The Sub-Group has examined the procedures for renegotiation when authority is granted by the CONTRACTING PARTIES, in exceptional circumstances, for a contracting party to modify certain concessions in its schedule. The discussion has proceeded on the assumption that the firm bindings of the schedules will be for fixed periods, as in the past, and that the procedures for exceptional renegotiations are to be incorporated in Article XXVIII.

The following procedures have been set down tentatively, subject to reconsideration by the members of the Sub-Group and consultation with other interested delegations:

1. A request for authority to renegotiate with a view to modifying bound rates of duty should be examined by the CONTRACTING PARTIES if they are in session, or by the Intersessional Committee if the CONTRACTING PARTIES are not in session, and a decision should be given within thirty days of receipt of the request by the Executive Secretary. [The Sub-Group considers that the period of thirty days cannot be reduced.]

2. Such authority to renegotiate should be granted only in exceptional circumstances, and on the understanding that the negotiations will be conducted with a view to maintaining the level of concessions. [The Sub-Group (with a reservation by the United Kingdom) considers that the phrase "exceptional circumstances" should be made neither broader nor narrower and that the freedom of judgment of the CONTRACTING PARTIES and of the Intersessional Committee should not be limited by a definition.]

3. (a) Negotiations

(i) The applicant country should be authorized to enter into negotiations with, and should be expected to provide compensation for, the contracting parties to whom the concessions had been granted by negotiation.
(ii) When agreement is reached with the contracting parties to whom the concession had been granted, the applicant country should be free to modify the concession at the same time as it makes the compensation effective.

(iii) If no agreement is reached within sixty days, or at such earlier time as may be agreed upon with the contracting parties to whom the concession had been granted, the applicant country may refer the matter to the CONTRACTING PARTIES. If the CONTRACTING PARTIES (or the Intersessional Committee) determine that the compensation offered is reasonable, the applicant country will be free to modify the concession at the same time as it makes the compensation effective.

(b) Consultations

(i) The CONTRACTING PARTIES (or the Intersessional Committee) should determine the contracting parties which have a substantial interest in the concession. During the negotiations the applicant country should consult with such contracting parties and should endeavour to see that the compensation offered includes compensation for them.

(ii) If agreement is reached in the negotiations and the applicant country modifies the concession, a substantially interested contracting party which considers it has not been compensated may refer the matter to the CONTRACTING PARTIES. If the CONTRACTING PARTIES (or the Intersessional Committee) determine that the compensation is not reasonable, the CONTRACTING PARTIES should submit their views as to additional compensation that should be granted. If the applicant country does not grant this additional compensation within thirty days the substantially interested contracting party should be free, not later than ninety days after the concession has been modified by the applicant country, to withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the CONTRACTING PARTIES, substantially equivalent concessions initially granted in negotiation to the applicant country and the withdrawal of which the CONTRACTING PARTIES do not disapprove.

4. A decision of the CONTRACTING PARTIES under 3(a)(iii) or 3(b)(ii) should be given within thirty days unless otherwise agreed with the contracting party which has referred the matter to the CONTRACTING PARTIES.

Reservations by Members of the Sub-Group

The foregoing draft of paragraphs 3 and 4 has been tentatively accepted by the representatives of Cuba, Germany, India and the Netherlands.
The representative of Australia considers that the procedures for negotiation of Article XXVIII should be available at all times and that there should be no periods of fixed binding during which contracting parties would have to obtain the authority of the CONTRACTING PARTIES to negotiate modifications in their schedules. Further, he considers that if the proposed procedures were adopted the negotiations would usually be protracted and special provision should be made for emergency action where delay would cause injury to domestic industry.

He would provide for unilateral withdrawal on equivalent concessions if renewed negotiations after the arbitration of the CONTRACTING PARTIES also fail. (The representative of Cuba agrees that an emergency clause should be included).

The representative of Greece could accept most of the draft of paragraph 3 but wishes to reserve his position until the revision of Article XVIII A has been discussed.

The representative of the United Kingdom would delete paragraph (b)(ii) so that unilateral action would not be allowed in any circumstances; thus consultations with the substantially interested contracting parties would not differ materially from the negotiations.

The United States representative does not accept the basic assumption on which the foregoing draft has been prepared, namely, that there should be a fixed period of firm binding. He agrees that "sympathetic consideration" procedures should be included in Article XXVIII, but he would limit the negotiations to those substantially interested on the basis of current trade, although the contracting parties to whom the concession had been granted in negotiation might be allowed to participate. He agrees with the representative of the United Kingdom that there should be no unilateral action and that therefore paragraph (b)(ii) should be deleted.