For purposes of legal drafting and with no view to change the substance of the text, the Legal and Drafting Committee has made certain changes which are underlined in the texts below. The language drafted by the Working Parties, or as it appears in the original text of the General Agreement, is given within square brackets and its deletion is suggested by the Committee. Those Articles not mentioned in this document, nor in addenda hereto, are intended to remain unchanged as they appear in the annexes to the working party reports, or in the General Agreement.

Article XVIII (See L/332/Add.1, page 10)

1. The contracting parties recognize that the attainment of the objectives of this Agreement will be facilitated by the progressive development of their economies, particularly of those contracting parties the economies of which can only support low standards of living and are in the early stages of development.

2. The contracting parties ... unchanged

3. The contracting parties recognize finally that, when supplemented by the additional facilities provided for in Sections A and B of this Article, the provisions of the other Articles of this Agreement would normally be sufficient to enable contracting parties to meet the requirements of their economic development. They agree, however, that there may be circumstances where no measure consistent with such provisions as supplemented by such additional facilities is practicable to permit a contracting party in the process of economic development to grant the governmental assistance required to promote the establishment of particular industries with a view to raising the general standard of living of its people. Special procedures are laid down in Sections C and D of this Article to deal with those cases.

4(a) Consequently, a contracting party the economy of which ... unchanged.
4(b) A contracting party the economy of which [whose economy] is in the process of development but which does not come within the scope [definition] of sub-paragraph (a) above, may make applications to the CONTRACTING PARTIES [Organization] under Section D of this Article.

5. The contracting parties [CONTRACTING PARTIES] recognize that the export earnings of contracting parties the economies of which [whose economies] are of the type described in paragraphs 4(a) and (b) above, and which depend on exports of a small number of primary commodities may be seriously reduced by a decline in the sale of such commodities. Accordingly, when [such a contracting party's] the exports of primary commodities by such a contracting party are seriously affected by measures taken by another contracting party, it may have resort to the consultation provisions of Article XXII of this Agreement.

6. (paragraph 5 becomes paragraph 6.)

Section A

7.(a) If a contracting party coming within the scope of [definition set out in sub-paragraph (a) of paragraph 4(a) of this Article considers it desirable, in order to promote the establishment of a particular industry with a view to raising the general standard of living of its people, to modify or withdraw [cease to apply] a [tariff] concession included in the appropriate Schedule annexed [a Schedule] to this Agreement, it shall notify the CONTRACTING PARTIES to this effect and enter into negotiations with any [other] contracting party with which such concession was initially negotiated, and with any other contracting party [parties] determined by [which] the CONTRACTING PARTIES [determine] to have a substantial interest therein [in such concession]. If agreement is reached between such the contracting parties concerned, the appropriate Schedules to this Agreement shall be amended to give effect to such agreement, including any compensatory concessions involved.

1 The amended Article XXX as approved by the CONTRACTING PARTIES provides for the amendment of the provisions of the General Agreement only pursuant to that Article. The comparable provision of Article XXVIII does not refer to amendments. In view of that fact, notwithstanding that the language of the old Article XVIII does refer to the amendment of the Agreement, the CONTRACTING PARTIES may want to replace the last sentence of sub-paragraph (a) by the following:

"If agreement is reached between such contracting parties concerned, they shall be free to modify or withdraw obligations under the appropriate Schedules to this Agreement in order to give effect to such agreement, including any compensatory adjustments involved."
7. (b) If agreement with regard to compensatory concessions is not reached within a period of sixty days of the notification referred to in sub-paragraph (a) above, the contracting party which proposes to modify or withdraw the concession may refer the matter to the CONTRACTING PARTIES. Upon such reference, the CONTRACTING PARTIES, which shall promptly examine it, shall promptly examine it, 

If they find that the contracting party which proposes to modify or withdraw the concession has made every effort to reach an agreement and that the compensatory adjustment offered by it is adequate, that contracting party shall be free to modify or withdraw the concession if at the same time, it gives effect to the compensatory adjustment. If the CONTRACTING PARTIES do not find that the compensation offered by the contracting party proposing to modify or withdraw the concession is adequate, but find that it has made every reasonable effort to offer adequate compensation, that contracting party shall be free to proceed with such modification or withdrawal. If such action is taken, any other contracting party referred to in sub-paragraph (a) above which was determined by the CONTRACTING PARTIES to have a substantial interest in the concession shall be free, not later than six months after such action is taken, to modify or withdraw, upon the expiration of thirty days from the day on which written notice of such modification or withdrawal is received by the CONTRACTING PARTIES, substantially equivalent concessions initially negotiated with the contracting party which has taken the action.

1 The attention of the CONTRACTING PARTIES is drawn to the fact that the inclusion in this sentence of the words "with regard to compensatory concessions" seems to imply that the agreement envisaged by sub-paragraph (a) would necessarily have to include compensation in the form of new concessions. If this implication is not intended it might be desirable to delete the words.

2 The Legal and Drafting Committee suggests the addition of these words in order to conform with the provision in Section C under the assumption that the clarification corresponds to the intention of the Working Party.

3 The Legal and Drafting Committee suggests that this provision be transferred to Annex I and the text proposed is found in the section of this report relating to Interpretative Notes.
Section B

8. The contracting parties recognize that contracting parties coming within the scope of the definition set out in sub-paragraph (a) of paragraph 4(a) of this Article, when they are unchanged.

9. In order to safeguard its external financial position and to ensure a level of reserves adequate for the implementation of its programme of economic development, a contracting party coming within the scope of the definition set out in sub-paragraph (a) of paragraph 4(a) of this Article may, subject to the provisions of paragraphs 10 to 12 below, control the general level of its imports by restricting the quantity or value of merchandise permitted to be imported; provided that the import restrictions instituted, maintained or intensified shall not exceed those necessary:

   (a) ... unchanged
   (b) ... unchanged

Due regard shall be paid in either case to any special factors which may be affecting the reserves of such contracting parties, or its need for reserves, unchanged.

10. In applying these restrictions, the contracting party may determine their incidence 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 its policy of economic development; provided that the restrictions ... unchanged.

11. Unchanged until terms of paragraph 9 of this Article and shall eliminate them when conditions no longer justify such maintenance; provided that no contracting party ... unchanged.

12.(a) Insert commas: in third line after word "Section" in seventh line after word "available".

12.(b) On a date to be determined by them, the CONTRACTING PARTIES shall review all restrictions still applied under this Section on that date. Beginning two years after that date, contracting parties applying restrictions under this Section shall enter into consultations of the type provided for in sub-paragraph (a) above with the CONTRACTING PARTIES at intervals of approximately, but not less than, two years according to a programme to be drawn up each year by the CONTRACTING PARTIES; provided that no consultation under this sub-paragraph shall take place within two years after the conclusion of a consultation of a general nature under any other provision of this paragraph.
12.(c) (i) If, in the course of consultations with a contracting party under sub-paragraph (a) of (b) of this paragraph /above/, the CONTRACTING PARTIES find that the restrictions are not consistent with the provisions of this Section or with those of Article XIII (subject to the provisions of Article XIV), they shall indicate the nature of the inconsistency and may advise that the restrictions be suitably modified.

(ii) If, however, as a result of the consultations, the CONTRACTING PARTIES determine that the restrictions are being applied in a manner involving an inconsistency of a serious nature with the provisions of this Section or with those of Article XIII (subject to the provisions of Article XIV) and that damage to the trade of any /one or more/ contracting party /parties/ is caused or threatened thereby, they shall so inform the contracting party applying the restrictions and shall make appropriate recommendations for securing conformity with /compliance within/ such provisions within a specified period /of time with such provisions/. If such /the/ contracting party does not comply with these recommendations within the specified period, the CONTRACTING PARTIES may release any contracting party the trade of which /whose trade/ is adversely affected by the restrictions from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.

12.(d) The CONTRACTING PARTIES shall invite any contracting party which is applying /import/ restrictions under this Section to enter into consultations with them at the request of any contracting party which can establish a prima facie case that the restrictions are inconsistent with the provisions of this Section or with those of Article XIII (subject to the provisions of Article XIV) and that its trade is adversely affected thereby. However, no such invitation shall be issued unless the CONTRACTING PARTIES have ascertained that direct discussions between the contracting parties concerned have not been successful. If, as a result of the /such/ consultations with the CONTRACTING PARTIES, no agreement is reached and they determine that the restrictions are being applied inconsistently with /those/ provisions, and that damage to the trade of the contracting party initiating the procedure is caused or threatened thereby, they shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified within such time as the CONTRACTING PARTIES may prescribe, they may release the contracting party initiating the procedure from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.

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1 The Legal and Drafting Committee suggests the replacement of the words "one or more" by "any" to conform with the practice followed in other Articles.
12.(e) If a contracting party against which action has been taken in accordance with the last sentence of paragraph (c)(ii) or (d) of this paragraph, finds that the release of obligations authorized by the CONTRACTING PARTIES adversely affects the operation of its programme and policy of economic development, it shall be free, not later than sixty days after such action is taken, to give written notice to the Executive Secretary of the CONTRACTING PARTIES of its intention to withdraw from this Agreement and such withdrawal shall take effect on the sixtieth day upon the expiration of sixty days from following the day on which the notice is received by him.

12.(f) In proceedings under this paragraph, the CONTRACTING PARTIES shall have due regard to the factors referred to in paragraph 2 of this Article. Determination under this paragraph shall be rendered expeditiously and, if possible, within sixty days of the initiation of the consultations. The CONTRACTING PARTIES shall make provision for the utmost secrecy in the conduct of any consultation.

Section C

13. If a contracting party coming within the scope of paragraph 4(a) of this Article finds that governmental assistance is required to promote the establishment of a particular industry with a view to raising the general standard of living of its people, but that no measure consistent with the other provisions of this Agreement is practicable to achieve that objective, it may have recourse to the provisions and procedures set out in this Section.

14. The contracting party concerned shall notify the CONTRACTING PARTIES of the special difficulties which it meets in the achievement of the objective outlined in paragraph 13 of this Article, and shall indicate the specific measure affecting imports which it proposes to introduce in order to remedy these difficulties. It shall not introduce that measure before the expiration of the time-limit laid down in paragraph 15 or paragraph 17, as the case may be, or, if the measure affects imports of a product which is the subject of a concession included in the appropriate Schedule annexed to the rate of duty on which is bound under Article II of

1 The substance of this paragraph was accepted by the Working Party as an Interpretative Note to paragraph 12(c)(ii) and (d). The Legal and Drafting Committee considered this provision important enough to be incorporated in the Article itself.

2 The Legal and Drafting Committee suggests that this provision be transferred to Annex I and the text proposed is found in the section of this report relating to interpretative notes.
this Agreement, unless it has secured the concurrence of the CONTRACTING PARTIES in accordance with the provisions of paragraph 18 [below]; Provided that, if the industry receiving assistance has already started production, the contracting party may, after informing the CONTRACTING PARTIES, take such measures as may be necessary to prevent, during that period, imports of the product or products concerned from increasing substantially above a normal level.

15. Unchanged.

16. If it is requested by the CONTRACTING PARTIES to do so, the contracting party concerned shall consult with them as to the purpose of the proposed measure, as to alternative measures which may be available under this Agreement, and as to the possible effect of the measure proposed on the commercial and economic interests of other contracting parties. If, as a result of such consultations, the CONTRACTING PARTIES agree that there is no measure consistent with the other provisions of this Agreement which is practicable in order to achieve the objective outlined in paragraph 13 of this Article [above], and concur in the proposed measure, the contracting party concerned shall be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to apply that measure.

17. If, within ninety days from the date of the notification of the proposed measure under paragraph 14 [above] of this Article, the CONTRACTING PARTIES have not concurred in such measure, the contracting party concerned may introduce the measure proposed after informing the CONTRACTING PARTIES.

18. If the proposed measure affects a product which is the subject of a concession included in the appropriate Schedule annexed to the rate of duty on which is bound under Article II of this Agreement, the contracting party concerned shall enter into consultations with any other contracting party with which the concession was initially negotiated, and with any other contracting party determined by the CONTRACTING PARTIES to have a substantial interest therein in the product. The CONTRACTING PARTIES shall concur in the measure if they agree that there is no measure consistent with the other provisions of this Agreement which is practicable in order to achieve the objective set forth in paragraph 13 of this Article, and if they are satisfied:

(a) that agreement has been reached with such other contracting parties interested in the product in question as a result of the consultations referred to above, or
(b) if no such agreement has been reached within a period of sixty days after the notification provided for in paragraph 14 has been received by the CONTRACTING PARTIES, that the contracting party having recourse to that Section has made all reasonable efforts to reach such an agreement and that the interests of other contracting parties are adequately safeguarded.

The contracting party having recourse to this Section shall thereupon be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to permit it to apply the measure.

19. If a proposed measure of the type described in paragraph 13 of this Article concerns an industry the establishment of which has in the initial period been facilitated by incidental protection afforded by restrictions imposed by the contracting party concerned for balance-of-payments purposes under the relevant provisions of this Agreement, that contracting party may resort to the provisions and procedures of this Section; provided that it shall not apply the proposed measure without the concurrence of the CONTRACTING PARTIES.

20. Nothing in the foregoing paragraphs of this Section shall authorize any deviation from the provisions of Articles I, II and XIII of this Agreement. The provisos to paragraph 10 of this Article shall also be applicable to any restriction under this Section. Further, the restrictions shall be so applied as to avoid unnecessary damage to the commercial or economic interests of any other contracting party and not to prevent unreasonably the importation of any description of goods in minimum commercial quantities the exclusion of which would impair regular channels of trade; nor shall the restrictions be so applied as to prevent compliance with patent, trade mark, copyright or similar procedures.

21. At any time while a measure is being applied under paragraph 17 of this Article any contracting party substantially affected by it may suspend the application to the trade of the contracting party having recourse to this Section of such substantially equivalent obligations or concessions or other obligations under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove; provided that sixty days' notice of such suspension is given to the CONTRACTING PARTIES not later than six months after the measure has been introduced or changed substantially to the detriment of the contracting party affected. Any such contracting party acting under this paragraph shall afford adequate opportunity for consultation in accordance with the provisions of Article XXII of this Agreement.
Section D

22. A contracting party coming within the scope of sub-paragraph 4(b) of paragraph 4 of this Article desiring, in the interest of the development of its economy, to introduce a measure of the type described in paragraph 13 of this Article in respect of the establishment of a particular industry may apply to the CONTRACTING PARTIES for approval of such measure. The CONTRACTING PARTIES shall promptly consult with the contracting party and shall, in making their decision, be guided by the considerations set out in paragraph 16 of this Article. If the CONTRACTING PARTIES concur in the proposed measure the contracting party concerned shall be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to permit it to apply the measure. If the proposed measure affects imports of a product which is the subject of a concession included in the appropriate Schedule annexed to this Agreement, the provisions of paragraph 18 above shall apply.

23. Any measure applied under this Section shall comply with the provisions of paragraph 20 of this Article.

Notes to Article XVIII

Paragraphs 1 and 4

1. It is agreed that when they consider whether the economy of a contracting party "can only support low standards of living", the CONTRACTING PARTIES shall take into consideration the normal position of that economy and shall not base their determination on exceptional circumstances such as those which may result from the temporary existence of exceptionally favourable conditions for the staple export product or products of the contracting party concerned.

2. The phrase "in the early stages of development" is not meant to apply only to contracting parties which have just started their economic development, but also to contracting parties whose economies of which are undergoing a process of industrialization to correct an excessive dependence on primary production.

Paragraphs 2, 3, 7, 13 and 22

Unchanged.

1 The word "specific" has been omitted since it does not appear in paragraph 13.
Paragraph 7(b)

A modification or withdrawal, pursuant to paragraph 7(b), by a contracting party, other than the applicant contracting party, referred to in paragraph 7(a), shall be made within six months of the day on which the action is taken by the applicant contracting party, and shall become effective on the thirtieth day following the day on which such modification or withdrawal has been notified to the CONTRACTING PARTIES.\(^1\)

Paragraph 11

The second sentence in paragraph 11 shall not be interpreted to mean that a contracting party is required to relax or remove such restrictions if such relaxation or removal would thereupon produce conditions justifying the intensification or institution, respectively, of restrictions under paragraph 9 of Article XVIII.

Paragraph 12

The CONTRACTING PARTIES shall make provision for the utmost secrecy in the conduct of any consultation under Section B of this Article.\(^2\)

Paragraph 12(b)

The date referred to in this sub-paragraph 12(b) shall be the date as determined by the CONTRACTING PARTIES in accordance with the provisions of sub-paragraph 4(b) of Article XII of this Agreement.

\(^1\) See footnote 3 on page 3.

\(^2\) See footnote 2 on page 6. The Legal and Drafting Committee draws attention to the fact that this provision only applies to consultations under Section B. It noted that the same requirement was introduced in the new text of Article XXVIII and it appeared to it logical to extend that requirement to action taken under Section A of this Article. Moreover a similar requirement exists in the present Article XVIII and applies to all sections of that Article. If the CONTRACTING PARTIES decide to apply that provision more generally in Article XVIII the Legal and Drafting Committee suggests that the note should be amended to read:

"The CONTRACTING PARTIES and the contracting parties concerned shall preserve the utmost secrecy in respect of matters arising under this Article."

and this note be placed after the heading "Ad Article XVIII" in Annex I under the title: "General Note".
Paragraphs 12(c)(ii) and (d)

Paragraphs 13 and 14

It is recognized that ... unchanged.

Delete the word "specific" in second line.

Paragraphs 15 and 16 *

Paragraphs 16, 18, 19 and 22

\[\text{Note}\]

1. Unchanged.

\[\text{Note}\]

2. It is expected that the CONTRACTING PARTIES will, as a rule, refrain from concurring in a measure which is likely to cause serious prejudice to exports of a primary commodity on which the economy of a contracting party is largely dependent.

Paragraphs 18 and 22

The phrase "that the interests of other contracting parties are adequately safeguarded" is meant to provide latitude sufficient to permit consideration in each case of the most appropriate method of safeguarding those interests. The appropriate method may, for instance, take the form of an additional concession to be applied by the applicant contracting party having recourse to Section C or D during such time as the deviation from the other Articles of the Agreement would remain in force or of the temporary suspension by any other contracting party substantially affected referred to in paragraph 18 of a concession substantially equivalent to the impairment due to the introduction of the measure in question. Such contracting party would have the right to safeguard its interests through such a temporary suspension of a concession; Provided that this right will not be exercised when, in the case of a measure imposed by a country coming within the scope of definition set out in sub-paragraph (a) of paragraph 4(a), the CONTRACTING PARTIES have determined that the extent of compensatory concession proposed was adequate.

Paragraph 19

The provisions of paragraph 19 are intended to cover the cases where an industry has been in existence beyond the "reasonable period of time" referred to in the Interpretative Note ad paragraph 14, and should not be so construed as to deprive a contracting party coming within the scope of definition set out in sub-paragraph (a) of paragraph 4(a) of Article XVIII, of its right to resort to the other provisions of Section C, including paragraph 17, with regard to a newly established industry even though it has benefited from incidental protection afforded by balance-of-payments import restrictions.

Paragraph 21

Replace "expiry" by "expiration" in the last line.

1 See footnote 1 to paragraph 12(e) on page 6.

2 See footnote on page 9.