1. The Working Party considered the proposed decision set out in document L/326 in the light of the memorandum submitted to the CONTRACTING PARTIES by the United Kingdom on 1 February 1955 (L/316). Several members of the Working Party raised the question why the United Kingdom should think it necessary to make this request when it had not considered it necessary to request the same facilities when presenting the matter in the first instance to the CONTRACTING PARTIES at the Eighth Session. The representative of the United Kingdom explained that if it had been clear when the United Kingdom submitted the original application that the granting of it would be subjected to the severe limitations which were in fact imposed, there would have been no reason why the United Kingdom should not have included a request for the facilities which were now sought. The original United Kingdom request, however, contemplated that in the last resort the United Kingdom should be free to take action where emergency circumstances comparable to those envisaged in Article XIX existed, the contracting parties whose trade was affected being then permitted to make compensatory withdrawals. This ultimate recourse to unilateral action was, however, excluded from the waiver as granted and the waiver did not apply where it was found that there was a possibility of diversion of trade and even where there were not sufficient data to establish whether or not such a risk existed the United Kingdom could only proceed subject to the obligation to restore the position if there should, in fact, prove to be a diversion of trade. These conditions and procedures would of course continue to apply to the waiver as amended. In view of this fact which meant that any departure from the no-new-preference rule could only be of a technical character involving no injury to the trade of other contracting parties, there was no real basis for restricting the waiver so as to differentiate between items on which no concessions had been negotiated and items on which such concessions had been negotiated but were subsequently modified or withdrawn in accordance with the relevant procedures of the General Agreement. Moreover, at the time when the original waiver was granted there appeared to be no likelihood of extensive resort to the provisions of Article XXVIII. At the present Session, however, this situation had changed to the extent that a number of contracting parties were resorting, or were likely to resort, to modifications and withdrawals under Article XXVIII, and the amended Article not only provided for periodic access to the facilities for modification or withdrawal but also contained procedures for such action in special circumstances during the periods of firm validity. It followed therefore that there might be
more need than hitherto for contracting parties to make compensatory withdrawals consequent upon resort to these procedures. In these circumstances it was necessary that the United Kingdom be seen to be in the same position as other contracting parties both with regard to access to Article XXVIII and to resorting to compensatory withdrawals consequent upon the application by other contracting parties of Article XXVIII procedures. The delegate for the United Kingdom reiterated the assurances which were given at the time of the granting of the waiver that it was not the intention of the United Kingdom to adopt a policy of high protection.

2. A number of members of the Working Party pointed out that they had agreed to the British request for the waiver at the Eighth Session with great reluctance and only in recognition of the special problems with which the United Kingdom were confronted. They had at that time expressed the fear that the waiver might prove to the only a first step in a progressive watering-down of the obligations of Article I and the present request gave rise to serious difficulties insofar as it might appear to support these fears. However, in view of the explanation given by the United Kingdom delegation they were disposed to agree that the present request of the United Kingdom did not represent any extension of substance to the exception to the application of the no-new-preference rule but pointed out that in view of the great importance they attach to this principle it was essential that the matter be presented in a form which rendered the effect of the decision clear beyond doubt. They felt that the formula suggested by the United Kingdom was unsatisfactory from this presentational point of view and suggested that the decision of the CONTRACTING PARTIES should be in the form of additions to the previous Decision at the Eighth Session rather than in the form of a modification of the wording of the earlier decision.

3. One member of the Working Party expressed doubts as to the wisdom of the decision since it might create a further precedent for extending the area of preference. The United Kingdom representative whilst admitting that any decision of the CONTRACTING PARTIES created some precedent felt that it was clear in the present case that precedent could only be invoked within very special circumstances and subject to the very strict limitations attaching to the United Kingdom waiver.

4. The representative of France in addition to subscribing to the views of the other members of the Working Party as set out above said that the French delegation had been strongly influenced in favour of the British request by experience of the meticulous fashion in which the United Kingdom had adhered to the procedures of the waiver, with the result that in the cases to which it had been applied no diversion of trade had occurred. They were satisfied that the same conditions would apply to the waiver as extended.
5. In the light of its consideration of the circumstances of the United Kingdom request as set out in this report, the Working Party recommends the following draft Decision for adoption by the CONTRACTING PARTIES.

**AMENDMENT OF THE WAIVER TO THE UNITED KINGDOM IN CONNECTION WITH ITEMS TRADITIONALLY ADMITTED FREE OF DUTY FROM COUNTRIES OF THE COMMONWEALTH**

WHEREAS the CONTRACTING PARTIES at their Eighth Session decided that, subject to certain conditions and procedures, the provisions of paragraph 4(b) of Article I should not be so applied that, when the Government of the United Kingdom impose or increase a most-favoured-nation rate of protective duty in respect of a given class or description of goods for which they had not as of 24 October 1953, being the date of the aforesaid decision, negotiated tariff concessions, they should be required to impose a duty on such goods when imported from territories listed in Annex A to the General Agreement,

HAVING RECEIVED from the Government of the United Kingdom of Great Britain and Northern Ireland a request that this decision should be amended so as also to apply, subject to the same conditions and procedures, to most-favoured-nation rates of protective duty modified or withdrawn consistently with the provisions of the General Agreement,

NOTING that this decision, so amended, would not apply in respect of a modification or withdrawal of a most-favoured-nation rate of protective duty for which the Government of the United Kingdom had as of 24 October 1953 negotiated a tariff concession unless its application in that case was in conformity with the conditions and procedures agreed at the Eighth Session for providing other contracting parties with full safeguards as regards any likelihood of substantial increase of imports into the United Kingdom from territories listed in Annex A at the expense of imports from other sources,

DECIDE that, as from this date, the decision of 24 October 1953 shall extend to the imposition or increase of a most-favoured-nation rate of protective duty in connection with the modification or withdrawal, consistently with the provisions of the General Agreement, of a tariff concession which the Government of the United Kingdom had negotiated as of 24 October 1953, and that accordingly the decision of 24 October 1953, shall apply subject to the addition of the following:

(a) In the first paragraph at the end, and in the seventh paragraph after the word "concession", the words:

"or for which, having negotiated concessions, they are nevertheless free, under the provisions of the Agreement, to increase the most-favoured-nation rate of duty"

(b) In the first and seventh paragraphs, before "paragraph 4(b)"; the words:

"paragraph 4(a) or".