The essence of the problem was agreed to be in the fact that in the event of violent disruption of trading conditions arising from exports from a particular contracting party, action consistent with the Agreement, including emergency action under Article XIX, would have to be non-discriminatory and would thus have to be applied to the trade of all contracting parties, including those which were in no way responsible for the circumstances requiring redress. It was felt that extensive resort to such action would not be consistent with the attainment of the objectives of the Agreement and that such action if taken would be harmful to world trade generally. Moreover, Article XIX provides primarily for action by a contracting party whose domestic producers suffer injury and only in very limited circumstances for action by a contracting party which is not itself a producer of the goods in question.

The Committee considered a suggestion that Article XIX might be extended so as to provide a solution to these difficulties. This would involve the addition to paragraph 1 of a new clause providing that if any product was being exported by a contracting party in such circumstances as to produce serious disruption of trading conditions and to cause or threaten serious injury to a significant sector or sectors of production of one or more contracting parties and if remedial measures could not be taken consistently with sub-paragraph (a) or sub-paragraph (b) of paragraph 1 or if taken consistently with these sub-paragraphs would cause severe damage to the interests of one or more other contracting parties, the contracting party into whose territory the product in question was being imported might suspend the application to any other contracting party or parties from whom the product was being exported of such obligations or concessions under this Agreement as it might deem appropriate. Having regard to the difficulties with which Governments would be confronted if in such exceptional circumstances they were not free to take the emergency action which they felt to be required, certain delegates considered that paragraphs 2 and 3 of Article XIX embodied the procedures and conditions appropriate to emergency action in the circumstances in mind. Other delegates felt, however, that any such extension of Article XIX involved considerable difficulties.

The other Article which was considered to be relevant was Article XXIII which provides for consultations and the suspension of obligations or concessions when benefits accruing under the Agreement are being nullified or impaired, or when the attainment of objectives of the Agreement is being impeded. It appeared to the Committee that violent disruption of trading
conditions of the type described, if remedial action consistent with the Agreement would lead to a general raising of tariff levels and other barriers to world trade, would create a situation impeding the attainment of objectives of the Agreement. This would therefore be a situation falling under part (c), of paragraph 1 of Article XXIII. It was considered that, in the event of such a situation arising, contracting parties whose interests were seriously affected would avail themselves of the facilities of Article XXII, but that if consultations under that Article should prove unsuccessful they could thereafter refer the matter to the CONTRACTING PARTIES under paragraph 2 of Article XXIII.

7. Certain delegates called attention to the difficulties with which Governments under the procedures appropriate to Article XXIII might be confronted, both in allaying present fears and in dealing with a future situation, if, having satisfied themselves that emergency action was necessary and could not effectively be taken without serious damage to third party interests, they were not then free to take the alternative emergency action which they considered in the exceptional circumstances to be necessary. Under the procedures of Article XXIII, they would not have the same freedom to take this alternative action as they would have to take action, subject in the case of action under Article XIX to the procedures there applicable, which would have precisely the damaging effect of third party interests which it was desirable to avoid.

8. The Committee considered a suggestion designed to go some way to meet these difficulties. It was recognized that there might be circumstances in which the procedures of Article XXIII would be too slow in operation to provide appropriate safeguard. The Committee therefore considered the suggestion that provision should be made for emergency action in critical circumstances where delay would cause damage difficult to repair. Under this suggested procedure the question whether critical circumstances existed and whether emergency measures should, therefore, be taken would require a ruling by the CONTRACTING PARTIES. If, however, the CONTRACTING PARTIES did not act promptly in such circumstances the delay thus caused would clearly defeat the purposes of any emergency action. If therefore the CONTRACTING PARTIES failed to reach decisions within 307 days, at least on the interim measures designed to prevent damage, it should be possible for the contracting party concerned to take provisional defensive measures pending a decision by the CONTRACTING PARTIES.

9. The question was considered whether the emergency procedure discussed in paragraph 8 should be provided for etc....