

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## ARTICLE XXII:1 CONSULTATIONS ON THE UNITED STATES EXPORT SUBSIDY ON UNMANUFACTURED TOBACCO<sup>1</sup>

1. In November 1966, the Government of Malawi requested the United States Government to engage in consultations under paragraph 1 of Article XXII concerning the 5 cents per lb. subsidy introduced by the United States in July 1966 on exports of unmanufactured tobacco. The Government of the United States agreed to the request (L/2715). Subsequently, the Governments of Canada (L/2715/Add.1), India (L/2715/Add.3), and Turkey (L/2715/Add.2) expressed the wish to join in the consultations and the Government of the United States so agreed. The consultations were held in Geneva on 14 and 15 February 1967.

### General statements<sup>2</sup>

2. In his opening statement, the representative of Malawi drew attention to the memorandum submitted by his Government to the United States Government and which had subsequently been made available to the other delegations concerned. This memorandum is reproduced as Annex I. The memorandum had, he pointed out, been drafted before the Malawi Government had received a reply from the United States Government to the representations it had made through diplomatic channels. Basing himself upon the content of the memorandum, the Malawi representative alluded to the main points of concern for his Government in relation to the subsidy. The notification of the subsidy by the United States Government appeared to be inadequate in that it did not contain any details as to the circumstances leading to the introduction of the subsidy; the reason for its introduction; and its likely effects.

3. The representative of Canada pointed out that his country, as a major producer of flue-cured tobacco, a type which comprised 80 per cent of the United States exports, was particularly vulnerable to the export subsidy. He also pointed out that, apart from tariff protection, the Canadian producer

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<sup>1</sup>The Working Party on the Article XXII:2 consultations, the report of which has been distributed as L/2925, agreed that this report should be distributed for information to contracting parties.

<sup>2</sup>This section contains only an outline of the statements made. It should be read in conjunction with Annexes I-III. Points made in general statements relating to legal issues, the effects of the subsidies, and the United States domestic support policy, appear under the relevant headings.

received no government support. Traditionally, 25 per cent of Canadian production was exported. Production had increased by 50 per cent in the last fifteen years and exports by a similar amount in the last ten years. A record crop of approximately lb. 215 million had been harvested in 1966. It was hoped that it would be possible to increase production by a further lb. 50 million in 1967 and to achieve regular increases in subsequent years. Canadian producers were highly efficient, as their costs of production indicated. Canadian flue-cured tobacco was sold at auctions and its price was determined solely by market forces. It was disappointing to the Canadian Government that the United States had chosen to introduce a subsidy on a product which in international trade had hitherto been relatively free of subsidization and other forms of export assistance.

4. The Turkish representative observed that his country produced Oriental leaf which was not produced in the United States. Nevertheless, there was a danger that a reduction in prices of tobacco types exported by the United States, as a result of subsidization, would, in the longer term, cause manufacturers to modify blends to the detriment of Oriental leaf. Some 7 per cent of the Turkish population (453,000 families) depended for their livelihood on tobacco. Seventy per cent of Turkish tobacco production was exported and tobacco exports contributed between 25 and 33 per cent of Turkey's foreign exchange earnings.

5. In his opening statement, the Indian representative alluded to the importance of tobacco in his country's economy. Foreign exchange earnings from the export of tobacco had averaged \$6 million in 1964-65 and India expected to earn, during the five-year period 1966-67 to 1970-71, foreign exchange of the order of \$70 million from exports of unmanufactured tobacco. India feared that the larger exports of the subsidized American tobacco might lead to a change in consumer tastes and reduce the market for the types of tobacco supplied by other countries, and that the subsidy might narrow down the price spread between the American and other competing tobacco and thus seriously impair the competitive strength of the tobacco of other countries. He added that there was no knowing yet whether, if the subsidy failed to realize the expected results, it might not be enlarged in the future. The subsidy could have unfortunate repercussions on India's development efforts, particularly if the planned foreign exchange earnings from tobacco exports could not be realized either as a result of lower prices or due to the displacement of Indian tobacco from her markets.

6. In his opening statement, which is reproduced as Annex II, the United States representative remarked that his statement was addressed principally to the contents of the Malawi memorandum, but it would also cover certain points raised by other representatives. The United States representative provided an account of the subsidization measures that had been introduced by the United States in respect of unmanufactured tobacco exports.

7. The United States representative pointed out that between 1955 and 1959, United States exports of unmanufactured tobacco amounted on average to 35 per cent of total world exports, but by 1965 her share had declined to 26 per cent because of the marked increase in exports of her major competitors. The failure of the United States to maintain its share of export markets was attributable to several reasons including the discriminatory treatment it encountered in certain markets; one highly important factor had been the widening price gap between United States leaf and that produced by its competitors. Higher United States prices were largely the result of the United States' tobacco support system and the price support levels for most types of tobacco (see under relevant head).

8. The representative of Malawi made a detailed reply to the opening statement of the United States representative. The text of this reply is attached in Annex III. Points contained in this reply are covered in subsequent sections. In his reply the Malawi representative re-emphasized the importance of tobacco in his country's economy. Tobacco growing and ancillary occupations provided a livelihood for some 110,000 families and tobacco constituted about one third of total export earnings.

9. The representatives of Canada, India and Turkey also commented upon the opening statement of the United States representative. Their comments are covered in the sections which follow.

#### Legal issues

10. The representative of Malawi said that, in the view of his Government, the subsidy introduced by the United States could not be justified in terms of Article XVI:3, particularly if paragraph 3 were to be read in the context of the Article as a whole. The interpretative note to paragraph 3 provided for the entry into a market of exports from contracting parties which have not hitherto exported with the implication that established exporters would have to accept a smaller share of the trade in the product concerned. It would be contrary to the provisions of this note and to the whole spirit of the GATT if each exporter was to attempt to retain its proportionate share of the market. Moreover, as United States exports of tobacco had, in absolute terms, been increasing, there would seem to be no practical justification for the introduction of the subsidy. It was also the view of the Malawi Government that the introduction of the subsidy was contrary to the obligations undertaken by the United States under Part IV of the General Agreement, and in particular, Article XXXVI:2 and 3 and Article XXXVII:3(b) and (c).

11. The United States representative indicated that his Government regarded the subsidization measures introduced in July 1966 as fully conforming to the provisions of Article XVI:3 in that they were not intended to increase United States exports of tobacco above an "equitable" level. He noted, that, whatever "previous representative period" was selected, the United States share of world tobacco exports would be shown to have declined sharply. Nevertheless, the United States Government shared the view of the Malawi Government that it would not be desirable to assume that a particular country's share of a market should remain static and so, rather than base the concept of "equitability" on any arbitrarily selected reference period, the United States would regard as "equitable" that share of the market that it would have enjoyed under completely competitive conditions, i.e. in the absence of domestic price support measures. He was not, however, in a position to indicate the exact percentage share of the world market which the United States would regard as "equitable" on the basis of this criterion. He pointed out, however, that, if the domestic price support programme were abolished, the United States "equitable share" of world trade would undoubtedly be substantially in excess of its present share. Similarly, the United States Government did not consider that its obligations under Part IV and, in particular, Article XXXVII:3(b) and (c) debarred her in any way from the introduction of the subsidy in question. As regards paragraph 3(c) the United States Government had, in fact, explored other means of overcoming the problem. In this exploration, as in the formulation of other trade policy decisions, the United States had had special regard to the interests of developing countries. However, the United States could not interpret Article XXXVII:3(c) as meaning that prior consultations should be held with developing countries.

12. The representative of Malawi, whilst accepting that Article XXXVII:3(c) did not explicitly require prior consultations with developing countries, pointed out that, in practice, if the "exploration" provided for were to be conducted entirely within the administration of the developed country concerned, this sub-paragraph would have very limited usefulness.

13. The representative of Canada indicated that he had difficulty in accepting fully the United States interpretation of the principle of "equitability" in Article XVI:3. In this connexion, he drew attention to some limiting factors referred to in paragraph 19 of the report of the ninth session Working Party on Other Barriers to Trade and to the statement of the Canadian representative in the CONTRACTING PARTIES on paragraph 22 of the Working Party's report.<sup>1</sup> He suggested that in practice the extent to which an exporter could reasonably expect to increase its share of a market by the use of subsidies would depend upon the competitive position of the country subsidizing exports as compared with the positions of other countries.

<sup>1</sup>Analytical Index (second revision) pages 86-88.



Effects of the subsidy

14. The representative of the United States provided data on United States exports of the major types of tobacco of interest to Malawi for the year 1966. United States exports of flue-cured tobacco had increased from lb. 351 million in 1965 to lb. 421 million in 1966, but the average price per lb. had actually risen from 85 cents to 92 cents. He noted, however, that this increase had followed a persistent and substantial decline over a period of years in the United States share of total exports of flue-cured tobacco. The increase in United States exports of flue-cured tobacco was, he said, largely attributable to the vacuum in world markets created by the decline in exports from Rhodesia, but there had also been an improvement in the quality of leaf exported. United States exports of Burley were only slightly higher in 1966 than in 1965 but, in the second half of the year, when the subsidy was in force, they were actually lower than in the corresponding period of the previous year; moreover, the average price received had increased from 76 cents to 86 cents per lb. United States exports of dark air-cured and fire-cured tobaccos had actually declined in 1966 as compared with the previous year. The United States representative said that, on the basis of this data, the subsidy did not appear to have had any demonstrable adverse effects on the positions of other tobacco exporters.

15. In reply to a question, the United States representative provided the following statistical data on the quantities of tobacco exported during 1966:

(in lb. million)

	Total exports	Exports under subsidy	Percentage of subsidized exports carrying 10¢ per lb. subsidy
Flue-cured	421.0	292.6	9.5
Burley	45.7	27.2	1.5
Fire-cured and dark air-cured	26.0	15.8	8.5

In total, lb. 306.1 million of tobacco had been exported with a 5 cents per lb. subsidy and lb. 29.8 million with a 10 cents subsidy. In addition 280,000 lbs. of cigar tobacco was exported at the 5 cents subsidy rates. The average rate of subsidization was 5.4 cents per lb.

16. The United States representative explained that it was not the aim of his Government, in introducing the subsidy, to obtain a disproportionate or inequitable share of the market. It was hoped that the subsidy would arrest the persistent decline in the United States share of world tobacco exports and lead to a gradual improvement in the United States export position. In the view of the United States Government, the 5 cents per lb. subsidy was a mild corrective measure to deal with the problem of its deteriorating export position. Other measures considered by the United States Government, before the introduction of the subsidy, had been discarded because of its concern for the interests of the developing countries. It was appreciated, as a result of the subsidization, exports of other countries might not increase as fast as they otherwise might have done. On the other hand, there was absolutely no reason to expect that they would decrease in absolute terms, particularly as tobacco consumption in the world was increasing by between 6 and 7 per cent per annum. It had, however, to be noted that, in order to maintain a greater price stability in export markets for their tobacco, it would be in the interests of other countries to adjust production and exports and share with the United States the burden of adjustment of supply to demand. The United States had, in the past, by its policy of production control and stocking, assumed a disproportionate share of its burden.

17. The Canadian representative observed that it might be expected that, in the short term, the United States subsidy would cause a decline in prices in world markets; and in the longer term the displacement of other tobaccos by United States exports. It was not possible to quantify the opposing price effects of the Rhodesian situation and the United States subsidization, but it was to be expected that prices would have been higher in 1966 in the absence of the subsidy. He noted that the comparison of average annual export prices in 1966 with those in 1965 did not indicate what had happened following the introduction of the new subsidy. Moreover, it would not be reasonable to assume Rhodesia's absence from the market would continue indefinitely. The subsidy had been introduced at a time when Canadian exports were falling; in the first nine months of 1966 Canadian exports were down to lb. 31.5 million as compared with lb. 35.7 million in the corresponding period of 1965. In the period January-October 1966 United States exports of flue-cured had increased by 27 per cent over their level in the corresponding period of 1965. Whatever the short term effects of the subsidy, it could be expected that, in the long term, United States tobaccos would displace those of other countries in importing markets as a result of subsidization. With reference to United States contention that it had borne a disproportionate share of the burden of adjusting supply to demand, the Canadian representative observed that Canada's share of the world market had been relatively steady. It was 5 per cent in 1960 and only 4.6 per cent in 1965. Canadian production had been adjusted to

world market conditions and it had thus declined between 1960 and 1964. Throughout most of this period Canadian export price movements closely paralleled those of the United States and it did not appear that there had been a widening gap in prices.

18. The representative of India said that he could not understand why the United States had introduced the subsidy at a time when, due to abnormal conditions prevailing in the world tobacco market, prices were rising, and her own exports had increased. He said that he would be particularly interested in knowing the difference in the price of American tobacco of different types, and the price of comparable or nearly comparable tobacco of other countries in international markets at the time of introduction of the subsidy, at the different stages of increase of subsidy, and at the present time. He said that this information and the latest available trade statistics would make it possible to know how far the intended objective of the subsidy of reducing the price spread between the American and other competitive tobacco had been achieved, and what effect such reduction in the price spread had had on the competitive position of American tobacco in particular markets. He enquired whether, in the event of the reduction in the price spread between American and other competitive tobacco not being significant, due perhaps to the increased demand generated for the subsidized American tobacco, there was a possibility of the quantum of the subsidy being increased.

19. The representative of the United States pointed out that United States flue-cured exports had, in fact, been lower in the first six months of 1966 than in the same period of 1965. He also said that data on the prices of United States tobaccos were based on export returns and there was inevitably a delay in their calculation. He undertook to supply the information sought by the representative of India as regards United States tobacco exports when, and to the extent that, these became available. He would wish to point out, however, that this information would be of little use unless corresponding data were furnished by other exporters.

20. The representative of Malawi indicated that, whilst it might be too early to judge the effects of the subsidy, it was, nevertheless, the view of his Government that a reduction in the price of United States leaf, particularly fire-cured, would inevitably react on the prices received for Malawi tobaccos, as these prices were fixed by the market in relation to the availability of competing United States tobaccos. He could not accept a situation in which a less-developed country was being asked either to accept lower prices or curb production as a result of the aggressive trading practices of a major developed exporter.

21. The representative of Turkey said that his Government was concerned about the effects of the United States subsidy which could bring about the displacement of Oriental leaf by other types in cigarette blends. He noted, in this connexion, that there had been a marked decline in the utilization of Oriental leaf in Europe in the post-war period as compared with pre-war. In the United States, during this time, the proportion of Oriental leaf in cigarettes had fallen from 14.1 per cent to 5.7 per cent. A change in the relative prices of tobaccos could cause further blend modifications in future. The Turkish tobacco industry was particularly vulnerable at the present time because there existed large stocks of earlier crops amounting to some 59,000 tons. To dispose of this stock Turkey was being compelled to enter into bilateral clearing agreements which were contrary to the General Agreement.

22. The representative of Malawi said that it had recently come to his notice that the United States Commodity Credit Corporation had called for "sealed bids" to dispose of stock tobacco at the highest price attainable. The representative of the United States confirmed that the CCC had sought to dispose, by this method, of the remaining flue-cured stocks of the 1957 crop and certain selected grades, from the 1958 and 1959 crops.

#### United States domestic support policy

23. The representative of the United States explained that his country's domestic price support programme was designed to provide tobacco growers with a reasonable income while achieving a reasonable relationship between supplies and requirements, both domestic and export. The production control and price support programmes were aimed at enabling tobacco farmers to maintain and, if possible, increase their income level from tobacco production. Tobacco growers were located in some of the most depressed areas of the country and therefore posed a particular political problem. The support policy pursued by the United States Government, coupled with its willingness to stock rather than dispose of its high-priced tobaccos, had constituted an "umbrella" over the world market and had helped to ensure reasonably satisfactory and stable prices for competing tobaccos. This policy had been beneficial to Malawi and other developing countries in that they had been able to expand their exports under conditions of stable or rising prices. It was the submission of the United States Government that a departure from its present price support and production limitation programme would have an adverse effect on world market conditions and the exports of other producing countries. It was true, the

United States representative continued, that the acreage controls introduced had not curbed production by as much as had been anticipated because of the ability of the United States farmer to increase his yields. In 1965, however, poundage controls had been introduced for flue-cured tobaccos. Whilst it was still perhaps too early to judge the overall effects of this change it had undoubtedly improved the quality of United States leaf. United States Burley producers were currently voting on a measure which, if approved, would extend poundage restrictions to Burley leaf as well.

24. The representative of Canada said that United States domestic support policy had led to the creation of large stocks of high-priced tobaccos, the disposal of which in export markets had now necessitated the introduction of an export subsidy. The situation in Canada was that the tobacco industry was both progressive and efficient. By means of normal and energetic promotional measures, Canada had succeeded in penetrating a number of new markets with her tobacco exports. Factors were present to enable Canadian production and exports to expand significantly in the years ahead. Canadian leaf was sold on auctions and the prices it received were determined by the supply and demand mechanism so that producers were not isolated from price changes on the world market. In the past, Canadian producers had accepted voluntary restrictions on production to meet short-term fluctuations in the demand situation. Their export efforts were, however, being hindered by most of the trade barriers referred to by the United States representative and, in addition, also encountered assisted competition such as PL 480 sales by the United States.

25. The representative of Malawi said that he found it difficult to accept the relative poverty of tobacco producers in the United States as a reason for the maintenance of United States tobacco policy, given that the average annual per caput income in the United States was about \$2,600, whilst, in Malawi, it was \$42. Tobacco producers in Malawi had to bear the full effects of variations in the prices received for their production. Malawi could not afford to introduce subsidies even if she wished to. It had, however, to be emphasized that the Malawi Government had, in fact, taken steps to curb production to meet changed market circumstances in the past. The United States policy of acreage restrictions had been ineffective in curbing production because, as a result of the high and rising support prices paid, producers could afford the costs involved in raising the yields. United States tobacco production had, in fact, increased from lb. 2,110 million per annum, in the period 1947-1951, to lb. 2,192 million in the period 1961-1965. The policy of stocking had, in fact, been forced upon the United States as a result of its price policies. Malawi was prepared to meet any additional competition in the world market arising from the dismantling by the United States of its present domestic support system.



26. The representative of the United States said that he fully appreciated that it was not appropriate to compare the living standards of tobacco producers in the United States with those in Malawi. He noted, however, that the per caput income of farmers in the United States and in particular that of tobacco farmers was well below the national average. The relative poverty of United States tobacco producers, as compared with other economic groups in the country, was a political fact of life which had to be taken into account in the formulation of policy.

Future United States policy as regards subsidization

27. The representative of India asked whether, in the event of the United States' attaining the objectives set at the introduction of the subsidy, it would be removed, or, alternatively, if these objectives were not attained, it would be increased. In this connexion, the representative of Malawi pointed out that certain spokesmen for the United States administration had indicated that the United States wished to halt the growth of exports of competitors. He enquired whether it was the intention of the United States Government to extend the present subsidy to the 1966 and subsequent crops.

28. The representative of India said that it would have been helpful if the United States representative had given some quantitative indication of what his Government regarded as a fair and equitable share for the United States in the international market. He said that if the subsidy could not be removed immediately, it was necessary that the United States should assure that the direct competition between the American tobacco and the tobacco of the less-developed countries be reduced to the minimum, and that the subsidy scheme be so operated that competition would not be concentrated in the main markets of the less-developed countries.

29. The United States representative said that the subsidy would be applied with reasonable moderation and that the interests of the less-developed countries would be taken into account in the formulation of future policy. He was not, however, in a position to provide any indications as to whether the subsidy would be removed, maintained or extended. His Government could not entertain the suggestion of the representative of India:

### Representations

30. The representatives of Malawi, Canada, India and Turkey, whilst recognizing that, because of the shortness of the time that had elapsed, it could not yet be demonstrated that the subsidy had adversely affected their trade interests, nonetheless reiterated their apprehension over the adverse effects on the international tobacco market which the maintenance of the export subsidy, introduced by the United States in July 1966, could have; and, referring particularly to the requirements of Part IV of the General Agreement, the representatives of the developing countries participating in the consultations, requested that the subsidy be removed.

31. The representative of the United States said that he would report this request to his Government but he was not in a position to give any formal undertaking in this regard.

32. The representatives Malawi, Canada, India and Turkey requested that, in the event of the United States Government's considering the extension of the existing subsidy to hitherto unsubsidized tobacco or of increasing the present level of subsidization, it would consult, before taking any action, with their Governments.

33. The representative of the United States said that he would report this request to his Government but he was not in a position to give any formal undertaking in this regard.

### Conclusions

34. The representatives of Malawi, Canada, India and Turkey thanked the representative of the United States for the full and frank manner in which he had dealt with the questions they had posed. They regretted, however, that he had not, during the consultations, been in a position to respond favourably to their particular representations. It was their hope that the United States Government would, in the event, be in a position to react positively to these representations. They reminded the United States representative that the subsidy constituted a very real threat to the tobacco industries in their countries and the representatives of the developing countries drew attention to the harm the subsidy could inflict upon their developmental efforts.

35. The representative of the United States thanked the other representatives for the friendly and constructive spirit in which they had put their views during the consultation. These views, together with the additional factual information which had emerged, would be transmitted to Washington. He was certain that these views, particularly the points raised by the developing countries, would be taken into account when possible changes in policy as regards subsidization were being considered.

36. It was agreed that the consultations could be re-opened at the request of any of the consulting countries, particularly in the light of the availability of further information relative to the effects on their trade of the United States subsidy.

37. The representative of Malawi indicated that, in the event of the United States Government's not reacting positively to the representations made, his Government would wish to consider what further relevant procedures were available under the General Agreement.

Annex IMEMORANDUM BY THE MALAWI GOVERNMENT

1. On 29 August 1966, under reference L/2601/Add.13 the CONTRACTING PARTIES were informed of the decision of the United States to extend an export subsidy of five cents per lb. to most types of tobacco. A copy of the text of the notification is attached as an annexure to this memorandum.
2. Before dealing with the substance of its complaint against the action of the United States, the Government of Malawi would wish to draw attention to the delay which occurred in communicating this action to the CONTRACTING PARTIES. The new subsidy was announced by the United States Department of Agriculture on 10 June 1966. The regulations bringing the subsidy into force were published in the Federal Register on 6 July 1966. It was, however, not until eighty days had elapsed since the first announcement that the subsidy was formally notified to the CONTRACTING PARTIES. The contracting parties whose interests are affected were therefore faced with a fait accompli, and consequently were in no position to make any representations before the United States policy was implemented.
3. As soon as possible after receiving formal notification of the subsidy, the Government of Malawi sought to initiate direct consultations with the United States. On 20 September 1966 a note was presented to the United States Embassy in Malawi, expressing the concern of the Government of Malawi at this decision of the United States, and informing the Embassy that the Malawi Ambassador had been instructed to make verbal representations to the State Department. On 28 September 1966 the Malawi Ambassador in Washington raised the subject during an interview with the Deputy Assistant Secretary of State and other officials. On 13 October the Ambassador presented a note to the Secretary of State setting out in detail Malawi's objections to the subsidy and her fears as to its effect on Malawi's vital trade in tobacco.
4. Although formal reply has been received to these approaches, the Government of Malawi still wishes to seek consultations under Article XXII:(1).
5. The Government of Malawi seeks the removal of the subsidy on the grounds that the United States Government has failed to provide adequate justification for the policy, or to indicate sufficiently its effects as required by Article XVI that the United States Government has not, before applying this measure, had regard to its effects on the interests of less-developed contracting parties or explored all possibilities of constructive remedies, or had regard to the positive obligations to further the growth of the international trade of the less-developed contracting parties, as required by Part IV of the Agreement; and that the introduction of this subsidy, having regard to the power of the United States to sustain and, if it so desires, to increase it, constitutes a threat to Malawi's

largest export industry and to the well-being of the thousands of small farmers and employees for whom this industry represents their sole, or their major, source of cash income.

6. Article XVI:1 requires a contracting party which grants an export subsidy to notify in writing the extent and nature of the subsidy, its estimated effects on exports of the commodity affected, and the circumstances making the subsidy necessary. The Government of Malawi considers that the notification of the United States Government does not comply fully with these requirements. It fails to reveal the fact that the new subsidy is in addition to the subsidy already granted on certain tobaccos of previous crops, and that the actual extent of subsidization is therefore 10 cents per lb. over a substantial quantity of tobacco. It gives no quantitative estimates of the effect of the subsidy on American exports of tobacco but only says that it is expected to "keep the United States share of the market within the range of recent averages". As regards the circumstances rendering the subsidy necessary, the notification merely refers to the relative share of the United States in international trade in tobacco, in certain selected periods, and makes the unsupported statement that the "price spreads between major types of United States leaf and competitive leaf have widened". No reference, however, is made to the possible influence of United States internal price support policies on the situation.

7. The reference to the proportionate share of United States exports of tobacco is presumably also meant to meet the requirement of Article XVI:3. The term "equitable share" mentioned therein is, perhaps, open to interpretation. The Government of Malawi would, however, strenuously oppose any suggestion that the provisions of paragraph 3 of Article XVI are to be taken to mean that the pattern of international trade in any commodity should remain static and that the relative shares of countries should remain fixed. In fact the interpretative note to this Article in Annex I clearly envisages the entry of new exporting countries into the trade in any commodity, which must, even on a rising market, reduce the relative shares of other countries. There is no evidence of any significant reduction in the United States absolute share of the export trade in tobacco, and in fact, in those varieties which are of most concern to Malawi, American exports have been rising.

8. The statement in the notification of 29 August that the effect of the subsidy will be merely to restore American exports to the level of recent averages is at variance with the statement of the object of the subsidy made by the United States Department of Agriculture when announcing it. At that time the Department said that the object was to "regain and expand foreign markets". Statements by United States officials in even more aggressive terms have been published from time to time and the Government of Malawi must reluctantly conclude that the notification does not fully reflect the intentions of the United States



Government in regard to this subsidy. The United States Government has given no assurances that the subsidy will not be increased, and this gives rise to a grave apprehension that, should the present level of subsidy fail to achieve the more far-reaching aims to which expression has been given by United States officials, the subsidy will in fact be increased until it does. The threat to the interests of the less-developed tobacco exporting countries is thus potentially even greater than that represented by the present level of subsidy.

9. With very few exceptions the tobacco exporting countries competitive with the United States are less-developed countries. The provisions of Part IV of the Agreement are therefore of special relevance to the present case, and especially Article XXXVII which is headed "Commitments".

10. Article XXXVII:3(c) requires the developed contracting parties to:

"have special regard to the trade interests of less-developed contracting parties when considering the application of other measures permitted under this Agreement to meet particular problems and explore all possibilities of constructive remedies before applying such measures when they would affect essential interests of those contracting parties."

11. The Government of Malawi considers that, so far from having special regard to the trade interests of less-developed contracting parties, the action of the United States Government is a positive measure calculated to injure those interests. No evidence has been offered to the Government of Malawi that the United States Government has attempted to "explore all possibilities of constructive remedies" before applying this measure of subsidy. In fact the measure was applied before the intention to do so was notified to contracting parties and no opportunity was given for any consultations which might have avoided this action.

12. Article XXXVI reads, in part, as follows:

- "1. The CONTRACTING PARTIES ..... agree as follows:
2. There is a need for a rapid and sustained expansion of the export earnings of the less-developed contracting parties.
3. There is a need for positive efforts designed to ensure that less-developed contracting parties secure a share in the growth in international trade commensurate with the needs of their economic development."

13. It is the view of the Government of Malawi that the United States export subsidy on tobacco, is, on the contrary, a positive measure calculated to limit the growth of the share of less-developed contracting parties in the international

trade in tobacco. To Malawi especially, the maintenance and improvement of her export earnings from tobacco are vital interests in regard both to the welfare of her people and to the financing of her economic development.

14. Five types of tobacco are grown in Malawi, dark fired, Burley, flue-cured, sun/air cured and Oriental. Of these the first four are directly competitive with United States leaf in world markets. In recent years tobacco production in Malawi has varied between lbs. 40 million and lbs. 50 million annually. Of this total approximately three quarters consists of dark fired and sun/air cured leaf. These latter varieties are grown almost entirely by small peasant farmers and they form the main source of cash income for between 100,000 and 120,000 families. Tobacco sales account for about 30 per cent of the total cash income of African farmers in Malawi as a whole and in certain areas it is by far the most important cash crop. In addition a livelihood is provided for some 5,000 families by estates growing flue-cured and Burley tobacco, while the marketing, export packing and transporting of tobacco provide further substantial employment.

15. Over 90 per cent of tobacco grown in Malawi is exported and exports of tobacco account for about one third of Malawi's foreign exchange earnings. As a developing country, whose economy is almost wholly agricultural, Malawi is dependent on the earnings of a few export crops to purchase the imports and meet invisible payment commitments necessary for the implementation of her development plans, and improvement of the standard of life for her people. Anything which tends to lessen the value of her export crops is therefore of vital concern to Malawi and a fall in export earnings would have severe repercussions on her present living standards, and future development.

16. All Malawi tobacco, except Oriental, is sold by open free auction. The prices received are determined solely by the quantity and quality of the crop and the availability and prices of competing tobaccos on world markets. Malawi tobacco producers are not sheltered from variations in the value of their product in world markets and any fall in value is reflected directly in the incomes of producers. There is no residual buyer to bolster up the prices received on the auction floor. Malawi exporters must compete on straight commercial terms of price and quality.

17. It may be permitted, perhaps, to contrast this with the situation in the United States. There, producers of all types of tobacco, with minor exceptions, have for many years enjoyed support prices, in no case has any support price ever been reduced during the last twelve years, and these support prices are now between 18 and 30 per cent higher than twelve years ago.

18. Since the value of Malawi tobacco at the auctions is entirely determined by demand in world markets, any action which tends to depress prices artificially in world markets is of critical concern to Malawi. In the particular case of fire-cured tobacco the United States and Malawi between them account for most of the world exports, and the prices of Malawi leaf are determined in direct competition with offers from the United States. The immediate purpose of the United States intervention is to lower artificially the prices at which United States tobaccos are offered on world markets. The inevitable effect of this must be to lower the prices which can be obtained for Malawi leaf. The Government of Malawi is therefore faced with the choice of either restricting production and exports in an attempt to maintain the unit value of Malawi leaf, or accepting a severe cut in the export value of her tobacco in order to maintain the volume of her exports. Either course would curtail the cash income of Malawi farmers, which must be the basis of any economic advance in Malawi, and restrict a source of external earnings which could not readily be replaced.

19. Malawi is quite prepared to sell her tobacco in fair competition with other countries. The Government of Malawi does not encourage tobacco production by unreasonable support prices, but allows it to be regulated by the international price mechanism. Malawi producers bear the burden of over-production.

20. The Government of Malawi considers therefore that the action of the United States is contrary to explicit commitments assumed by her under the GATT and in UNCTAD and urges the United States Government to seek some other solution to solve her internal problem of over-production by measures which do not threaten the economic progress of less-developed countries.

ANNEX II

OPENING STATEMENT BY THE REPRESENTATIVE  
OF THE UNITED STATES

From February of 1962 to the end of 1965, the United States operated a limited export subsidy programme for tobacco of certain crops of 1956 and earlier years. This was reported initially to the contracting parties to the GATT in the United States Notification on Subsidies pursuant to Article XVI, of February 1963. On 10 June 1966, the United States Department of Agriculture announced a broadened tobacco export programme. On 22 June, we reported this subsidy to the GATT secretariat in accordance with the provisions of GATT Article XVI, paragraph 1, and this notification was published by the GATT secretariat on 29 August 1966. This statement alerted the contracting parties to the extension of the United States subsidy on tobacco. Additional details were available from the United States Government, and such details have been made available from time to time to other governments, including the Government of Malawi.

During September and October 1966, the Government of Malawi discussed the United States subsidy with United States officials in Blantyre, in Geneva, and in Washington. On 6 October and 21 October the Government of Malawi presented notes to us through the United States Embassy in Blantyre and the Department of State in Washington. In these representations and notes, the Government of Malawi expressed its concern that the United States subsidy threatens Malawi's exports of tobacco. The notes were answered in writing by the United States on 8 December.

Since June, other contracting parties have discussed this subsidy with United States officials and have been informed in detail on the programme and, we hope, have been reassured regarding its potential impact on the United States share of the world tobacco market.

In November of 1966 the Government of Malawi requested GATT Article XXII consultations with the United States regarding this tobacco export subsidy, and more recently it has provided a memorandum on this matter to serve as its basis for the consultation.

The United States domestic price support programme was designed to provide tobacco growers a reasonable income while achieving a reasonable relationship between supplies and requirements -- both domestic and export. It has operated through Government-established support prices coupled with production controls, generally in the form of limitations on the amount of acreage which can be planted.

Most tobacco produced in the United States is grown on small family-type farms. In 1966 the average size allotment for flue-cured tobacco farms was 3.15 acres; Burley, 0.85 acres; Kentucky-Tennessee dark fire-cured, 1.54 acres; and Virginia dark fire-cured, 1.41 acres. About 82 per cent of the United States growers of Burley tobacco have an allotment of less than one acre.

Tobacco growers in the United States are located in some of the most depressed and poverty stricken areas of the country. The production control and price-support programmes are designed to help these farmers maintain, and, if possible increase their income level from tobacco production. This system, understandably, introduced a price rigidity which gradually resulted in a diminution of United States export capability.

In order to adjust for this rigidity, and make United States tobacco more competitive on the world market, the United States undertook a limited export payment programme in March of 1962. This programme consisted of an export payment of 20 per cent of the purchase price on certain low quality tobaccos from 1956 and prior crop years. Payments under the programme were completed at the end of 1965. In 1966, in response to the continued decline in United States foreign sales in relation to the total world market, a broadened programme was undertaken. As a result of actions taken during 1966, the United States tobacco export payment programme applies as follows:

- (1) A rate of ten dollars per hundredweight for
  - (a) flue-cured tobacco (types 11-14) of the 1960-62 crops;
  - (b) fire-cured tobacco (type 21) of the 1959-62 crops;
  - (c) fire-cured tobacco (types 22-23) of the 1960-62 crops;
  - (d) dark air-cured tobacco (types 35-36) of the 1961 and 1962 crops;
  - (e) burley tobacco (type 31) of the 1960-62 crops.
- (2) A rate of five dollars per hundredweight on all other kinds and crops of eligible tobacco.

Although the United States has guaranteed higher prices than would have otherwise prevailed in domestic and foreign tobacco markets to its producers, it has required these benefits to be coupled with an acreage control programme, and more recently, a quantity control programme on certain types of tobacco. These measures have held United States production relatively constant in relation to the production of the rest of the world, and of the less-developed countries in particular.



In addition, the United States has consistently maintained large stocks of tobacco rather than move them on the world markets under export subsidy in competition with the exports of the less-developed countries. This policy is also reflected in the relatively stable export of United States tobaccos in comparison to the increasing exports of other producing countries, and in particular those of the less-developed countries.

The Government of Malawi has raised questions of the compatibility of the United States export subsidy on tobacco with the provisions of Article XVI and Article XXVII of the General Agreement on Tariffs and Trade. Article XVI:3 does not prohibit the use of subsidies on the export of primary products. It states that "if, however, the contracting party grants directly or indirectly any form of subsidy which operates to increase the export of any primary product from its territory, such subsidy shall not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in that product, account being taken of the shares of the contracting parties in such trade in the product during a previous representative period, and any special factors which may have affected or may be affecting such trade in the product."

The criterion which must be satisfied, therefore, is that the United States subsidy should not confer upon the United States more than an equitable share of world export trade in tobacco.

The United States agrees completely with the Government of Malawi that the provisions of paragraph 3 of Article XVI are not "to be taken to mean that the pattern of international trade in any commodity should remain static and the relative shares of countries should remain fixed." The United States has not adopted such an interpretation of Article XVI.

It might be relevant to say that exports should not be subsidized beyond the share which might reasonably be permitted to rule if free market forces were allowed to prevail. If the domestic price support programme were abolished, the United States "equitable share" of world trade would undoubtedly be substantially in excess of today's share.

Under any realistic interpretation of Article XVI, however, an examination of the United States share in world tobacco trade over the past several years in light of the operation of United States tobacco policy, which is a special factor affecting that trade, will indicate beyond doubt, we believe, that the United States share has not been an equitable one. If one were to consider the period 1955-59 as a base period, not particularly because it is representative, but because it is a reasonable length of time before the United States instituted its export subsidy, it is apparent that United States subsidy practices have not

increased the United States share beyond the share existing in those years. In fact, for most tobaccos, the United States share has steadily declined; in no case has it increased, and the total United States share in world tobacco trade has dropped sharply. United States total tobacco exports accounted for about 35 per cent of the tobacco moving in world trade during the 1955-59 period, but had dropped to 26 per cent by 1965. During this period the volume of United States tobacco trade was fairly stable while tobacco trade of most competitive leaf increased substantially. There are several reasons for the decline, including discriminatory import practices by importing countries, but one highly important factor has been the relatively high United States export prices compared with export prices of competing countries. Generally speaking, the margin between the export prices of United States and competitive leaf has widened during the past few years. In spite of the relatively high quality of United States leaf, the export price of United States tobacco has been at such a level that it was not possible for United States tobacco to share in the growing world tobacco market. As previously mentioned, these relatively high export prices of United States tobacco are in large measure the result of the United States tobacco support system and the price support levels for most kinds of tobacco.

Malawi's contention appears to be that even in these circumstances, the United States should have refrained from granting an export subsidy and should have accepted a continued erosion of its export position. In our judgment neither the provisions of Article XXXVII nor the provisions of any other GATT Article imposes on the United States or any other developed contracting party such an obligation.

The purpose of the export programme is to make prices of United States tobacco more competitive in world markets. It is neither the desire nor the intention of the United States to use this export programme to gain more than an equitable share of the world market.

Citing the provisions of Article XXXVII:3(c) the Government of Malawi asserts that no evidence has been offered that the United States Government has attempted to explore all possibilities of constructive remedies before applying its subsidy and notes that no opportunity was given for any consultations which might have avoided this action. Without prejudice to the question of whether our export subsidies affect "essential interests of the less-developed contracting parties", we consider that in developing and applying our export system for tobacco, we have had special regard for the trade interests of the

less-developed contracting parties and that we have explored within the United States Government all possibilities for constructive remedies before applying or extending our export subsidy measures. Article XXVII:3(c) does not require such exploration to be conducted in consultation with less-developed countries.

The United States has always had special regard for the trade interests of less-developed contracting parties in the development of its export programmes. The record of United States export subsidization of tobaccos is clearly one of moderation and restraint.

Malawi notes that it has no means of stabilizing its tobacco trade, and that its prices fluctuate in direct relation to the quantity and quality of its crop and the availability of competing tobaccos on world markets. The action of the United States in stabilizing world prices through managing the quantities of leaf produced and moved in international trade has clearly benefited Malawi and other less-developed countries by providing price stability in world markets.

In respect of the present United States policy, there are a number of alternatives which the United States could adopt, and from time to time has seriously considered adopting. These, however, would have likely resulted in greater production of United States leaf and substantially lower export prices compared with the existing production quota, price support, and export payment programmes.

It is not our contention that the present United States programme was adopted wholly or even substantially because of its favourable impact on the less-developed countries. Neither is it fair to state that "the action of the United States Government is a positive measure calculated to injure" the interests of the less-developed countries.

Finally, we would point out that the United States is a major importer of tobaccos, principally the oriental types produced by less-developed countries including, to a minor extent, Malawi. The import of these tobaccos is unhindered by any type of monopoly control or non-tariff barrier or preference. The sole impediment to imports is a moderate import duty which has been progressively reduced over the years until it is now probably the lowest duty imposed by any major tobacco producing country in the world. Imports into the United States benefit substantially through the higher domestic price level occasioned by the United States price and income support programme. Were the United States to modify its present programme, it seems highly likely that market prices on these tobaccos in the United States would decrease significantly.

For the several reasons given above, the United States considers that its tobacco export policy is not contrary to the interests of developing countries, including Malawi, and is fully consonant with the provisions of the GATT.

With respect to specifics, the Government of Malawi has mentioned four types of tobacco which compete with United States tobacco in overseas markets: flue-cured, burley, dark-fired, and sun/air-cured. Background information on each of these types follow as annexes.

Enclosures:

- Annex A - Flue-Cured Tobacco
- Annex B - Burley Tobacco
- Annex C - Fire-Cured Tobacco
- Annex D - Dark Air-Cured Tobacco

ANNEX AFlue Cured

Flue-cured tobacco is the primary type used in the production of high quality cigarettes. It is the major type produced in the world and the major type entering world trade. Exports of flue-cured tobacco normally account for about 80 per cent of United States total exports.

Total exports of flue-cured tobacco from free world sources and the United States percentage share of this trade, average 1955-59, annual 1960-65 were as follows:

Period	Total exports mil. lb.	Percentage United States
1955-59	683	60
1960	705	58
1961	727	55
1962	776	48
1963	786	51
1964	864	46
1965	844	42

These data show that although free world trade in flue-cured tobacco has increased substantially since the 1955-59 period, the United States has not shared in this increasing world trade; in fact, the United States share of free world trade in flue-cured tobacco has declined from 60 per cent during 1955-59 to 42 per cent in 1965. Complete data for free world trade in flue-cured tobacco for 1966 are not available.

A major reason for the decline in the United States share in flue-cured tobacco is the relatively high price of United States flue-cured tobacco, although sales of United States flue-cured leaf have also been curtailed because of trade barriers. An example of this is the 21.5 cents per pound Commonwealth preference that the other major producers of flue-cured tobacco enjoy on the United Kingdom market.

High United States prices have resulted, in large part, from the domestic price support programme. Price support is available to United States flue-cured growers and the average auction market price in 1966 was 67 cents per pound, substantially above the comparable price in other producing countries.



Generally speaking, the margin between the average export price of United States flue-cured tobacco, compared with other suppliers, has been widening during the past ten to fifteen years. In 1965 the average export price of United States flue-cured leaf was 6 cents per pound above the Canadian flue-cured price, 26 cents above the Rhodesian price, and 50 cents above the Indian price.

The effects of this higher price upon production have been curtailed by production controls. Acreage limitations have been in effect for many years. Beginning with the 1965 season, United States flue-cured has been produced under an acreage-poundage system, which limits both the grower's acreage and the quantity he may market. The United States is the only major producer of flue-cured tobacco which has taken steps to cut back production. Production of flue-cured tobacco in free world countries increased from an average of 2,252 million pounds in 1955-59 to 2,767 million in 1966. In 1955-59 United States production of flue-cured represented 54 per cent of free world production; by 1965 our share had declined to only 39 per cent.

In 1966, to partially compensate in export markets for the higher prices of United States leaf, the United States tobacco export subsidy programme was modified to apply a payment of US\$10 per hundredweight for the 1960-62 crops of flue-cured tobacco and a rate of US\$5 per hundredweight on all other crops of flue-cured tobacco.

Changes in the world flue-cured tobacco situation make it impossible to isolate the effects of the United States export payment programme. During 1966, however, salient features of United States flue-cured tobacco trade were the following:

- (a) The average export price of United States flue-cured tobacco increased to 92 cents per pound in 1966 compared with 85 cents in 1965.
- (b) United States exports of flue-cured tobacco totalled 421 million pounds in 1966 as compared to 351 million pounds in 1965. Data are not available on total free world exports of flue-cured tobacco in 1966, but assuming them at the 1965 level of 844 million pounds, would put the United States share about 50 per cent, compared to a share of 42 per cent in 1965.
- (c) United States exports during the last six months of 1966 amounted to 297 million pounds as compared with 224 million pounds in the last six months of 1965.

In our judgment, the major factor responsible for the increase in United States flue-cured exports in 1966 was the embargo on Rhodesian tobacco trade. Another important factor was the improved quality of United States leaf.

ANNEX BBurley

Burley tobacco is a light air-cured kind of tobacco used as an important ingredient in the American-type blended cigarette. Burley tobacco is now produced in some forty countries with much of the production destined for the export market. The United States is the leading producer and exporter of burley.

The following data indicate total exports of burley from free world sources and the United States share of this trade; average 1955-59, annual 1960-65:

Period	Total free world exports (mil. lb.)	Percentage United States
1955-59	47	60
1960	61	56
1961	67	55
1962	70	57
1963	75	60
1964	90	59
1965	81	55

United States exports of burley, while remaining large on an absolute basis, in recent years have not shared in the growing world demand. The United States share of free world exports of burley in 1965 had fallen steadily from 60 per cent in 1963 and was well below the 60 per cent of 1955-59. A major reason for this decline in the United States share in burley tobacco is the relatively high price of United States burley, although trade barriers such as preferential duty treatment and monopoly operations played a part in the decline. Average prices received by growers for 1966 crop marketings through 1 February 1967, averaged a near record 67 cents per pound.

These high prices have resulted, in major part, from the price-support programme available to United States growers of burley. Since the price-support level is adjusted in line with prices of commodities and services commonly bought by farm families, the price-support level has been rising steadily in recent years.

There is a wide margin between the average export price of United States burley and that of other suppliers. In 1965, for example, the average export price of United States burley tobaccos was 18 cents above the Canadian price, 26 cents above the Rhodesia-Zambia-Malawi price, 26 cents above the Japanese price, and 35-40 cents above the Greek price. For 1966, the average export price of United States burley rose to 86 cents per pound - 10 cents above the average for 1965. This further widened the differentials just mentioned.

Burley is grown in the United States under an acreage allotment system, which limits the number of acres a grower may plant. The average acreage allotment for burley farmers in the United States is less than one acre. Major areas of burley production include some of the most economically-depressed regions of the country. In fact, burley tobacco is the only source of cash for many families producing it.

In recent years the burley crop in the United States has been sharply cut back, and the United States share of world acreage and production has dropped. In 1955-59, when free world production of burley averaged 593 million pounds, the United States produced 486 million, or 82 per cent of the total. During the mid-1960's, when yields per acre rose sharply, there was excess production. Rather than move excess stocks into the world market at competitive prices, the United States in 1965 and 1966 cut back the producing acreage. The United States share of world production in 1965 was 73 per cent and in 1966, 70 per cent.

In mid-1966, it was decided to initiate an export payment for burley and a US\$5 per hundredweight payment on exports from the current crop was granted. In late 1966, the export payment was extended to cover certain old crops of burley in line with the programme which previously had been in effect for most other kinds of tobacco. Thus, on certain old crops of burley, the current export payment is US\$10 per hundredweight.

The salient features of the burley situation in 1966 were:

- (a) the United States export price rose to 86 cents per pound as compared to 76 cents in 1965.
- (b) United States exports amounted to 45.7 million pounds as compared with 45.3 million pounds in 1965. Data are not available on total free world exports of burley tobacco in 1966, but if one assumes that they were at the 1965 level of 81 million pounds, the United States share would have been 55 per cent.
- (c) United States exports in the past six months of 1966 amounted to 25.1 million pounds as compared to 26.8 million pounds in the same six months of 1965.

ANNEX CFire-Cured

Fire-cured tobacco is used mainly in the manufacture of tobacco for pipes; lesser amounts are used in some countries' cigarette blends, chewing tobacco, etc. There are relatively few producers of fire-cured tobacco. Fire-cured tobacco amounts to only 4-6 per cent of United States total tobacco exports.

Total exports of fire-cured tobacco from free world sources and the United States percentage share of this trade, average 1955-59, annual 1960-65 were as follows:

Period	Total exports (million lb.)	United States share (per cent)
1955-59	49.8	52
1960	47.1	51
1961	51.9	57
1962	45.6	48
1963	44.4	44
1964	47.9	53
1965	54.2	52

The free world trade in fire-cured tobacco is not gaining as is the trade of flue-cured and burley. This is probably due to the increase in manufacture of lighter type cigarettes in the world, the decrease in tobacco chewing, and the decrease in pipe smoking in some countries.

The United States share of world trade in fire-cured tobacco varies from year to year. In 1965, it was at about the same level as it was ten years ago. In 1966, United States exports fell to 25 million pounds from the 1965 level of 28 million pounds. A major reason for the decline was the high price of United States fire-cured tobacco, although such trade barriers as bilateral agreements, the 21.5 cents per pound Commonwealth preference, preferential duties in other countries, and other barriers of the non-tariff type play a rôle in determining the size of United States exports.

High United States prices have resulted, in large part, from the domestic price-support programme. The average export prices of United States fire-cured are about 8-9 cents per pound higher than they were during the 1950-54 period, and 18-22 cents per pound higher than the prices of fire-cured tobacco exports of other countries.

The effects of this higher price upon production have been curtailed by production controls. United States growers, in order to be assured price support for fire-cured tobacco, must agree to acreage controls. The United States usage or domestic disappearance of fire-cured tobacco has decreased slightly during the last ten years. The United States allotted 50,113 acres to fire-cured tobacco in 1956 and only 34,798 acres in 1966. Allotments averaged 1.47 per grower in 1965 and over 11,000 growers had less than 1 acre.

The United States share of total free world production of fire-cured tobacco has decreased from 47 per cent, which it averaged in the 1955-59 period, to 42 per cent in 1966.

In 1966, to partially compensate in export markets for the higher prices of United States leaf, the United States tobacco export subsidy programme was modified to apply a payment of \$10 per hundredweight for the 1959-62 crops of type 21 fire-cured tobacco and for the 1960-62 crops of types 22-23 fire-cured tobacco, and \$5 per hundredweight on all other crops of types 21-23 fire-cured tobacco.

During 1966, salient features of United States fire-cured tobacco trade were the following:

- (a) The average export price of United States fire-cured tobacco was 56.6 cents per pound in 1965, and 57.4 cents per pound in 1966.
- (b) United States exports of fire-cured tobacco totalled 25 million pounds in 1966 as compared to 28 million pounds in 1965. Data are not available on total free world exports of fire-cured tobacco in 1966, but if one assumes that they were at the 1965 level of 54 million pounds, the United States share would have been about 46 per cent, compared to a share of 52 per cent in 1965.
- (c) United States exports during the last six months of 1966 amounted to 14.9 million pounds, compared to 18.9 pounds in the last six months of 1965.



ANNEX DDark Air-Cured

United States dark air-cured tobaccos are used in pipe mixtures, chewing tobacco, and as a component in the preparation of "Black Fat" tobacco. In some countries they have been a component in blends for dark cigarettes. These tobaccos are also sometimes used in the manufacture of snuff.

Because of the many different types of dark air-cured tobacco produced in the world, and their specialized uses, it is impossible to derive a meaningful United States share of world trade in this product.

Two of the dark air-cured tobaccos, One Sucker and Green River, are grown under the support programme of the United States. Relatively small quantities of them go into export.

There has been a declining demand, both foreign and domestic for these tobaccos. United States exports have declined steadily during the past ten years:

Period	Total exports ( '000 lb.)
1955-59 Av.	3,337
1960	1,132
1961	1,323
1962	1,167
1963	1,052
1964	1,853
1965	1,527
1966	1,042

United States acreages of these tobaccos have been reduced: One Sucker by 36 per cent below the 1955-59 average; Green River 31 per cent below the 1955-59 average. Since the 1955-59 period, production of One Sucker decreased 13 per cent, and that of Green River fell 10 per cent.

One Sucker and Green River tobaccos are grown almost entirely in the Appalachian hill country in Kentucky and Tennessee. The average size allotment is slightly over a half-acre per grower. The growers, of whom there are about 24,000 live largely in depressed areas.

In 1966 the United States tobacco export subsidy programme was modified to apply a payment of \$10 per hundredweight for the 1961-62 crops of types 35-36 dark air-cured tobaccos, and \$5 per hundredweight for later crops of the same type.

It is not possible to isolate the effects of this programme on United States exports of dark-air-cured leaf. The salient features of the dark air-cured tobacco situation in 1966 were:

- (a) United States exports dropped from 1.5 million pounds in 1965 to 1.0 million pounds in 1966.
- (b) United States exports in the last six months of 1966 were 549,000 pounds, compared to 1 million pounds in the last half of 1965.

Annex III

STATEMENT BY THE REPRESENTATIVE OF MALAWI

The document which was read to us yesterday by the United States representative was at pains to emphasize the importance of tobacco production to certain areas of the United States and certain parts of the American economy. While not wishing to minimize this importance I may, perhaps, be permitted to remark that these matters are relative, and to describe, in somewhat more detail than was done in the Malawi Government original memorandum, the vital importance of tobacco in Malawi's whole economy.

Tobacco has been grown in Malawi for very many years. Five main types are grown - flue cured, Burley, dark fired and sun/air cured and a small amount of Oriental leaf. Flue-cured and Burley tobacco are mainly grown on estates which between them give employment to some 5,000 families. Dark-fired and sun/air cured tobacco are grown almost entirely by peasant farmers on customary land and this crop provides the main or sole source of income for some 100,000 families.

In addition the grading, packing and warehousing of tobacco for export provides urban employment for between 10,000 and 20,000 people. In Malawi's economy this is a very significant proportion.

In 1965 out of total exports valued at £12.4 million tobacco accounted for £4.9 million, or 38 per cent of total exports. In 1966 out of total exports of £12.8 million tobacco accounted for £4.1 million or 32 per cent of the total.

Tobacco is thus Malawi's main export crop, and although every effort is being made to develop other export crops tobacco will remain for many years, of the utmost importance to the Malawi economy.

Malawi is making strenuous efforts to develop its economy and it is at present dependent very heavily on capital imports to sustain the present rate of progress. These capital imports will in future years have to be serviced and this will place a heavy burden on Malawi's balance of payments.

Malawi's tobacco is sold by open auction and its value is determined solely by the quantity and quality of the crops produced and the prices which are paid for tobacco in world markets. The Malawi producer is not cushioned against any variation in the export value of the tobacco he grows. The consequences of over-production, leading to a fall in price, are felt directly by the producers. Malawi does not subsidize tobacco in any way and indeed could not afford to do so. Nor can Malawi maintain any system of support prices to guarantee the incomes of her tobacco growers.

In all the main types of tobacco produced in Malawi, Malawi is directly competitive with the United States and the value of Malawi's tobacco is determined on world markets in relation to the prices of the United States tobacco. In particular Malawi is, next to the United States, the main exporter of dark-fired tobacco. Any action therefore which artificially depresses the price at which American tobacco is offered for export directly affects the value of Malawi's major export crop. The avowed object of the American export subsidy is to lower the price of American tobaccos below the level at which they could be offered were the subsidy not paid. This is what is meant by the euphemism, "making American tobacco more competitive". These points are I think sufficient to show that the United States action in introducing and extending its export subsidy on tobacco constitutes a grave threat to Malawi's whole economy.

In interpreting Article XVI:3 of the Agreement I cannot accept the highly selective reading adopted by the United States. I would remark that there is a considerable difference between "permitting" and "not forbidden".

Any dispassionate reading of the Article must surely convince anybody that so far from permitting the payment of export subsidies the whole intention of the Article is to prevent and, where subsidies do exist, to limit their operation. Paragraph 3 of the Article, to which the United States especially appeals begins with the words "accordingly, contracting parties should seek to avoid the use of subsidies on the export of primary products". The paragraph then goes on to say "if, however, a contracting party grants directly or indirectly any form of subsidy which operates to increase the export of any primary product from its territory" the subsidy is to be administered subject to certain limitation. The conditions laid down are to be regarded, not as grounds for condonation of the offence, but merely as pleas in mitigation.

The Article says that subsidies shall not be applied in such a manner which results in a contracting party having more than an equitable share of the world export trade in the product to which it applies. In its statement the United States delegation, after acknowledging the justice of Malawi's view that the term "equitable share" is not to be interpreted in such a way as to introduce a rigidity into the pattern of international trade, then proceeds to do just that by referring exclusively to the United States proportionate share in the world tobacco trade.

If such an interpretation were accepted, it would imply that it is the intention of the GATT to stabilize the pattern of world trade in the same proportions as existed during the previous representative period. This surely is a misrepresentation of the whole intention of the Agreement. I would draw attention again to the interpretative note to Article XVI and particularly to the

first note to paragraph 3 which reads as follows "but the fact that a contracting party has not exported the product in question during the previous representative period would not, in itself, preclude that contracting party from establishing its right to obtain a share of the trade in the product concerned".

It is quite clear from this note that the Agreement envisages the entry of new exporting countries into the trade in any product and if this is so it must imply that the proportionate shares of other countries must inevitably be reduced. A fortiori it can be argued that it is legitimate for other exporting countries to increase their shares of the world trade in any product without this being interpreted as depriving any other country of its equitable share.

If this is not enough we must surely take account of the provisions of Part IV of the Agreement dealing with the trade of developing countries. In particular I would refer to paragraphs 2 and 3 of Article XXXVI which read as follows: "2. There is need for a rapid and sustained expansion of the export earnings of the less-developed contracting parties. 3. There is need for positive efforts designed to ensure that less-developed contracting parties secure a share in the growth in international trade commensurate with the needs of their economic development".

These provisions clearly envisage a growth in the share of developing countries in international trade not merely commensurate with the growth of world trade as a whole but commensurate with the needs of their economic development.

Paragraph 3 of Article XVI does not confine itself merely to limiting the rate of subsidization to such as would preserve an equitable share in the trade in the commodity with reference to a previous representative period, but also requires that this equitable share shall also be considered in relation to "any special factors which may have affected or may be affecting such trade in the product". One such special factor which we must regard as temporary, is the absence of the Rhodesian leaf from the normal tobacco markets of the world. For this reason reference to the immediate past is meaningless in assessing the effect of the subsidy but there must be apprehension as to the situation which may develop should the Rhodesian trade return to normal channels while the United States subsidy still exists. Another special factor must surely be the fact that other countries in the world are able to produce the commodity in question for export to world markets with increasing efficiency, interpreting the word "efficiency" to mean that production can be carried on profitably at world market prices. A further special factor should also be the fact that the country imposing the subsidy has, by its internal policies, itself impaired its ability to compete efficiently, in this sense, on world markets.



In the light of these considerations, it is relevant to examine whether in fact the United States trade in tobacco has suffered unduly. The following figures are derived from the United States publication "Tobacco Situation" of June 1966. From the data provided in this publication, it can be concluded that during the period 1947-1951 the average annual export of unmanufactured tobacco from the United States amounted to lbs. 486 million. In the period 1952-1956 the average was lbs. 484 million. In the period 1961-1965 the average annual export was lbs. 492 million. Final figures are of course not available for 1966, but United States official publications have recently estimated that total United States exports for this year will amount to lbs. 560 million. These figures relate solely to the volume of tobacco for export. In terms of value, in view of the rising American export prices, America's absolute share of the world export market for tobacco has in fact risen very considerably.

I conclude this part of my remarks by repeating the following contentions. First the introduction of new export subsidies on primary products is not permitted by the GATT and is in fact quite contrary to the whole intention of the Agreement. Second, there can be no question of the phrase "equitable share" being interpreted as a proportionate share of trade. An equitable share can only be assessed having regard to all the circumstances affecting the trade and not merely to a comparison with an arbitrarily selected period. Thirdly, that even if these points cannot be accepted wholly, in fact United States trade in tobacco has not suffered to an extent which would justify the introduction of a subsidy whose direct effect is to lower the prices which can be obtained for a vital export by a developing country such as Malawi.

It was not Malawi's intention to discuss or criticize in detail the United States internal policies on tobacco production, but since in its reply the United States has itself drawn attention to these policies I feel permitted to make certain remarks on them. The United States refers to its policy of reducing tobacco acreage and, with a confusion which I find surprising having regard to the United States experience in these matters, appears to equate a policy of acreage reduction to a policy of production control. Surely experience especially in the United States shows that, without other measures designed to enforce production control the mere reduction of acreage, especially when it is accompanied by a steadily rising support price, has as its main effect that of increasing production per acre and in many cases can even lead to an increase in production. Let us examine the experience of the United States in regard to tobacco. In the case of flue-cured tobacco the annual average acreage in the period 1955-1959 was 720,000 acres. In the period 1960-1964 it was 688,000 acres which represented an average approximately 10 per cent drop. Between the same

two periods in the average yield per acre rose from lbs. 1,569 to lbs. 1,945 an increase of over 23 per cent. Between 1955 and 1964 the support price rose from 48.3 cents per lb. to 57.2 cents per lb. Since 1964 it has risen further to 58.8 cents.

In the case of Burley tobacco comparing the same two periods acreage has been increased from 305,000 acres to 320,000 acres, an increase of  $4\frac{1}{2}$  per cent while the yield per acre has risen from lbs. 1,595 to lbs. 1,945 an increase of 22 per cent. The support price rose from 46.2 cents in 1955 to 58.9 cents in 1964. It has since risen to 60.6 cents. In the case of fire-cured tobacco of types 22 and 23 total acres have declined from 31,000 to 28,000 while the yield per acre has increased from lbs. 1,464 to lbs. 1,634 per acre. The support price has risen from 34.6 cents in 1955 to 40.0 cents in 1964.

Despite a reduction in acreage the total production of tobacco in the United States has in fact increased over the last twenty years. The average production of all types of tobacco was lbs. 2,110 million in the period 1947 to 1951, lbs. 2,217 million in the period 1952 to 1956 and lbs. 2,192 million in the period 1961 to 1965.

The United States congratulates itself on its policy of acreage control. I would like to say that the measures taken by the Malawi Government to regulate tobacco production in relation to the requirements of the market are, in comparison more severe and more effective. To take a recent case in point. In 1965 over lbs. 10 million of sun/air cured tobacco was produced. The average price on the auction floor fell from 24.80 d. to 17.74 d. per lb. The crop was reduced to lbs. 6 million in 1966. But, in view of the stocks remaining in the hands of dealers, this was not a sufficient reduction. Measures have therefore been taken to reduce the crop still further this year, and these measures are expected to be wholly effective. Similar drastic action was taken in regard to fire-cured tobacco in 1964. The Malawi policy with regard to tobacco is conducted with the utmost prudence and with a full consciousness of the dangers of production at unremunerative prices. It is our contention that in this respect the United States production control policy has been ineffective and has failed to adjust production to what the market can absorb at remunerative prices.

The United States policy, particularly its policy of constantly increasing support prices, has had the opposite effect to that which is claimed. Further it can be contended that so far from the increasing yields per acre being taken as evidence of the greater efficiency of the American tobacco industry, these increases are only being obtained at increasing cost and can only be sustained

by the inflated support price granted to the producers. The most effective means of preventing over-production is to allow the producers to feel the consequence of it in the form of falling prices. No doubt the United States has many efficient producers. But the effect of United States policies has been to maintain within the industry producers who are not efficient in the sense of being able to produce at market prices, whose existence is only possible because of the support price, and whose excess production has led to the monstrous surpluses now held in the United States.

The consequence of this policy has been to produce tobacco which cannot be sold profitably at world market prices. The United States takes credit for the fact that it has stored large quantities of tobacco of all types. This is indeed to make a virtue of necessity. Surely the only reason why the United States has found it necessary to maintain these stocks of tobacco is that the tobacco cannot be sold profitably at world prices. So far from the existence of these stocks being a stabilizing influence on world markets, their existence, and the threat, which now appears likely to be realized, that they might be thrown on the world market at sacrifice prices, has in itself had a depressing effect on the prices received by other competing countries.

In this connexion I would refer to other, hidden subsidies represented by Public Law 480 sales on non-commercial credit, and "sealed bid" disposals of old crop tobaccos. The United States draws special attention to the situation in regard to dark-fired tobacco, which, of course, is of particular importance to Malawi. The United States and Malawi are the two main exporters of this type of tobacco. In the case of dark-fired tobacco United States production has actually declined. It fell from an average of lbs. 56.5 million in 1955-1959 to an average of lbs. 52.3 million in the period 1960-1964. This decline, however, requires a little further examination. During the same period the domestic market in the United States for this type of tobacco fell from lbs. 30.9 million to lbs. 24.8 million between the periods 1955-1959 and 1960-1964. Thus a reduction of lbs. 4.3 million in total production was occupied by a reduction of lbs. 6.1 million in domestic usage. During the same period exports of this tobacco remained virtually constant at lbs. 28.4 million and lbs. 28.5 million. Production fell again in 1965 to lbs. 46.2 million but at the same time domestic usage declined to lbs. 24 million while exports actually rose to lbs. 32 million and during the period to which we are referring, the amount of dark-fired tobacco remaining in Government Loan Stocks rose from lbs. 0 to lbs. 35.8 million, a quantity considerably greater than Malawi's highest production of this type of tobacco. I regret therefore that in respect of dark-fired tobacco I can offer no congratulations on the success of the United States policy in so far as it has relieved the world market of excess production of dark-fired tobacco.

The United States has itself referred to the fact that the world market for this type of tobacco is limited. At such a time it seems, to say the least, a little thoughtless to introduce artificial and aggressive selling policies.

It is thus the contention of the Malawi Government that the situation in which the United States finds itself, in regard to the stocks of unsaleable tobacco which it now possesses, is of that Government's own creation, and that the methods which the United States has adopted to solve its difficulties show a disregard of the interests of developing countries such as Malawi. This disregard is in direct conflict with the obligations assumed by the United States under the Part IV of the GATT. The provisions of this Part have been referred to in the memorandum presented by the Government of Malawi and I should like to re-emphasize now the importance which the Government of Malawi attaches to these provisions and to the legal and moral duty of rich developed countries such as the United States to adhere scrupulously to the commitments which they have undertaken. In particular I would draw attention once again to the provisions of Article XXXVII:3(c) which requires the developed contracting parties "to have special regard to the trade interests of less-developed contracting parties when considering the application of other measures permitted under this Agreement to meet particular problems and explore all possibilities of constructive remedies before applying such measures when they would affect essential interests of those contracting parties". It is true there is no specific requirement that developed countries should consult with other countries in the application of this paragraph. Nevertheless, developing countries may be forgiven if they feel certain misgivings if the operation of this Article is to be left to the internal communings of the developed countries and to the strength or elasticity of their consciences. Quite frankly, we find it very difficult to imagine how this Article is to have any real meaning unless the developed countries are prepared to consult with the developing countries who might be affected, when contemplating action which falls or may fall within its provisions. It is simply not sufficient to be told that one's case has been considered and dismissed. If this is indeed the attitude of the United States, and other developed countries, to the provisions of Part IV it may be necessary to raise this matter in a wider forum.

In conclusion Malawi must again request that the United States export subsidy be withdrawn, and that the United States should seek other constructive remedies for an internal situation which is of its own making - remedies which will not transfer the burden of adjustment into countries who are not able to bear it.