envisaged in commodity agreements; those which arise from the failure of any member to fulfill its obligations under the agreement; disputes concerning the interpretation or application of the agreement; disputes which may arise out of certain specific economic or other provisions. Under the generally established disputes settlement system, a "complaints" procedure is provided for in the event of a member failing to fulfill its obligations. Differences about the interpretation or application of the agreement are covered by "disputes" procedure. A number of agreements include a system of consultations which has relevance
to all categories of disputes. Finally, an agreement could embody a special procedure (for instance, an arbitral procedure) to settle disputes with respect to a particular provision.

Both the "complaints" and the "disputes" are to be referred to the Council for decision. However, in the case of "disputes", resort can be had to an intermediary body i.e. an advisory panel. Confining the resort to an intermediary body to the "disputes" procedure alone appears to be based on the presumption that it is only in the instance of the more "legal" disputes, in contrast to the more policy-related ones, that there is the need to refer the matter to an intermediary body. In this respect it is recommended that resort should be made permissible in the case of the "complaints" procedure as well. For, if anything, the element of impartiality is more likely to be present when the dispute relates to the violation of an obligation.

This, however, is not to question the system of internal mode of dispute settlement. There are sound reasons why international organisations explicitly charge their policy making organs with the authority to finally decide disputes. Past record shows that the system of the internal mode of dispute settlement seems to have worked reasonably well in practice. Member states of the
various commodity agreements have not had any serious objection to the system. The Selective Quota case (which involved the only known instance in which the matter was referred to an advisory panel), it was seen, was settled in a pragmatic and realistic manner. However, the case did point to the need to give a future advisory panel more relevant and pointed terms of reference and generally greater scope to arrive at an equitable decision.

The Solubles Coffee case provided much insight into the settlement of disputes in economic agreements. It pointed to the need, in economic disputes between states, to consider the domestic interests involved and their precise nature and influence, the overall political environment, the weight of the concerned parties and a host of such other extra-legal factors. At another level, the arbitral panel's decision, and the advisory panel's opinion in the Selective Quota case, helps elaborate the scope and limits of legal intervention in economic disputes. It indicated that the legal process cannot, in the guise of interpretation, seek to radically alter the structure of obligations embodied in the agreement, that is, the "security of expectations" which the agreement represents. It also cannot afford to ignore the complex political and economic realities which underlie the agreement and determine its effective implementation. Any
attempt to transcend these limitations in the guise of resolving disputes could only prove counter-productive. At the same time, the cases indicated that, perhaps paradoxically, if legal interpretation is to retain its validity and force, it needs to settle disputes in the matrix of justice and equity.

How far have the commodity agreements been successful in achieving their objectives? While ICAs have a long history, there is persistent skepticism regarding their utility and effectiveness. It is suggested that the process of evaluation should proceed on two levels: apart from examining the concrete record of commodity agreements in the context of its economic functions due consideration should also be given to the significance of the legal and institutional framework it establishes.

It goes without saying that if the conflicts inherent in the inequitable international economic system are to be minimised, it is imperative that increasing cooperation takes place between the developed and developing countries in all spheres of international economic relations. Commodity agreements promote such cooperation through establishing a legal and institutional framework for the regulation of international trade in primary commodities in areas of mutual interest to both producer and consumer countries. They incorporate a consensus on
several aspects of commodity trade and establish a set of mechanisms for achieving the agreed objectives. Furthermore, they institutionalise a legal process, through constituting permanent forums, and thereby sustain a continuous system of negotiations for the peaceful settlement of disputes in a spirit of international cooperation. It has been aptly noted in this context that the most important role played by ICAs is "in acting both as channels of communication and as consultative fora. The net benefits deriving from this function are unquantifiable".

Bilder has admirably summed up the advantages of incorporating the principle of international cooperation into a written agreement: (1) A written agreement increases the reliability and stability of a cooperative arrangement by providing a means through which nations can rationally plan the arrangement and communicate to each other and publicly record the precise terms of their cooperation. (2) It can clarify what each is to do or not do, when, and how, what conduct constitutes breach; the means of restoring complementarity if breach occurs; and so forth. (3) By incorporating their cooperative

arrangement in the form of a legally binding written agreement, the nations participating in the arrangement can increase the chances that it will be kept. If furnishes nations with a formal or ritual device through which they can clearly characterise their cooperative relationship as one based upon mutual reliance and trust, and involve the normative and sanctioning system of the broader international legal order in its support. The customary international law principle of *pacta sunt servanda*, as now codified in the Vienna Convention on the Law of Treaties provides that "every treaty in force is binding upon the parties to it and must be performed by them in good faith". By entering into an international agreement, nations can commit themselves to the cooperative arrangement in the sense of exposing themselves to criticism or condemnation and possibly sanctions if they fail to live up to their obligations. (4) A written agreement facilitates the negotiation of a cooperative arrangement by permitting nations to place their offers and counter-offers in a common frame of reference, to assess more easily the comparative benefits and costs of alternative cooperative arrangements, and to fix a single point of commitment at which negotiations cease and the cooperative bargain is struck. (5) A written agreement provides a standardised framework in which nations can
adjust and manage the risks of their cooperative arrangement, through a choice of risk-management provisions and techniques. ²

In other words, the commodity agreement, through embodying and codifying a consensus - on the objectives which they seek to achieve as well as on the modes through which they are to be attained - within the framework of a formal multilateral treaty, has a distinct advantage in promoting international cooperation and the peaceful resolution of international commodity conflicts. The economic and legal principles on which the cooperative edifice of the agreements is built has evolved slowly over the years and, therefore, should be attached due importance. In brief, to recall the words of the Brandt Commission Report, the ICAs represent "a valuable institutional development which could be a means through which mutual interests in international commodity trade could be pursued". ³ Therefore, as the Report further observes, "The role of ICAs should evolve and the emphasis should accordingly be on how to make them work more effectively". ⁴

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4. Ibid.
It is in this perspective that the past record of commodity agreements in relation to their economic functions need to be examined.

A brief review of the performance of selected commodity agreements in the post-War period - tin, coffee, cocoa - as well as the record of the commodity agreements during 1980-82 commodity crisis reveals that the commodity agreements have not been entirely unsuccessful in stabilising the prices of commodities, the chief objective of the agreements examined. In fact, it can safely be concluded that the exporting and importing countries would have been worse of in the absence of these agreements.

There are several reasons why commodity agreements in the post-1945 period have not been entirely successful in achieving the objective of price stabilisation. These are, inter alia, an unrealistic price range to be defended, inadequate stabilisation mechanisms, inadequate financial resources, non-participation of large exporters and importers, lack of effective means to regulate production policies, problems of operation arising from difficulties in the reallocation of quotas, and adjustment of the price range.

In order to render commodity agreements more effective these problems and difficulties need to be tackled.
Firstly, as the experience of the 1972 and 1975 Cocoa Agreements showed, there is a need to negotiate realistic agreements which are in tune with market conditions; an unrealistic price range can ground the agreement at its very inception. Secondly, exclusive reliance in recent agreements has been sought to be placed on the buffer stock mechanism, which cannot be completely effective, unless backed by unlimited resources. Therefore, the buffer stock mechanism, wherever it is used as the chief stabilisation mechanism, needs to be supported by the use of the export quota mechanism. Thirdly, it is said that "a buffer stock is only as useful as the funds it has". Therefore, it needs to be ensured that it is provided with adequate resources, which is not the same as unlimited resources. Fourthly, it is imperative for the successful operation of the commodity agreement that large exporters and importers, as well as others, do not keep away from the agreement. In this respect there is a need for exporting and importing members to sacrifice short-term gains in favour of an international regime which would prove beneficial in the long run. In order to bring pressure upon states staying away from the agreement, it is important to ensure that non-participation is made as costly as possible. Fifthly, with reference to regulation of domestic policies greater consideration needs to be paid to devising ways and means to bringing
them under scrutiny. Finally, in so far as the problem of reallocation of quotas and the adjustment of price range during the life of the agreement are concerned, greater sensitivity should be shown to changing market conditions, in opposition to the attempt to either subject these matters to national concerns or try to maximise gains in the short run.

In so far as the other objectives are concerned, including the long-term development of a commodity, a few conclusions may be offered with respect to the effectiveness of commodity agreements. Firstly, ICOs are playing a very significant role in the collection and dissemination of information. The critical nature of this function cannot be overemphasised since it forms the basis on which agreements are implemented and renegotiated. Secondly, agreements like the IOOA have played a useful role in diverse aspects of trade. It has, among other things helped standardise the quality of the olive oil product, improved its labelling, and generally contributed to the improvement of its marketability. The International Olive Oil Council has also devised means to prevent and solve disputes in international transactions. Additionally, it has done work in the technical and promotional fields. It is hoped that the IAJJP and the ITTA which are concerned with long-term development of the respective commodities will also play a useful role.
Thirdly, attempts, albeit limited, are being made within the framework of commodity agreements to promote consumption, initiate relevant research etc. Coupling these efforts of ICAs with the significance of the legal and institutional processes which they establish, Gordon-Ashworth has gone so far as to observe that "past experience suggests that the strengths of international commodity agreements lie in their broader function of data collection and dissemination, research, quality control and, above all, in providing a framework for communication and discussion rather than in the economic functions on which such great emphasis has been laid in recurrent trade negotiations, even though, on occasion, agreements have achieved some success with regard to the latter". 5

While commodity agreements are playing an important role in several respects it cannot be said that they are making much headway with respect to a number of commodity development objectives relating to improving market access, increasing processing in developing countries, improvements in the marketing and distribution of commodities, promotional activities, raising the competitiveness of natural products etc. The two major constraints are financial resources and the fact that commodity agreements do not include precise, effective and binding obligations.

5. Gordon-Ashworth, n. 1, p. 286 (Emphasis omitted).
It has been seen that a major hurdle in stabilising prices through the buffer stock mechanism and the implementation of long-term commodity development measures has been the factor of finance. It may also be recalled that a large part of the reason for the failure of past efforts to establish buffer stocks under the aegis of commodity agreements was also the crucial factor of finance. In response to these problems, the international community has evolved the Agreement Establishing the Common Fund for Commodities.

The Common Fund is to perform a number of functions; to contribute to the financing of international buffer stocks and internationally co-ordinated national stocks, all within the framework of ICAs, and for which purpose it shall establish a 'First Account', finance, through a 'Second Account', measures in the field of commodities other than stocking viz. research and development, productivity improvements, market promotion and vertical diversification; and seek to promote co-ordination and consultation through its Second Account, with regard to these other measures and their financing so as to provide a "commodity focus".

While the Common Fund, as it has finally emerged, does not possess all the elements it should ideally have, it is, without doubt, an important step taken by the
international community towards having more and effective commodity agreements. It does somewhat assure that negotiations towards an ICA can begin and proceed with the knowledge that access to finance will be finally ensured. The capital that has to be mobilised by commodity agreements would be much less if the ICA was associated with the Fund than if it had to operate on its own. Secondly, indications are that with the participation of all creditworthy countries in the Fund and its own directly contributed capital, the Fund would be able to borrow for on-lending to commodity agreements on more favourable terms than if the ICO borrowed directly from the market.

On the Second Account, one observation may be made. It might suffer from a handicap as its operations are to be financed wholly through voluntary contributions. Given the significance of commodity development measures, their financing should not have been left to the vagaries of voluntary contributions, but should have been made the objective of an international obligation. On the positive side, however, is the fact that the acceptance of a Second Account to finance commodity development measures is a step towards concretising the positive concept of commodity agreements, which views the agreements not as emergency measures or a necessary evil but as instruments of both commodity and economic development.
In the light of the above it is recommended that the developing countries ratify the Fund Agreement as soon as possible. The sooner the Fund comes into operation the better. Had it been brought into existence earlier, it could have proved helpful in meeting the 1980-82 commodity crisis.

While each individual commodity agreement establishes an independent legal regime to regulate a specific commodity, it, along with others, evidences state practice which is relevant to the formulation and crystallisation of emerging legal principles and norms of the UN. In other words, commodity agreements cumulatively contribute to the progressive development of the principles and norms of international economic law.

Attempts are underway in the United Nations to consolidate and progressively develop the principles and norms of the UN. The UN has identified "stabilisation of export earnings of developing countries" as a principle or cluster of principles which either exists or is in the process of evolving. It is submitted that such a principle can be said to have evolved. The commodity agreements, coupled with other sources of state practice, provide hard evidence in this regard. It is further sub-
mitted that along with the principle of stabilisation of export earnings of developing countries, a number of associate principles have also evolved: the principle of financial burden sharing, the principle of increased market access, the principle of increased processing in developing countries, the principle of mitigation of adverse effects of synthetics, the principle of preferential treatment of developing countries, and the principle of fair labour standards.