Mr. Max SUETENS, Chairman of Working Party I, in accordance with the statement he made in the plenary meeting of the CONTRACTING PARTIES on 21 December, submits a new draft text for Articles XII to XV of the General Agreement. Mr. Suetens explains that this draft takes account of the amendments submitted, the discussions which took place in the sub-group and in the Working Party, as well as the personal talks which he has had with various delegations. He hopes to initiate discussion on the basis of this new draft immediately upon the reconvening of the Session, i.e., on 4 January 1955.

ARTICLE XII

Restrictions to safeguard the Balance of Payments

1. Notwithstanding the provisions of paragraph 1 of Article XI, any contracting party, in order to safeguard its external financial position and balance of payments, may restrict the quantity or value of merchandise permitted to be imported, subject to the provisions of the following paragraphs of this Article.

2.(a) Import restrictions instituted, maintained or intensified by a contracting party under this Article shall not exceed those necessary,

(i) to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or

(ii) in the case of a contracting party with very low monetary reserves, to achieve a reasonable rate of increase in its reserves.

Due regard shall be paid in either case to any special factors which may be affecting the contracting party's reserves or need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.
(b) Contracting parties applying restrictions under sub-paragraph (a) of this paragraph shall progressively relax them as such conditions improve, maintaining them only to the extent that the conditions specified in that sub-paragraph still justify their application. They shall eliminate the restrictions when conditions would no longer justify their institution or maintenance under that sub-paragraph.

3.(a) Contracting parties undertake, in carrying out their domestic policies, to pay due regard to the need for maintaining or restoring equilibrium in their balance of payments on a sound and lasting basis and to the desirability of avoiding an uneconomic employment of productive resources.

(b) Contracting parties which apply restrictions under this Article undertake

(i) to maintain, to the greatest extent possible, the normal pattern of competitive import trade;

(ii) in the case of any product, the exclusion or excessive limitation of which would impair normal channels of trade or seriously damage the position of established foreign suppliers, to permit at a minimum a sufficient volume of imports to preclude such impairment or such damage;

(iii) to avoid undue stimulation of domestic industries;

(iv) not to apply restrictions which would prevent the importation of commercial samples or prevent compliance with patent, trade mark, copyright, or similar procedures.

(c) The CONTRACTING PARTIES recognize that, as a result of domestic policies directed towards the achievement and maintenance of maximum productive employment or towards the development of economic resources, a contracting party may experience a high level of demand for imports involving a threat to its monetary reserves of the sort referred to in paragraph 2 (a).

Accordingly, a contracting party otherwise complying with the provisions of this Article

(i) shall not be required to withdraw or modify restrictions on the ground that a change in the policies referred to in sub-paragraph (c) above would render unnecessary restrictions which it is applying under this Article;

(ii) may determine the incidence of restrictions applied under this Article on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential in the light of such policies.
4. (a) (i) Any contracting party proposing to apply new or substantially intensifying existing restrictions under this Article shall, before instituting or intensifying such restrictions (or, in circumstances in which prior consultation is impracticable, immediately after doing so), consult with the CONTRACTING PARTIES as to the nature of its balance-of-payments difficulties, alternative corrective measures which may be available and the possible effect of the restrictions on the economies of other contracting parties. No contracting party shall be required in the course of consultations under this sub-paragraph to indicate in advance the choice or timing of any particular measures which it may ultimately determine to adopt.

(ii) The CONTRACTING PARTIES may at any other time invite any contracting party which is applying restrictions under this Article to enter into such consultations with them.

(iii) If, after consultation with a contracting party under the provisions of sub-paragraph (i) or (ii) of this sub-paragraph, the CONTRACTING PARTIES determine that the restrictions are being applied or proposed inconsistently with the provisions of paragraphs 2 or 3 of this article or with those of Article XIII (subject to the provisions of Article XIV) they shall disapprove the restrictions or recommend their modification and the contracting party shall forthwith withdraw or modify the restrictions accordingly.

(iv) Provision for a speedy procedure to be provided later

(b) No contracting party shall

(i) invoke the provisions of this Article for more than one year or, with the prior approval of the CONTRACTING PARTIES, for more than one further year thereafter;

(ii) having applied restrictions under this Article, and having discontinued those restrictions, re-invoke the provisions of this Article within one year from the date on which the said restrictions were discontinued.

(c) Any restrictions to safeguard the balance of payments of a contracting party which are being maintained at the date on which the provisions of this paragraph come into force shall be regarded for the purposes of sub-paragraphs (a) and (b) of this paragraph as if they were newly imposed at that date.
ARTICLE XIII

(Unchanged from existing GATT Article)

ARTICLE XIV

Exceptions to the Rule of Non-Discrimination

1. A contracting party which applies restrictions under Article XII may, notwithstanding the provisions of Article XIII, apply such restrictions in a discriminatory manner, subject to the provisions of this Article, to the extent that the International Monetary Fund determines that discriminatory restrictions are necessary to safeguard the external financial position and balance of payments of the country concerned.

2. In cases where the Fund determines that discrimination is needed in the restrictions applied by a contracting party under Article XII,

(a) the procedures and consultations provided for in paragraph 4 of that Article shall, wherever relevant, apply to the discrimination as well as to the restrictions themselves;

(b) the obligation set forth in paragraph 2b of that Article for progressive relaxation, and the obligation set forth in paragraph 3b for avoidance of unnecessary damage to other contracting parties, shall apply to the discrimination as well as to the restrictions themselves.

3. If in the course of those consultations the CONTRACTING PARTIES decide that the discrimination applied or proposed is inconsistent with the provisions of this Article, they shall direct the contracting party concerned to abstain from, withdraw or modify such discrimination. The contracting party shall comply with such direction and, if the discrimination is already being applied, shall do so by such date as the CONTRACTING PARTIES may prescribe.

4. The provisions of Article XIII shall not preclude restrictions in accordance with the provisions of Article XII which are applied against imports from other countries, but not as among themselves, by a group of territories having a common quota in the International Monetary Fund, on condition that such restrictions are in all other respects consistent with the provisions of Article XIII.

5. A contracting party shall not be precluded by Articles XI to XV, inclusive, of this Agreement from applying quantitative restrictions,

(a) having equivalent effect to exchange restrictions authorised under section 3 (b) of Article VII of the Articles of Agreement of the International Monetary Fund; or

(b) under the preferential arrangements provided for in Annex A of this Agreement, pending the outcome of the negotiations referred to therein.
ARTICLE XV

Exchange Arrangements

As far as paragraphs 2, 6 and 7 are concerned, no textual amendment is proposed. In order to clarify the intentions of the existing provision of Article 2, however, it is desirable that there should be an interpretative note to the final sentence of this paragraph as follows:

It is the intention of the provisions of this Article that the CONTRACTING PARTIES, in reaching their final decision in cases involving the application of restrictions under Article XII or under Article XVIII if that Article contains provisions for balance-of-payments restrictions, shall consult with the International Monetary Fund and that after such consultation they shall accept the determination of the Fund on whether the total foreign exchange economies proposed or imposed, on both visible and invisible imports, are commensurate with the requirements of the balance-of-payments situation of the contracting party invoking the Articles in question.