I. INTRODUCTION

1. Since the Interim Commission for the International Trade Organization (ICITO) was set up by a Resolution adopted at the Havana Conference on 24 March 1948, its staff has rendered valuable service to the governments which are contracting parties to the GATT. These contracting parties, which are now 35 (37) and which, with a few exceptions, are members of the United Nations, have expressed on various occasions their determination to grant to that staff, which is governed by the same rules and regulations as the staff of the United Nations and the specialized agencies, the same pension rights as are provided for their colleagues in other organizations. Although these governments took such a decision as early as 1953, a number of administrative difficulties have so far prevented the ICITO staff from actually joining the United Nations Joint Staff Pension Fund.

2. These governments have reviewed the situation at the session presently held in Geneva and have come to the conclusion that every effort should be made to overcome these difficulties and settle this problem before the end of the present Session of the General Assembly of the United Nations. The staff when engaged were told that they would very soon become members of the United Nations Joint Staff Pension Fund and they have paid accordingly during the whole period of service the contributions required under that scheme. However, they do not enjoy the pension rights provided under that scheme and they are not protected against death and disability. This situation has existed for more than eight years and in view of this the governments parties to the GATT, taking into account the decision they had already taken in 1953, have agreed that the Executive Secretary of the ICITO would be justified in setting up an alternative pension scheme if, by the end of the present Session of the General Assembly, the difficulties which had so far prevented the affiliation of the ICITO staff to the United Nations Joint Staff Pension Fund are not finally overcome.

II. ACTION TAKEN IN THE PAST BY THE GENERAL ASSEMBLY AND THE GOVERNMENTS PARTIES TO THE GATT

3. It might be useful for the members of the General Assembly to have a brief review of the action taken so far in connexion with the affiliation of the ICITO staff to the United Nations Joint Staff Pension Fund.

4. Soon after the setting up of the ICITO, the Executive Secretary, on the advice of the United Nations Secretariat, set up a Staff Benefit Fund which was based on the assumption that the ICITO would soon be able to join the United Nations Joint Staff Pension Fund. The Executive Secretary discussed with the Pension Board authorities the possibility of
such an affiliation. It was, however, recognized at that time that it would be preferable to wait until the ITO was set up as the regulations of the Fund did not appear to apply to an Interim Commission. The Executive Secretary agreed to postpone his request for affiliation.

5. When it was clear that the ITO would not be set up in any foreseeable future, the Executive Secretary again raised the question with the Pension Board. The Pension Board adopted in 1953 a Resolution recognizing that IGITO was not eligible under the present regulations but that there appeared to be no unsurmountable difficulties of assimilation into the United Nations Joint Staff Pension Fund, and it decided to bring the question to the attention of the General Assembly for its consideration (document W.9/4, paragraph 4).

6. The Executive Secretary reported to the CONTRACTING PARTIES at their Eighth Session and the governments parties to the GATT considered that it would be highly desirable, for general and practical reasons, to press for the affiliation of the IGITO staff members to the United Nations Joint Staff Pension Fund. It recognized, however, that if undue delay should occur before such affiliation could be effected, alternative schemes should be considered.

7. At its 458th plenary meeting on 27 November 1953, the General Assembly adopted the following Resolution:

"1. Decides that, upon request of the competent authority, the Interim Commission for the International Trade Organization may be admitted to participation in the United Nations Joint Staff Pension Fund but without representation with voting rights on the United Nations Joint Staff Pension Board;

"2. Requests that, upon the receipt of such a request on behalf of the Interim Commission for the International Trade Organization, the United Nations Joint Staff Pension Board prepare amendments to the Regulations of the United Nations Joint Staff Pension Fund which would give effect to this decision and report to the General Assembly at its Ninth Session."

8. In accordance with this Resolution the United Nations Joint Staff Pension Board prepared amendments to the Regulations and on 4 December 1954 the General Assembly adopted the following Resolution at its 504th plenary meeting:

"For the purpose of these Regulations, the Interim Commission for the International Trade Organization shall be treated as if it were a specialized agency except that its representatives shall not have the right to vote in the United Nations Joint Staff Pension Board and its Standing Committee."
9. The governments parties to the GATT welcomed the decision by the General Assembly and instructed the Executive Secretary to resume discussions with the United Nations Pension Board with a view to an early admission of the staff to the Pension Fund. However, at the time when the General Assembly was taking this resolution, the governments parties to the GATT decided to set up a new organization which would continue the work done so far by the ICITO, and it was contemplated that the new organization would take over the staff now working for the ICITO.

10. Although the governments generally agreed that the new Organization for Trade Co-operation (CTC), would become a specialized agency of the United Nations, and this was specifically provided for in Article 11 (b), it was recognized that this organization could not obtain that status at the moment it was created and that negotiations with the United Nations might take some time. There was, therefore, a risk that the ICITO staff transferred to the new organization would not be allowed to remain in the United Nations Pension Fund and that when the new organization joined the Pension Fund the governments parties to the GATT would have to make additional payments to the Fund for the period of interruption, which might exceed substantially the contributions required if there was no interruption in the membership of the Fund.

11. At their Tenth Session in 1955, the governments parties to the GATT instructed the executive Secretary to conclude an agreement with the Secretary-General with a view to an early affiliation of the staff to the United Nations Joint Staff Pension Fund. However, to meet the contingent liability which would arise if there was an interruption in the membership of the Fund, the governments decided to earmark any balance remaining in the ICITO Staff Benefit Fund over and above the 21 per cent contribution for past services, which had been required from agencies which had joined the Fund in the past (document L/452/Add.1). The working party recognized, however, that all these difficulties would disappear if "before the CTC were established the necessary amendments were secured to the Regulations of the United Nations Joint Staff Pension Fund, and it felt that it would be helpful, in this connexion, if governments could take whatever action they considered desirable in the United Nations".

12. In accordance with his instructions, the Executive Secretary resumed his discussions with the United Nations Pension Board, and submitted the text of a draft agreement, which was based on the agreements concluded with other agencies which had joined the Fund before. This draft contained, however, a suggestion designed to meet the difficulties foreseen in the case of a transfer of the ICITO staff members to a successor organization. The Pension Board rejected this suggestion and indicated that the draft agreement, contrary to those concluded with other agencies, should provide for the payment of interest for past services. Later on a compromise solution was suggested and the terms proposed by the Secretary-General of the United Nations to the Executive Secretary provided that
"any agreement negotiated with ICITO should contain provision for the payment of interest on the 21 per cent contribution as from the date of the payment of the entry contribution of WMO, the most recently admitted Organization".

13. In view of the decision taken by the governments parties to the GATT that any balance exceeding the 21 per cent contribution for past services should be earmarked, the Executive Secretary was not in a position to pursue the negotiations with the Secretary-General and asked for further instructions from the governments.

14. At the present session of the CONTRACTING PARTIES (Eleventh Session), the governments approved the action taken by the Executive Secretary and considered that (a) there appeared to be no actuarial or legal justification for the payment of interest and (b) they could not accept such payment of interest unless there was an absolute guarantee that the ICITO staff members transferred to the successor organization would remain in the Fund until such time as that organization became a member of the Fund.

They came to the conclusion that the only satisfactory solution of the problem would be for the governments parties to the GATT, which are members of the United Nations, to ask the General Assembly to place on record that the amendment adopted in 1954 (and embodied as Supplementary Article A of the Regulations of the United Nations Joint Staff Pension Fund), allows the ICITO staff members who would be transferred to the successor organization to remain in the Fund until such time as this organization has joined the Fund. This would imply that those officials would not cease to be participants in the Fund at the time of the transfer to the successor organization, that the Fund would accept the contributions of the new organization for these officials, and that the actual time spent in continuous employment by these officials with that organization would be considered as "contributory service" within the terms of the Pension Fund Regulations.

III. CONSIDERATIONS IN FAVOUR OF THE ACTION PROPOSED

15. The members of the ICITO staff are international civil servants in the same way as the officials of the specialized agencies and this principle has been recognized by the General Assembly when it decided to enable them to join the United Nations Joint Staff Pension Fund. The members of the staff of the successor organization will perform the same functions as the ICITO staff and since the General Assembly has considered that the ICITO staff should be allowed to join the United Nations Joint Staff Pension Fund, there cannot be any reason why this principle should not continue to apply to these officials when they are transferred to the new organization. From a general point of view it is in the interests of all the governments that there should be no duplication in the pension arrangements. It has been recognized by all concerned that the United Nations Pension Scheme is the most economical way for governments to discharge their obligations towards the staff regarding their pension rights. The ICITO staff is, and presumably the staff of the new organization will be, governed by the same rules and
regulations as the staff of the United Nations and the specialized agencies and the adoption of an alternative pension scheme by the ICITO and its successor organization would create difficulties for the application of the staff regulations and might involve additional expenses for the governments in respect of social security commitments.

16. It is also perfectly clear that the action proposed would not involve any financial burden for the General Assembly nor would it create any financial problem for the Pension Fund since the payments required under the Regulations would continue to be paid by the new organization.

17. Moreover, whereas the Pension Fund authorities gave an assurance that they would give their sympathetic co-operation towards the solution of any problems which might arise in the case of the transfer of ICITO staff members to a successor organization, it was clear that the governments parties to the GATT could not recommend to the Executive Secretary to conclude an agreement on the basis of such an assurance, and that it would be necessary for the General Assembly to make it plain that no difficulty will arise in the case of such a transfer since these staff members will continue to participate in the Fund.

18. The only objection that might be raised in connexion with this proposal is that during a certain period officials would be allowed to remain in the Pension Fund although they would not be, strictly speaking, in employment with a member organization. This purely legalistic argument should not stand in the way of an action which a large number of governments agree to be necessary and reasonable. There have been in the past cases of individual officials who were authorized to remain in the Fund although they had been transferred to an organization which had not yet become a member of it. This result has been achieved by various administrative measures but it would seem preferable in this case for the General Assembly to remove any ambiguity.

19. Finally, it is fair to recall that it was suggested, in the course of the discussions with the Pension Board, that action might be postponed until such time as the OTC is set up. Such a postponement appears, however, impracticable in view of the fact that the governments parties to the GATT, recognizing that a decision on this point has long been overdue, have authorized the Executive Secretary to adopt an alternative pension scheme if no action were taken by the General Assembly at this Session. Any postponement of the settlement of this question would, therefore, mean that the ICITO and its successor organization would not join the United Nations Joint Staff Pension Fund. In other words, the General Assembly if it does not settle this question at this Session would create a duplication of work with regard to pension arrangements - a result which would be contrary to the principles of administration adopted by the Assembly on many occasions - and oblige the governments concerned to make arrangements which would be less
economical and less satisfactory than those which could be made if the General Assembly clarifies the situation by making more explicit the decision it has already taken in 1954.

20. Accordingly, the delegations of

propose to the General Assembly that when it approves the report submitted by the Pension board, it places on record that the Pension Fund Regulations allow the ICITO staff members transferred to the successor organization to remain participants of the Fund until such time as that organization becomes a member of the Fund.