The delegations of Australia, Canada, Sweden, the United Kingdom and the United States have proposed various amendments which are incorporated in the following text to replace paragraphs 6-11 of the Draft Report in Spec(68)60.
Discussion

6. Members of the Working Party welcomed the initiative of three countries in endeavouring to work out new techniques of co-operation among developing countries in the interests of trade expansion. They were encouraged to see that practical effect had been given to the long-standing recommendation that developing countries should devise measures of self-help and noted that the Agreement might be regarded as a step towards a wider agreement among developing countries along the lines recommended by the CONTRACTING PARTIES.

7. In the discussion which followed, certain members of the Working Party, whilst appreciating that the Agreement had been kept open to the possibility of wider participation, took exception to the formula contained in Article IX of the Agreement determining which developing countries should be eligible for accession to the Agreement. They noted that several contracting parties which regarded themselves as developing countries, and which actively participated in the GATT Trade Negotiations Committee for Developing Countries, would be excluded from accession by the formula in the Agreement. The assurance given by the three countries that such countries might obtain the benefit of the concessions through wider arrangements now being worked out went some way to overcome their concern, but these members of the Working Party felt, nevertheless, that the formula chosen was inappropriate in a GATT context and unnecessary in view of the past GATT practice of allowing each country to make its own determination as to whether it wished to be regarded as a developing country. At best, it was feared, the intention expressed by the three countries to integrate the concessions in a wider framework offered a rather roundabout and uncertain possibility to countries not members of the group mentioned in Article IX. The three countries, in reply, referred again to paragraph 9 of their statement (see Annex A).
8. Several members of the Working Party expressed concern as to whether, apart from strictly legal considerations, it was in the interests of the developing countries themselves to begin a process which might lead to a fragmentation of trade and to the creation of a new network of special trade relationships that might in the end prove restrictive and divisive. They felt that this subject warranted further discussion in the wider interest of trade expansion and economic co-operation, possibly in some GATT body specially devoted to the problems of developing countries. Members of the Working Party also considered that it would be desirable to examine the contribution which the Agreement could make to the economic development in the participating countries and its impact on the trade of other contracting parties. The Working Party requested the secretariat to prepare trade data and facts concerning the treatment accorded by the participating countries to imports of products in the common list of products annexed to the Agreement. Document Spec(68)59 was submitted to the Working Party in response to their request. The document was not examined by the Working Party. It was proposed that the Trade and Development Committee consider all the trade and other economic aspects of the Agreement relevant to the work of that Committee. It was also noted that the Trade Negotiations Committee of the Less-Developed Countries could have an appropriate rôle in this connexion. It was, however agreed that it was outside the terms of reference of the Working Party to make any recommendation concerning the allocation of work to these other bodies.

9. In referring to other Articles of the Tripartite Agreement, one member of the Working Party noted in particular that Article V of the Tripartite Agreement while providing for consultations with developing countries, made no such provision for consultations with developed contracting parties; under Article XXII of GATT all contracting parties had a right to consultation. He also noted that Article VIII of the Tripartite Agreement raised questions bearing on the non-discriminatory obligations of the GATT with respect to non-tariff measures.
10. Many representatives expressed a willingness to seek a way of affording the three countries an opportunity to give effect to their Agreement. While recognizing the importance of Part IV, several of these representatives considered that it did not override the obligations of other Parts of the General Agreement. In their view the Tripartite Agreement was inconsistent with the basic most-favoured-nation provision of Article I of GATT and accordingly some decision of the CONTRACTING PARTIES was required. Further they noted, the Agreement in question not only established new preferences in favour of developing countries, but also confined those preferences to the trade of participating States, to the exclusion of all other developing countries.

11. For their part the participating States indicated that they were willing to accept a decision which, while reserving judgment in regard to the legal framework, allowed the three countries to proceed with implementation of the Agreement. They pointed out that in the past the CONTRACTING PARTIES had taken a similar flexible view on numerous occasions.

12. Many members of the Working Party, recognizing that the Agreement was at an early and experimental stage, and that it was impossible at the present time to assess fully the practical and legal implications thereof, expressed interest in this suggested course of action.

13. In considering the conditions and procedures which should attach to a decision authorizing application of the Agreement, members of the Working Party noted that they would want assurances concerning the willingness of the participating States to consult in the event of injury to trade of non-participating contracting parties. They also attached importance to the inclusion of provisions for periodic review of the operation of the Agreement, noting in particular that they would wish to have an opportunity to consult in advance concerning any proposed extension in the scope of the Agreement or any other modifications. In some circumstances such consultations might lead to the need to review the Decision. Further, they believed that the decision should permit review of the question whether to extend or terminate the authorization, or to modify its terms, periodically after an initial short period which would allow time for work to be advanced on the multilateral arrangements now under study.
14. In the light of this discussion, the Working Party prepared the decision contained in Annex C. As it had been pointed out that Part IV of the General Agreement had not been accepted by all contracting parties, it was recognized that the reference to Part IV in the second paragraph of the preamble could not create any new obligations for countries which have not accepted Part IV. The representative of the United States said that in the view of his Government the draft decision appended to this report is intended to meet the requirements of Article XXV:5 of the General Agreement. The Working Party recommends the draft decision to the Council for appropriate action.

Annex A - Statement by the representative of India to the Working Party (to be inserted in final document).

Annex B - Statement by the representative of Yugoslavia to the Council (to be inserted in final document).