DRAFT FOR THE REMAINING ARTICLES
OF THE PROTOCOL OF ORGANIZATIONAL PROVISIONS

This paper, which is intended to serve as a basis for the further work of the sub-group, sets out drafts of those provisions of the draft Organizational Agreement which have not yet been examined in detail. The drafts take account of the various proposals submitted by delegations and also endeavour to give effect to the suggestions contained in the rapporteurs' report (W.9/93).

PART I - GENERAL

Article 1 - Establishment

The contracting parties to the General Agreement on Tariffs and Trade (hereinafter referred to as the General Agreement) hereby establish the International Trade Organization (hereinafter referred to as the Organization) to achieve the purposes and objectives set forth in this Agreement.

Article 2 - Membership

The members of the Organization shall consist of the contracting parties to the General Agreement which accept this Agreement pursuant to Article 31. A government not party to the General Agreement may be admitted to the Organization on terms to be agreed between such government and the Organization. Decisions of the Organization under this Article shall be taken by a two-thirds majority.

1 It is contemplated that if a non-contracting party to the General Agreement were admitted to membership of the Organization, the latter would prescribe the conditions of such membership, including such questions as the extent of the participation of the applicant country in the work of the Organization, voting rights, etc.
Article 3 - Functions

The Organization shall give effect to those provisions of the General Agreement which require joint action by the contracting parties and generally facilitate the operation of that Agreement. Other functions of the Organization shall be:

(a) to facilitate intergovernmental consultations on questions relating to international trade;

(b) to study questions of international trade and commercial policy and, where appropriate, make recommendations thereon;

(c) to collect, analyse and publish information and statistical data relating to international trade and commercial policy.

In order to assist the Organization in carrying out the functions set out above, members shall co-operate with the Organization in the performance of those functions, in particular by participating in intergovernmental consultations on questions relating to international trade, by contributing to the study of questions of international trade and commercial policy, and by furnishing to the Organization copies of their published statistics of external trade, and of laws and regulations affecting trade and of intergovernmental trade agreements.

Articles 4 to 24

(See document W.9/123, Annex 1)

1 It is suggested that sub-paragraph (c) would cover the proposals of the Scandinavian delegations (L/273, L/275 and L/276) and of the German delegation (L/261/Add.1, page 17) for the insertion of paragraphs or articles relating to the undertaking of studies, collection of statistics, etc. In addition, the Scandinavian countries proposed in Working Party II that the Organization should study definitions of value, procedures for determining value, and standardisation of rules and procedures relating to dumping, subsidisation, and anti-dumping and countervailing duties, and make recommendations to members thereon. The report of the Working Party might record that it considers the sub-paragraph (b) adequately covers such activities by the Organization and that the CONTRACTING PARTIES in adopting this report should specifically endorses this interpretation and agree that the Organization should, in accordance with that paragraph, undertake the study of those questions.

If these suggestions are adopted, it would appear that the points referred to Working Party IV by Working Party II (W.9/98) would be adequately covered
**PART 4 - SPECIAL FUNCTIONS RELATING TO THE GENERAL AGREEMENT**

**Article 25 - General**

In addition to such specific functions as are provided for in this Part, the Organization shall be the body to receive reports, conduct studies, circulate proposals, sponsor consultations and negotiations, and make decisions in any case in which such functions are required or appropriate to carry out the purposes of the General Agreement.  

**Article 26 - Waivers in Exceptional Circumstances**

(See Article 25 of the draft Agreement contained in W.9/123, page 8)

**Article 27 - Settlement of Differences**

Members, conscious of the solidarity which unites them, shall undertake to seek peaceful procedures for the settlement of their trade differences. They shall refrain from any unilateral action contrary to the provisions of the General Agreement. They shall, whenever possible, have recourse to arbitration for the settlement of their differences. When Members are unable to reach a satisfactory settlement by direct consultations or by arbitration, they shall submit the matter to the Conference which shall make appropriate recommendations.

**Article 28 - Nullification and Impairment**

(a) If a claim of nullification or impairment of a benefit accruing under the General Agreement is referred to the Organization, it shall promptly investigate the matter and shall make appropriate recommendations to the contracting parties to that Agreement which it considers to be concerned, or give a ruling on the matter, as appropriate.

(b) If the Organization considers that the circumstances are serious enough to justify such action, it may authorize a contracting party or parties to suspend the application to any other contracting party or parties of such tariff concessions or other obligations under the General Agreement as it

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1 United States.

2 France.

3 United States. The words "substantially equivalent" in sub-paragraph (b) of the United States proposal replace the word "appropriate" in the General Agreement Article XXIII.
determinesto be substantially equivalent in the circumstances. If the application to any contracting party of any obligation or concession is in fact suspended, that contracting party shall then be free, not later than sixty days after such action is taken, to give written notice to the Secretary-General of the United Nations of its intention to withdraw from the General Agreement and such withdrawal shall take effect upon the sixtieth day following the day on which such notice is received by him.

PART 5 - OTHER PROVISIONS

Article 29 - Amendments

Amendments to this Agreement shall become effective, in respect of those Members which accept them, upon acceptance by two-thirds of the Members of the Organization and thereafter for each other Member upon acceptance by it.

Article 30 - Withdrawal

Any member may withdraw from the Organization. The withdrawal shall take effect on the expiration of six months from the date on which written notice is received by the Secretary-General of the United Nations.

Article 31 - Entry into Force

(a) The original of this Agreement shall be open for acceptance, by signature or otherwise, at Geneva on February, 1955. It shall thereafter be deposited with the Secretary-General of the United Nations, and on and after February, 1955 it shall be open for such acceptance at the Headquarters of the United Nations.

(b) This Agreement shall enter into force, as among the governments which have accepted it, on the thirtieth day following the day on which it shall have been accepted by the contracting parties to the General Agreement, the territories of which account for X per cent of the total trade of the territories of the governments which are then contracting parties to the General Agreement. Such percentage shall be determined in accordance with the table set forth in the Annex to this Agreement. The instrument of acceptance of each other contracting party shall take effect on the thirtieth day following the day upon which such instrument is deposited.

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1 The United States draft included the words "in accordance with their respective constitutional provisions". The present wording of the Article conforms to Article XXX of the General Agreement and the addition of the phrase suggested by the United States appears unnecessary.

2 United States
Article 32 - Relation to Amendments to the General Agreement

If this Agreement enters into force before the entry into force of amendments to the General Agreement contained in the Protocol Amending the General Agreement, dated February, 1955, this Agreement shall, until the entry into force of such amendments, be applied as if all references in the General Agreement to "the CONTRACTING PARTIES" were references to the Organization.

Article 33 - Notification and Registration

(a) The Secretary-General of the United Nations shall promptly furnish a certified copy of this Agreement, and a notification of its entry into force, and of each acceptance thereof, accession thereto, or withdrawal therefrom, to each contracting party to the General Agreement, to each member of the United Nations which is not such a contracting party, and to all specialized agencies of the United Nations.

(b) The Secretary-General is authorized to register this Agreement in accordance with Article 102 of the Charter of the United Nations.

Done at Geneva, in a single copy, in the English and French languages, both texts authentic, this day of February, one thousand nine hundred and fifty-five.

NOTES

1. Accession

If the suggestion of the rapporteurs is adopted there would appear to be no need for a provision on accession. They envisage retaining a provision in the General Agreement for accession thereto (presumably subject to a two-thirds vote of the Organization), and providing also that one of the terms of accession shall always be acceptance of the Organizational Agreement by the acceding government. Thereupon it would automatically become a member pursuant to the provisions of Article 2. A country which became a contracting party by accession would be covered by the acceptance provisions of Article 31 (b) as now drafted. This approach differs fundamentally from the United States proposal, which contemplated the omission of any provision for accession to the General Agreement in the Agreement itself, and providing for such accession by a provision in the Organizational Agreement.

1 United States
2. **Provisional application**

The rapporteurs suggest that the Organizational Agreement should contain provisions under which the Organization might be set up on a provisional basis pending the entry into force of this Agreement (W.9/93, paragraph 7(b)). Elsewhere, however, (W.9/93, paragraph 4(b)) they describe this action as a Decision of the CONTRACTING PARTIES. It would appear to be less complicated to proceed in this way, and for the CONTRACTING PARTIES at the appropriate moment to draw up a separate Agreement for giving effect to this Decision, in the same way as provisional application of the General Agreement is provided for in a separate Protocol.