ARTICLE XX:II (a)

Extension of the Time-Limit

(Note by the Executive Secretary)

The last paragraph of Article XX provides that measures applied under Part II of the Article shall be removed as soon as conditions giving rise to them cease to exist and in any event, not later than a fixed date. The fixed date was extended by successive decisions of the CONTRACTING PARTIES; the most recent Decision, that of 23 October 1953 (BISD, 2nd Supp., page 27), extended the date to 1 July 1955. At the Ninth Session the Working Party on Organizational and Functional Questions reported as follows concerning Article XX:

"The Working Party considered various proposals for amending the general exceptions. In this connection, it gave particular attention to Part II of the exceptions which were originally adopted to take care of temporary situations arising out of the war. It was finally agreed, however, that the substance of paragraph (a) of Part II should be retained for the time being. It is recommended that it be included in the Article with a provision for review not later than 30 June 1960. With the above exception the Working Party decided to recommend the elimination of Part II." (BISD, 3rd Supp., page 23c)

These recommendations were approved, but the CONTRACTING PARTIES did not take any decision extending the validity of paragraph (a) from 1 July 1955 until the amendment should enter into force. From a strictly legal point of view, therefore, the provisions of paragraph (a) ceased to apply on 1 July 1955, but there is no doubt that it was the intention of the CONTRACTING PARTIES, when adopting the report of the Working Party, that paragraph (a) should remain in force until 30 June 1960.

In view of the delay in the entry into force of the amendments to Article XX and since these amendments will even then apply only to those contracting parties which have signed the Protocol, the CONTRACTING PARTIES might consider the desirability of adopting a formal decision providing for the continued application of paragraph (a). If that should be the wish of the CONTRACTING PARTIES, the following draft might serve as a basis for discussion.
DRAFT DECISION

EXTENDING THE TIME-LIMIT FOR PARAGRAPH (a) OF PART II OF ARTICLE XX

Whereas it is provided in Article XX that measures instituted or maintained under Part II of that Article, which are inconsistent with other provisions of the General Agreement, shall be removed as soon as the conditions giving rise to them have ceased and in any event not later than 1 January 1951;

Whereas the CONTRACTING PARTIES, by Decisions adopted at their Fifth, Sixth and Eighth Sessions, extended this time-limit until 1 July 1955 and decided, at their Ninth Session, to amend the text of Article XX in such a manner as to retain the provisions of paragraph (a) of Part II until such time as the conditions giving rise to the application of measures under that paragraph have ceased to exist, subject to review by the CONTRACTING PARTIES not later than 30 June 1960;

Whereas the Protocol of 10 March 1955 amending the Preamble and Parts II and III of the General Agreement, which provides for such amendment, has not yet entered into force;

The CONTRACTING PARTIES, acting under Article XXV:5(a) of the General Agreement,

DECIDE to waive until 30 June 1960 or the date on which the above-mentioned Protocol becomes effective for the contracting parties concerned, whichever is the earlier, the obligation of contracting parties instituting or maintaining measures under paragraph (a) of Part II of Article XX to discontinue them or seek the approval of the CONTRACTING PARTIES for their continuance.