I. INTRODUCTION

1. Since the Interim Commission for the International Trade Organization (ICITO) was set up by a Resolution adopted on 24 March 1948 at the Havana Conference convened by the United Nations, 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 forthcoming 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 for 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 feel that the difficulties which have so far prevented the affiliation of the staff to the United Nations Joint Staff Pension Fund should be finally overcome.
II. ACTION TAKEN IN THE PAST BY THE GENERAL ASSEMBLY AND THE GOVERNMENTS
PARTIES TO THE GATT

3. It might be useful to give 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 that the moment was not opportune for such an
action and the Executive Secretary agreed to postpone his request for
affiliation.

5. When it was clear the the ITC 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
ICITO was not eligible under the present regulations but that there appeared
to be no insurmountable difficulties of assimilation into the United Nations
Joint Staff Pension Fund, and it decided to bring the question to the attention

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 ICITO staff members to the United Nations Joint Staff
Pension Fund.

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. As indicated in paragraph 7, the General Assembly's Resolution stipulates that "the Interim Commission for the International Trade Organization may be admitted to participation in the United Nations Joint Staff Pension Fund". There is a serious risk that when ICITO is changed into the OTC, the staff transferred to the new organization will nevertheless be required to withdraw from the United Nations Fund. Since the CONTRACTING PARTIES have already decided that affiliation with the United Nations Fund is the most economical way to discharge their obligations towards the staff, they would have to request the General Assembly again to amend the Regulations to permit the staff to re-enter the Fund. However, under existing regulations, the amount ICITO would receive when the staff withdraws from the Fund might be considerably less than the amount the OTC would be required to contribute when they re-enter. While the transition of ICITO into the new organization would not increase the Fund's liabilities as regards the ICITO staff, the CONTRACTING PARTIES might be required to make substantial additional contribution to cover a legal technicality.

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/4F2/Add.1). In its report the Budget Working Party recognized, however, that all these difficulties would disappear if "before the OTC 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. Accordingly, the Executive Secretary submitted the text of a draft agreement to the United Nations Pension Board which was in line with the terms of existing agreements of specialized agencies, except for the following points:

(a) it proposed to limit contributory service of a staff member to the period that he had contributed to the Staff Benefit Fund. A few temporary officials engaged during conferences have received or might receive in the future contracts in agencies members of the United Nations Pension Scheme, and ICITO felt that it would not be fair for ICITO to shoulder the expense involved in the automatic validation of their first service. However, the expense could not be too great and if the Board found the provision objectionable, ICITO was prepared to withdraw it.

(b) a deviation from the system contemplated in Article XXXVIII of the Joint Staff Pension Fund Regulations to avoid the payment of the contingent liability when ICITO was transferred into a permanent organization.

13. The Executive Secretary also indicated that he would be prepared to make a 21 per cent contribution in respect of past services of the staff or to pay the amount considered as necessary by the actuary to meet the liabilities whichever is the greater. The CONTRACTING PARTIES were opposed to paying an interest on the reserve for past services mainly on the ground that none of the other participating agencies were required to do so. If the Pension Board accepted either of these alternatives, the CONTRACTING PARTIES would assume the contingent liability which would result from the transfer of ICITO staff members to a permanent organization.

14. During the discussions which took place in the Pension Board Meeting, the consultant actuary made the following important points:

(a) "In the past, every organization had contributed 21 per cent without interest in entering this scheme. That percentage was not necessarily the right amount which, under Article XXVIII, would be determined by the calculation of the liability created to the Fund by an organization entering ... . In the past, the contribution of 21 per cent without interest had exceeded the figure resulting from an actuarial evaluation. If the Board felt that interests should be paid, ICITO might be justified in requesting an actuarial valuation to determine the precise amount."

(b) "The special provisions of Article (b) of the draft agreement proposed by the Executive Secretary to ICITO provided for the liquidation of ICITO, but such provisions would not be necessary if a permanent organization replaced it."
15. Despite these views, the "Board decided to oppose any limitation in Article 3 of the agreement covering validation of past service by ICITO staff members. The Board also declared itself in favour of the normal application of Article XXXVIII of the Pension Fund Regulations. Whereas the Board realized that other organizations have been required to pay only the 21 per cent without interest, it took into consideration that, during the period from 1948 to the present, the Fund, not only had not received interest on contributions, but also had not profited from any premature withdrawals. Consequently, the Board felt that an equitable compromise would be the payment of 21 per cent contributions plus that part of the interest accruing since 6 January 1953, which was the date that payment of the entry contribution was received from WMO, the most recently admitted organization ".

16. 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 to be applied if necessary towards any expenditure which might be involved if it proved necessary to reconstitute the mathematical reserve based on actuarial calculation, the Executive Secretary was not in a position to pursue the negotiations with the Secretary-General and asked for further instructions from the governments.

17. At the present session of the CONTRACTING PARTIES (Eleventh Session), the governments approved the action taken by the Executive Secretary and they also decided that there was a strong case for not paying the interests. Nevertheless they are prepared to make such payment if this would facilitate the solution of the far more important problem of the continuity of the membership in the Pension Fund and accordingly they decided that the governments parties to the GATT which are members of the United Nations should request the General Assembly to interpret the amendment adopted in 1954 (and embodied as supplementary Article A of the Regulations of the United Nations Joint Staff Pension Fund), so as to permit the staff of ICITO to remain in the Pension Fund until such time as a successor organization is admitted to the Fund. This would mean in effect that those officials would not cease to be participants in the Fund at the time of its 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

18. 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 if ICITO were forced to adopt an alternative scheme, it would create difficulties for the application of staff regulations, it might involve additional expenses for the governments in respect of social security commitments, and it would impede the transfer of staff between ICITO and the United Nations and specialized agencies.

19. It is also 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.

20. 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.

21. 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 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.
22. 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 CTC is set up. Such a postponement appears, however, impracticable in view of the fact that the governments parties to the GATT have always recognized that a decision on this point has long been overdue. 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 had already taken in 1954.

23. This memorandum gives an account of the previous history of the case for the information of the representatives who would have to take part in the discussions at the General Assembly. It is understood that the only action required from the General Assembly relates to the clarification of the meaning of its decision taken in 1954 and that it is not intended to discuss at the General Assembly the terms of the agreement to be concluded between the Executive Secretary and the Pension Board.