ANNEX

TEXT OF PROPOSED AMENDMENTS

I. Amendments to Articles XII, XIV and XV

A. The text of Article XII shall read:

"ARTICLE XII

Restrictions to safeguard the Balance of Payments

1. Notwithstanding the provisions of paragraph 1 of Article XI, any contracting party, in order to safeguard its external financial position and balance of payments, may restrict the quantity or value of merchandise permitted to be imported, subject to the provisions of the following paragraphs of this Article.

2.(a) Import restrictions instituted, maintained or intensified by a contracting party under this Article shall not exceed those necessary:

(ii) to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or

(ii) in the case of a contracting party with very low monetary reserves, to achieve a reasonable rate of increase in its reserves.

Due regard shall be paid in either case to any special factors which may be affecting the contracting party's reserves or need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.

(b) Contracting parties applying restrictions under sub-paragraph (a) of this paragraph shall progressively relax them as such conditions improve, maintaining them only to the extent that the conditions specified in that sub-paragraph still justify their application. They shall eliminate the restrictions when conditions would no longer justify their institution or maintenance under that sub-paragraph.

3.(a) Contracting parties undertake, in carrying out their domestic policies, to pay due regard to the need for maintaining or restoring equilibrium in their balance of payments on a sound and lasting basis and to the desirability of avoiding an uneconomic employment of productive resources. They recognize that in order to achieve these ends, it is desirable so far as possible to adopt measures which expand rather than contract international trade.

MT/10/55
(b) Contracting parties applying restrictions under this Article may determine the incidence of the restrictions on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential.

(c) Contracting parties applying restrictions under this Article undertake:

(i) to avoid unnecessary damage to the commercial or economic interests of any other contracting party;

(ii) not to apply restrictions so as to prevent unreasonably the importation of any description of goods in minimum commercial quantities the exclusion of which would impair regular channels of trade; and

(iii) not to apply restrictions which would prevent the importation of commercial samples or prevent compliance with patent, trade mark, copyright, or similar procedures.

(d) The contracting parties recognize that, as a result of domestic policies directed towards the achievement and maintenance of full and productive employment or towards the development of economic resources, a contracting party may experience a high level of demand for imports involving a threat to its monetary reserves of the sort referred to in paragraph 2(e). Accordingly, a contracting party otherwise complying with the provisions of this Article shall not be required to withdraw or modify restrictions on the ground that a change in those policies would render unnecessary restrictions which it is applying under this Article.

(e) Any contracting party applying new restrictions or raising the general level of its existing restrictions by a substantial intensification of the measures applied under this Article shall immediately after instituting or intensifying such restrictions (or, in circumstances in which prior consultation is practicable, before doing so) consult with the CONTRACTING PARTIES as to the nature of its balance-of-payments difficulties, alternative corrective measures which may be available and the possible effect of the restrictions on the economies of other contracting parties.

(b) (i) On a date to be determined by the CONTRACTING PARTIES the CONTRACTING PARTIES shall review all restrictions still applied under this Article on that date. Beginning one year after that date, contracting parties applying import restrictions under this Article shall enter into such consultations with the CONTRACTING PARTIES annually.

1The delegations of Belgium, Canada, Cuba, Dominican Republic, the Federal Republic of Germany, the Union of South Africa and the United States reserved their position on this point. See paragraph of the Report.
(ii) The CONTRACTING PARTIES shall invite any contracting party which is applying import restrictions under this Article to enter into such consultations with them, with a view to achieving a settlement, at the request of any contracting party which can establish a prima facie case that the restrictions are inconsistent with the provisions of paragraphs 2 or 3 of this Article or with those of Article XIII (subject to the provisions of Article XIV) and that its trade is adversely affected thereby. If, as a result of such consultations, no agreement is reached and the CONTRACTING PARTIES determine that the restrictions are being applied inconsistently with those provisions, they shall recommend the withdrawal or modification of the restrictions; if the restrictions are not withdrawn or modified within such time as the CONTRACTING PARTIES may prescribe, they may release the contracting party initiating the procedure from specified obligations under this Agreement towards the contracting party applying the restrictions.

"(c) In the course of consultations with a contracting party under this paragraph, the CONTRACTING PARTIES shall indicate any respects in which the restrictions are not fully consistent with the provisions of paragraphs 2 or 3 of this Article or with those of Article XIII (subject to the provisions of Article XIV) and may make recommendations for the modification of the restrictions.

"(d) If, as a result of the consultations, the CONTRACTING PARTIES determine that the restrictions are being applied in a manner involving an inconsistency of a serious nature with the provisions of paragraphs 2 or 3 of this Article or with those of Article XIII (subject to the provisions of Article XIV) and that damage to the trade of one or more contracting parties is caused or threatened thereby, they shall so inform the contracting party and shall make appropriate recommendations for securing compliance within a specified period of time with the provisions of the Agreement. If the contracting party does not comply with these recommendations within the specified period, the CONTRACTING PARTIES may release any contracting party whose trade is adversely affected by the restrictions from such obligations under this Agreement towards the contracting party applying the restrictions as it determines to be appropriate in the circumstances.

"(e) In the consultations foreseen in this paragraph the CONTRACTING PARTIES shall take into consideration the difficulties encountered by a contracting party in withdrawing or modifying restrictions due to adverse effects upon its exports through obstacles in other countries, such as quantitative restrictions maintained for other than balance-of-payments reasons and excessive tariffs."

1 The delegations of Belgium, Canada, Cuba, Dominican Republic and the Union of South Africa reserved their position on this paragraph. The Italian delegation proposed the deletion of the last two lines beginning "such as". See paragraph of the Report.
"(f) Determinations under this paragraph shall be rendered expeditiously and, if possible, within sixty days of the initiation of the consultations. The CONTRACTING PARTIES shall make provision for the utmost secrecy in the conduct of any consultation.

5. If there is a widespread application of import restrictions under this Article, indicating the existence of a disequilibrium which is restricting international trade, the CONTRACTING PARTIES shall initiate discussions to consider whether other measures might be taken, either by those contracting parties whose balances of payments are under pressure or by those whose balances of payments are tending to be exceptionally favourable, to remove the underlying causes of the disequilibrium. On the invitation of the CONTRACTING PARTIES, contracting parties shall participate in such discussions. If the CONTRACTING PARTIES consider that a state of disequilibrium exists, they shall invite the International Monetary Fund to consult with them as to possible remedies including the invocation by the Fund of Article VII of its Articles of Agreement and a temporary release of contracting parties from obligations under this Agreement to apply quantitative restrictions in a non-discriminatory manner. If the circumstances warrant it, the CONTRACTING PARTIES may, notwithstanding the provisions of Articles XI to XV and Section B of Article XVII authorize the application of quantitative restrictions against a particular contracting party for such period and on such other conditions as the CONTRACTING PARTIES may decide.

B. The text of Article XIV shall read:

"ARTICLE XIV

"Exceptions to the Rule of Non-Discrimination

"1. A contracting party which applies restrictions under Article XII or under Section B of Article XVIII may, in the use of such restrictions, deviate from the provisions of Article XIII in a manner having equivalent effect to restrictions on payments and transfers for current international transactions which that contracting party may at that time apply under Article VIII or XIV of the Articles of Agreement of the International Monetary Fund, or under analogous provisions of a special exchange agreement entered into pursuant to paragraph 6 of Article XIV.

"2. A contracting party which is applying import restrictions under Article XII or under Section B of Article XVIII may, with the consent of the CONTRACTING PARTIES, temporarily deviate from the provisions of Article XIII in respect of a small part of its external trade where the benefits to the contracting party or contracting parties concerned substantially outweigh any injury which may result to the trade of other contracting parties.

1See paragraph of the Report
"3. The provisions of Article XIII shall not preclude restrictions in accordance with the provisions of Article XII or of Section B of Article XVIII which are applied against imports from other countries, but not as among themselves, by a group of territories having a common quota in the International Monetary Fund, on condition that such restrictions are in all other respects consistent with the provisions of Article XIII.

"4. A contracting party applying import restrictions under Article XII or under Section B of Article XVIII shall not preclude by Articles XI to XV or Section B of Article XVIII of this Agreement from applying measures to direct its exports in such a manner as to increase its earnings of currencies which it can use without deviation from the provisions of Article XIII.

"5. A contracting party shall not be precluded by Articles XI to XV, inclusive, or by Section B of Article XVIII, of this Agreement from applying quantitative restrictions:

"(a) having equivalent effect to exchange restrictions authorized under Section 3(b) of Article VII of the Articles of Agreement of the International Monetary Fund, or

"(b) under the preferential arrangements provided for in Annex A of this Agreement, pending the outcome of the negotiations referred to therein."

C. The following words shall be inserted in the third sentence of paragraph 2 of Article XV immediately after the words "in paragraph 2(a) of Article XII":

"or in paragraph 7 of Article XVIII"

D. The interpretative notes in Annex I, ad Article XII, paragraph 3(b)(i) shall be deleted, and the following text shall be inserted:

"Paragraph 3(c)(i)

"Contracting parties applying restrictions will endeavour to avoid causing serious prejudice to exports of a commodity on which the economy of a contracting party is largely dependent."

E. The interpretative note in Annex I, ad Article XIV, paragraph 1(g), shall be deleted, and the following text shall be inserted:

"Paragraph 1

"The provisions of this paragraph shall not be so construed as to preclude full consideration by the CONTRACTING PARTIES, in the consultations provided for in paragraph 4 of Article XII and in paragraph 10 of Article XVIII of the nature, effects and reasons for discrimination in the field of import restrictions."
F. Annex J shall be deleted.

G. Notwithstanding the provisions of Article XXX the amended text of paragraph 1 of Article XIV as provided in Section B above, and the deletion of Annex J as provided in Section F above, shall come into force on a date to be decided by the CONTRACTING PARTIES.