SECOND COMMITTEE: ECONOMIC DEVELOPMENT

REPORT TO THE CONFERENCE

1. The Second Committee was responsible for the examination of the Geneva draft text of Chapter III on "Economic Development" together with proposals submitted by delegations relating to the subject matter of the Chapter.

2. Mr. Ramon BETETA (Mexico) was elected Chairman at the first meeting of the Committee (E/CONF.2/C.2/SR.1) and Mr. Emilio ABELLO (Philippines) was elected Vice-Chairman at the second meeting (E/CONF.2/C.2/SR.2). On the departure of Mr. Abello, Mr. Jose GARRIDO TORRES (Brazil) was elected Vice-Chairman at the twenty-first meeting (E/CONF.2/C.2/SR.21).

3. The Committee held twenty-six meetings and succeeded in solving all the issues before it (E/CONF.2/C.2/SR.1 through E/CONF.2/C.2/SR.26).

4. To facilitate its work the Committee established six sub-committees, two of them jointly with other committees as listed below. The terms of reference and the composition of each Sub-Committee, the proposals referred to it, the document numbers of the Reports and of the Summary Records of the meetings at which the Reports were approved by Committee II with or without modification, as well as the precise modifications made, and any reservations are contained in the Annexes listed below followed by the names of the Sub-Committees to whose work they relate.

Annex I Sub-Committee A on Article 8
Annex II Joint Sub-Committee of Committees II and VI on Articles 9, 10 and 11 and on the Mexican proposal for the establishment of a Committee for Economic Development
Annex III Sub-Committee B on Article 12
Annex IV Sub-Committee C on Articles 13 and 14
Annex V Joint Sub-Committee of Committees II and III on Articles 15, 16 (2) and 16 (3) and 42

/Annex VI
5. The text of Chapter III including interpretative notes as approved by Committee II, after reference to the Central Drafting Committee and the text of the resolution proposed to be adopted by the Conference are contained in Annexes VII and VIII respectively.
ANNEX I

SUB-COMMITTEE A ON ARTICLE 8

Sub-Committee A on Article 8 consisting of representatives of Australia, China and the United Kingdom was set up at the fifth meeting of Committee II (E/CONF.2/C.2/SR.5) to examine the Article in the light of the discussion at that meeting. Mr. D. K. LIEU (China) was elected Chairman of the Sub-Committee. A recommendation (see Secretariat Note E/CONF.2/C.2/A/1) was submitted to the sixth meeting of Committee II (E/CONF.2/C.2/SR.6, E/CONF.2/C.2/SR.6/Corr.1) but after further discussion at that meeting the Sub-Committee was reconstituted with the addition of the representatives of Argentina, Iran and New Zealand. A further recommendation (see Secretariat Note E/CONF.2/C.2/A/3) was submitted to and approved by the ninth meeting of Committee II (E/CONF.2/C.2/SR.9).
ANNEX II

JOINT SUB-COMMITTEE OF COMMITTEES II AND VI ON ARTICLES 9, 10 AND 11 AND ON THE MEXICAN PROPOSAL FOR THE ESTABLISHMENT OF A COMMITTEE FOR ECONOMIC DEVELOPMENT

1. The Joint Sub-Committee of Committees II and VI was set up at the sixth meeting of Committee II (E/CONF.2/C.2/SR.6) and at the fifth and seventh meetings of Committee VI with terms of reference:

"1. To examine Articles 9, 10 and 11 of Chapter III, proposed amendments thereto and any proposed new articles relating to the positive functions of the Organization in promoting economic development in the light of the discussion in Committee II with a view to making recommendations as to the texts of these articles and any organizational provisions which may be required as a consequence thereof.

2. To examine the proposal of the Mexican delegation for the establishment of an Economic Development Committee of the Organization taking into account any conclusions reached under paragraph 1 and any other relevant considerations.

3. In making recommendations under paragraphs 1 and 2 to take into account the functions of other organs of the Organization and of the United Nations and Specialized Agencies in general in the field of economic development and any financial implications.

4. To report to both Committee II and Committee VI."

2. The Joint Sub-Committee was composed of representatives of:

Australia France Turkey
Belgium Iraq United Kingdom
Brazil Mexico United States
China Pakistan Venezuela
Colombia South Africa

Dr. H. C. COOMBS (Australia) was elected Chairman of the Sub-Committee.
3. The following proposals were submitted to the Joint Sub-Committee:

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<th>Item No.</th>
<th>Article No.</th>
<th>Paragraph(s) of the Geneva Draft</th>
<th>Name of Country</th>
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(a) New Section D bis - Committee for Economic Development - in Chapter VII
(b) Initial symbol E/CONF.2 omitted in this column
(c) See also E/CONF.2/C.2/9/Add.4/Corr.3
(d) Amendment appearing at bottom of page 20 and top of page 21
(e) Pages 11, 12 and 13 of E/CONF.2/C.6/12

/4. The Report

(a) Delete the second sentence of paragraph 6 and substitute: "These provide that controversies, which are within the domestic jurisdiction of such states, are to be resolved by national tribunals. In some cases such controversies may arise in connection with matters dealt with in Article 11."

(b) Add the following paragraphs:

"In connection with the deletion of paragraph 4 of Article 11 of the Geneva Draft Charter, it was pointed out that the paragraph merely stated that the term "nationals" as used in that Article and in Article 12 comprised natural and legal persons. However, certain delegations called the attention of the Committee to provisions in their Constitutions requiring certain types of activities to be carried on by legal entities incorporated under their domestic laws and also affecting the rights of persons holding shares of such entities. It was further suggested by certain delegations that the problem of the determination of the nationality of legal entities was very complicated and raised many questions of international law.

The deletion is to be taken as reflecting only the view of the Committee that the constitutional provisions referred to are not prejudiced and are outside the scope of the Charter, though in their opinion this does not affect the construction of the term "nationals" as used in Articles 11 and 12, without prejudice to such provisions, as including both legal and natural persons. The Committee also considered that the problem of the nationality of legal entities was not raised by the paragraph or by its deletion."

5. The Mexican proposal for the establishment of a Committee for Economic Development (item 24 in the list of proposals contained in paragraph 3 above) was considered by the Joint Sub-Committee as explained in Secretariat Note E/CONF.2/C.2/36/Add.1 and E/CONF.2/C.6/72/Add.1. No changes
changes in the Charter or other action on this proposal were required as a result of the Report of the Co-ordinating Committee (E/CONF.2/45/Rev.1) and the recommendations thereon of the Heads of Delegations (E/CONF.2/51). The Joint Sub-Committee therefore, held no meetings subsequent to the approval of its Report on Articles 9, 10 and 11 and this Report is therefore its final report.
### ANNEX III

**SUB-COMMITTEE B ON ARTICLE 12**

1. Sub-Committee B was set up at the thirteenth meeting of Committee II to consider Article 12 and the amendments submitted thereto. The Sub-Committee consisted of the representatives of Australia, Brazil, Canada, Ceylon, Czechoslovakia, Egypt, India, Mexico, Netherlands, New Zealand, Sweden, United Kingdom, United States of America and Venezuela. Mr. Jose GARRIDO TORRES (Brazil) was elected Chairman of the Sub-Committee.

2. The following proposals were submitted to the Sub-Committee:

**ARTICLE 12**

(except item 25)

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<th>Name of Country</th>
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<th>Pages of Revised Annotated Agenda (E/CONF.2/C.2/9)</th>
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(a) Amendment to paragraph 3 of Article 11  
(b) Initial Symbol E/CONF.2/ omitted in this column  
(c) See E/CONF.2/C.2/9/Add.4/Corr.3  
(d) See also E/CONF.2/C.2/9/Corr.4  

/17. 2 Ceylon
3. The Report of the Sub-Committee (E/CONF.2/C.2/29) was considered by Committee II at its seventeenth, eighteenth and nineteenth meetings (E/CONF.2/C.2/SR.17, E/CONF.2/C.2/SR.18 and E/CONF.2/C.2/SR.19). The Report was approved with modifications as indicated in the summary records and below:

Delete sub-paragraphs (a), (b) and (c) of paragraph 3 and substitute:

(a) legislative or constitutional requirements, existing at the time that an investment was made and providing for recourse only to national courts, would not in themselves be reviewable pursuant to Chapter VII, Chapter VIII provided for review by the Organization of whether nullification or impairment of a benefit accruing to a Member under the Charter had taken place, even if the nullification or impairment arose out of a measure completely consistent with the Charter, or "any other situation", even if there was no violation of the Charter, but without involving the power of the Organization to pass or judge upon the validity of the measure itself taken by a Member, or of a decision taken by a Member's national courts;

and (b) the Articles of Agreement of the International Monetary Fund were included among the international agreements referred to in paragraphs 1 (c) and 2 (b)."

(a) Amendment to paragraph 3 of Article 11
(b) Initial Symbol E/CONF.2/cor/inserted in this column
(c) See E/CONF.2/C.2/9/Add.4/Corr.3
(d) See also E/CONF.2/C.2/9/Corr.4
4. The reservation of the Indian delegation on paragraph 2 of Article 12 pending instructions from its Government as stated in paragraph 4 of the Report of the Sub-Committee has been withdrawn. There are therefore no reservations to Article 12.
ANNEX IV

SUB-COMMITTEE C ON ARTICLES 13 AND 14

1. Sub-Committee C was set up at the sixteenth meeting of Committee H to examine and submit recommendations to Committee H concerning the proposals on Articles 13 and 22 with authority to consult, if considered necessary, with the Sub-Committee of Committee III on Articles 20 and 22. The Sub-Committee consisted of representatives of Argentina, Australia, Brazil, Canada, China, Colombia, Cuba, India, Iraq, Mexico, Netherlands, Norway, Philippines, United Kingdom, United States and Uruguay. Dr. Gustavo GUTIERREZ (Cuba) was elected Chairman of the Sub-Committee.

2. The following proposals were submitted to the Sub-Committee:

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(b) See also E/CONF.2/C.2/9/Add.4/Corr.3  
(c) See E/CONF.2/C.2/6/Add.23  
(d) See E/CONF.2/C.2/C.5  
(e) See E/CONF.2/C.2/C.14  
(f) See E/CONF.2/C.2/9/Add.1  
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(b) See also E/CONF.2/C.2/9/Add.4/Corr.3
(c) See E/CONF.2/C.2/6/Add.23
(d) See E/CONF.2/C.2/C/5
(e) See E/CONF.2/C.2/C/14
(f) See E/CONF.2/C.2/9/Add.1
(g) See E/CONF.2/C.2/C/13

/ARTICLE 14

(a) Substitute the following for paragraph 7:

"7. With regard to the meaning of the word "processing" appearing in paragraphs 7 (a) (ii) and (iii) of Article 13 consideration was given to the view of the Co-ordinating Committee and the proposal of the delegation of Pakistan (See Annex A). It was agreed that processing meant the transformation of a primary commodity or of a by-product of such transformation into semi-finished or finished goods."

(b) See also E/CONF.2/C.2/9/Add.4/Corr.3
(c) See E/CONF.2/C.2/6/Add.23
(d) See E/CONF.2/C.2/C/5
(e) See E/CONF.2/C.2/C/14
(f) See E/CONF.2/C.2/9/Add.1
(g) See E/CONF.2/C.2/C/13

/but did not
but did not refer to highly developed industrial processes such as the manufacture of precision instruments. Accordingly it was decided to insert the interpretative note set out at the end of the text of Article 13 in Annex B."

(b) Substitute the following for the first two lines of paragraph 8: "With regard to the references to international trade in paragraphs 7 (a) (iii) and 8 (b) (ii) of Article 13 it was agreed that these were references ...."

(c) Substitute the following for paragraph 9: "With regard to the interpretation of the words "materially affected" in Article 13 it was agreed that this term was not restricted to those countries which in the past were principal suppliers. With regard to the use of these words in sub-paragraph 3 (b) it was assumed that the Organization would have due regard to the contractual rights of Members. In interpreting these words in paragraphs 5 and 8, it would be proper for the Organization to have regard, for instance, to the interests of Members which supplied a large proportion of the imports of the applicant Member in the product concerned, those Members which were substantially interested in exporting the product to world markets, and those Members whose economies were materially dependent on exports of the product."

(d) Delete the last sentence of paragraph 13.

(e) As a result of the changes in the numbering of paragraphs between the text of Article 13 as set out in Annex 13 of the Report of the Sub-Committee and that set out in Annex VII to this Report the reference to paragraph 4 (b) (ii) of Article 13 in paragraph 6 of the Sub-Committee's Report becomes a reference to paragraph 7 (a) (ii) of Article 13. Similarly the references to paragraph 4 (e) of Article 13 in paragraphs 10 and 11 of the Sub-Committee's Report become references to paragraph 9 of Article 13 and the reference to paragraph 4 (b) in paragraph 12 of the Sub-Committee's Report becomes a reference to paragraph 10 of Article 13.

4. Reservations have been made by the delegation of Argentina on Articles 13 and 14 and by the delegation of Ceylon on Article 13.

* This sentence incorporating a reservation by the Brazilian delegation was deleted at the twenty-sixth meeting of Committee II (E/CONF.2/C.2/26).
ANNEX V

JOINT SUB-COMMITTEE OF COMMITTEES II AND III ON ARTICLES 15, 16 (2) AND (3) AND 42

1. The Joint Sub-Committee of Committees II and III was set up at the tenth and eleventh meetings of Committee II (E/CONF.2/C.2/SR.10 and E/CONF.2/C.2/SR.11) and at the seventh and seventeenth meetings of Committee III with terms of reference as follows:

"To consider and submit recommendations to both Committees regarding Articles 15, 16 (2) and (3) and 42 and the relevant proposals and amendments submitted in relation thereto with a view to finding a solution of the question of new preferential arrangements, including those for purposes of economic development and reconstruction, and of the maintenance of existing preferences as an exception from the most-favoured-nation clause."

2. The Joint Sub-Committee consisted of representatives of the following delegations: Argentina, Belgium, Brazil, Canada, Chile, El Salvador, France, Haiti, Iran, Poland, Sweden, Syria, Turkey, United Kingdom, United States, and Venezuela. Mr. Stig SAHLIN (Sweden) was elected Chairman. At the eleventh meeting, Mr. Jean ROYER (France) was elected in the place of Mr. Sahlin who had left Havana.

3. The following proposals were submitted to the Joint Sub-Committee with respect to Article 15.

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<td>Chile</td>
<td>C.2/6/Add.4 Add.4/Corr.1</td>
<td>61&amp;62 (b)</td>
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<td>2.</td>
<td>Whole Article</td>
<td>El Salvador</td>
<td>C.2/6/Add.13</td>
<td>64</td>
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<td>1</td>
<td>Argentina</td>
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<td>8.</td>
<td>(c)</td>
<td>Poland</td>
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(a) Initial symbol E/CONF.2 omitted
(b) See also E/CONF.2/C.2/9/Add.4/Corr.3
(c) Paragraph 4 (d) of the text set out in Annex VII
(d) See E/CONF.2/50

/4. The Report
4. The Report of the Joint Sub-Committee with respect to Article 15 (E/CONF.2/C.2/42) was considered by Committee II at its twenty-fourth meeting (E/CONF.2/C.2/SR.24 and E/CONF.2/C.2/SR.24/Corr.1). The Report was approved with modifications as indicated in the summary records and below:

(a) In paragraph 8 in the fourth line on page 3 delete the comma after "approval" and insert the word "as".

(b) In the third line from the end of paragraph 8 delete the words "pending decisions on Article 16".

(c) In paragraph 13 delete the last sentence beginning with the words "The delegates of" and substitute the following:

"The Delegate of Syria wished it put on record that, in the light of the definitive text of Article 93, he was still opposed to their inclusion."

(d) Amend paragraph 15 to read as follows:

"15. The Polish delegation presented an amendment (E/CONF.2/50) designed to permit temporarily compensatory preferences on products not conforming to the development and reconstruction criteria of paragraph 4 (b) and subject to progressive elimination and limits as to duration and margins of preference. The amendment was not accepted. The Polish delegation asked for its view to be recorded that the present text of paragraph 4 (d) of Article 15 concerning preferential concessions nullified to a large extent the advantages of paragraphs 4, 5 and 6 and made the introduction of new preferential arrangements very difficult if not impossible. An alternative proposal by the delegate of Argentina to insert a text previously discussed by the Working Party was also rejected. The delegates of Argentina and Chile asked for it to be recorded that they were in general agreement with the views expressed by the delegate of Poland in this matter."

(e) In paragraph 16 on page 4 delete the second sentence.

(f) In the sixth line from the top of page 5 insert "20" before the words "In regard to sub-paragraph (c)" thereby making that and subsequent lines into paragraph 20.

(g) In the sixth line of paragraph 20 substitute a period for the semi-colon after "the proposal" and delete from this and the seventh line the words beginning "therefore the" and ending "in Committee".

* Modification agreed at twenty-fifth meeting of Committee II (E/CONF.2/C.2/SR.25).

/5. Reservations
5. Reservations on Article 15 have been made by the following delegations:

Afghanistan
Argentina
Chile
China
Haiti
Iraq - on paragraph 6 (d)
Turkey
United Kingdom - on paragraph 4 (a) and interpretative note thereon.
ANNEX VI

SUB-COMMITTEE D ON FOOTNOTE TO CHAPTER III ON "RECONSTRUCTION"

1. Sub-Committee D was set up at the sixteenth meeting of Committee II (E/CONF.2/C.2/SR.16) to examine and submit recommendations concerning the footnote to Chapter III on "Reconstruction" appearing at the bottom of page 12 of the Geneva Draft of the Charter.

2. The Sub-Committee was composed of representatives of Australia, El Salvador, France, Mexico, Poland and the United Kingdom. Mr. C. NOVOA (Mexico) was elected Chairman of the Sub-Committee.

3. The Report of the Sub-Committee (E/CONF.2/C.2/35) was considered and approved by Committee II at its twentieth and twenty-second meetings (E/CONF.2/C.2/SR.20 and E/CONF.2/C.2/SR.22) with endorsement of the recommendation that reconstruction and development should be treated on equal terms.

/ANNEX VII
ANNEX VII
CHAPTER III
ECONOMIC DEVELOPMENT AND RECONSTRUCTION

Article 8
Importance of Economic Development and Reconstruction in Relation to the Purpose of this Charter

The Members recognize that the productive use of the world's human and material resources is of concern to and will benefit all countries, and that the industrial and general economic development of all countries, particularly of those in which resources are as yet relatively undeveloped, as well as the reconstruction of those countries whose economies have been devastated by war, will improve opportunities for employment, enhance the productivity of labour, increase the demand for goods and services, contribute to economic balance, expand international trade and raise levels of real income.

Article 9
Development of Domestic Resources and Productivity

Members shall within their respective territories take action designed progressively to develop, and where necessary to reconstruct, industrial and other economic resources and to raise standards of productivity through measures not inconsistent with the other provisions of this Charter.

Article 10
Co-operation for Economic Development and Reconstruction

1. Members shall co-operate with one another, with the Economic and Social Council of the United Nations, with the Organization and with other appropriate inter-governmental organizations, in facilitating and promoting industrial and general economic development, as well as the reconstruction of those countries whose economies have been devastated by war.

2. With a view to facilitating and promoting industrial and general economic development and consequently higher standards of living, especially of those countries which are still relatively undeveloped, as well as the reconstruction of those countries whose economies have been devastated by war, and subject to any arrangements which may be entered into between the Organization and the
Economic and Social Council of the United Nations and appropriate inter-governmental organizations, the Organization shall, within its powers and resources, at the request of any Member:

(a) (i) study the Member's natural resources and potentialities for industrial and general economic development, and assist in the formulation of plans for such development;

(ii) furnish the Member with appropriate advice concerning its plans for economic development or reconstruction and the financing and carrying out of its programmes for economic development or reconstruction; or

(b) assist the Member to procure such advice or study.

These services shall be provided on terms to be agreed and in such collaboration with appropriate regional or other inter-governmental organizations as will use fully the competence of each of them. The Organization shall also, upon the same conditions, aid Members in procuring appropriate technical assistance.

3. With a view to facilitating and promoting industrial and general economic development, especially of those countries which are still relatively undeveloped, as well as the reconstruction of those countries whose economies have been devastated by war, the Organization shall co-operate with the Economic and Social Council of the United Nations and appropriate inter-governmental organizations on all phases, within their special competence, of such development and reconstruction and, in particular, in respect of finance, equipment, technical assistance and managerial skills.

Article 11

Means of Promoting Economic Development and Reconstruction

1. Progressive industrial and general economic development, as well as reconstruction, requires among other things adequate supplies of capital funds, materials, modern equipment and technology and technical and managerial skills. Accordingly, in order to stimulate and assist in the provision and exchange of these facilities:

(a) Members shall co-operate, in accordance with Article 10, in providing or arranging for the provision of such facilities within the limits of their power, and Members shall not impose unreasonable or unjustifiable impediments that would prevent other Members from obtaining on equitable terms any such facilities for their economic development or, in the case of Member countries whose economies have been devastated by war, for their reconstruction;

(b) no Member
(b) no Member shall take unreasonable or unjustifiable action within its territory injurious to the rights or interests of nationals of other Members in the enterprise, skills, capital, arts or technology which they have supplied.

2. The Organization may, in such collaboration with other inter-governmental organizations as may be appropriate:

(a) make recommendations for and promote bilateral or multilateral agreements on measures designed:

(i) to assure just and equitable treatment for the enterprise, skills, capital, arts and technology brought from one Member-country to another;

(ii) to avoid international double taxation in order to stimulate foreign private investments;

(iii) to enlarge to the greatest possible extent the benefits to Members from the fulfilment of the obligations under this Article;

(b) make recommendations and promote agreements designed to facilitate an equitable distribution of skills, arts, technology, materials and equipment, with due regard to the needs of all Members;

(c) formulate and promote the adoption of a general agreement or statement of principles regarding the conduct, practices and treatment of foreign investment.

Article 12

International Investment for Economic Development and Reconstruction

1. The Members recognize that:

(a) international investment, both public and private, can be of great value in promoting economic development and reconstruction, and consequent social progress;

(b) the international flow of capital will be stimulated to the extent that Members afford nationals of other countries opportunities for investment and security for existing and future investments;

(c) without prejudice to existing international agreements to which Members are parties, each Member has the right:

(i) to take any appropriate safeguards necessary to ensure that foreign investment is not used as a basis for interference in its internal affairs or national policies;

(ii) to determine whether and to what extent and upon what terms it will allow future foreign investment;

(iii) to prescribe and give effect on just terms to requirements as to the ownership of existing and future investments;

(iv) to prescribe
(iv) to prescribe and give effect to other reasonable requirements with respect to existing and future investments;

(d) the interests of Members whose nationals are in a position to provide capital for international investment and of Members who desire to obtain the use of such capital to promote their economic development or reconstruction may be promoted if such Members enter into bilateral or multilateral agreements relating to the opportunities and security for investment which the Members are prepared to offer and any limitations which they are prepared to accept of the rights referred to in sub-paragraph (c).

2. Members therefore undertake:

(a) subject to the provisions of paragraph 1 (c) and to any agreements entered into under paragraph 1 (d),

(i) to provide reasonable opportunities for investments acceptable to them and adequate security for existing and future investments, and

(ii) to give due regard to the desirability of avoiding discrimination as between foreign investments;

(b) upon the request of any Member and without prejudice to existing international agreements to which Members are parties, to enter into consultation or to participate in negotiations directed to the conclusion, if mutually acceptable, of an agreement of the kind referred to in paragraph 1 (d).

3. Members shall promote co-operation between national and foreign enterprises or investors for the purpose of fostering economic development or reconstruction in cases where such cooperation appears to the Members concerned to be appropriate.

/Article 13
Article 13

Governmental Assistance to Economic Development and Reconstruction

1. The Members recognize that special governmental assistance may be required to promote the establishment, development or reconstruction of particular industries or branches of agriculture, and that in appropriate circumstances the grant of such assistance in the form of protective measures is justified. At the same time they recognize that an unwise use of such measures would impose undue burdens on their own economies and unwarranted restrictions on international trade, and might increase unnecessarily the difficulties of adjustment for the economies of other countries.

2. The Organization and the Members concerned shall preserve the utmost secrecy in respect of matters arising under this Article.

3. If a Member, in the interest of its economic development or reconstruction, or for the purpose of increasing a most-favoured-nation rate of duty in connection with the establishment of a new preferential agreement in accordance with the provisions of Article 15, considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with an obligation which the Member has assumed in respect of any product through negotiations with any other Member or Members pursuant to Chapter IV but which would not conflict with that Chapter, such Member

(a) shall enter into direct negotiations with all the other Members which have contractual rights. The Members shall be free to proceed in accordance with the terms of any agreement resulting from such negotiations, provided that the Organization is informed thereof; or

(b) shall initially or may, in the event of failure to reach agreement under sub-paragraph (a), apply to the Organization. The Organization shall determine, from among Members which have contractual rights, the Member or Members materially affected by the proposed measure and shall sponsor negotiations between such Member or Members and the applicant Member with a view to obtaining expeditious and substantial agreement. The Organization shall establish and communicate to the Members concerned a time schedule for such negotiations, following as far as practicable any time schedule which may have been proposed by the applicant Member. The Members shall commence and proceed continuously with such negotiations in accordance with the time schedule established by the Organization.

At the
At the request of a Member, the Organization may, where it concurs in principle with the proposed measure, assist in the negotiations. Upon substantial agreement being reached, the applicant Member may be released by the Organization from the obligation referred to in this paragraph, subject to such limitations as may have been agreed upon in the negotiations between the Members concerned.

4. (a) If as a result of action initiated under paragraph 3, there should be an increase in imports of any product concerned, including products which can be directly substituted therefor, which if continued would be so great as to jeopardize the establishment, development or reconstruction of the industry, or branch of agriculture concerned, and if no preventive measures consistent with the provisions of this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with, the Organization, adopt such other measures as the situation may require, provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this sub-paragraph; except in unusual circumstances, such measures shall not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member initiated action under paragraph 3.

(b) The Organization shall determine, as soon as practicable, whether any such measure should be continued, discontinued or modified. It shall in any case be terminated as soon as the Organization determines that the negotiations are completed or discontinued.

(c) It is recognized that the contractual relationships referred to in paragraph 3 involve reciprocal advantages, and therefore any Member which has a contractual right in respect of the product to which such action relates, and whose trade is materially affected by the action, may suspend the application to the trade of the applicant Member of substantially equivalent obligations or concessions under or pursuant to Chapter IV, provided that the Member concerned has consulted the Organization before taking such action and the Organization does not disapprove.

5. In the case of any non-discriminatory measure affecting imports which would conflict with Chapter IV and which would apply to any product in respect of which the Member has assumed an obligation through negotiations with any other Member or Members pursuant to Chapter IV, the provisions of sub-paragraph (b) of paragraph 3 shall apply; Provided that before granting a release the Organization shall afford adequate opportunity for all Members /which it
which it determines to be materially affected to express their views. The provisions of paragraph 4 shall also be applicable in this case.

6. If a Member in the interest of its economic development or reconstruction considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with Chapter IV, but which would not apply to any product in respect of which the Member has assumed an obligation through negotiations with any other Member or Members pursuant to Chapter IV, such Member shall notify the Organization and shall transmit to the Organization a written statement of the considerations in support of the adoption, for a specified period, of the proposed measure.

7. (a) On application by such Member the Organization shall concur in the proposed measure and grant the necessary release for a specified period if, having particular regard to the applicant Member's need for economic development or reconstruction, it is established that the measure

(i) is designed to protect a particular industry, established between January 1, 1939 and the date of this Charter, which was protected during that period of its development by abnormal conditions arising out of the war; or

(ii) is designed to promote the establishment or development of a particular industry for the processing of an indigenous primary commodity, when the external sales of such commodity have been materially reduced as a result of new or increased restrictions imposed abroad; or

(iii) is necessary, in view of the possibilities and resources of the applicant Member to promote the establishment or development of a particular industry for the processing of an indigenous primary commodity, or for the processing of a by-product of such industry, which would otherwise be wasted, in order to achieve a fuller and more economic use of the applicant Member's natural resources and manpower and, in the long run, to raise the standard of living within the territory of the applicant Member, and is unlikely to have a harmful effect, in the long run, on international trade; or

(iv) is unlikely to be more restrictive of international trade than any other practicable and reasonable measure permitted under this Charter which could be imposed without undue difficulty, and is the one most suitable for the purpose having regard to the economics of the industry or branch of agriculture concerned and to the applicant Member's need for economic development or reconstruction.

The foregoing
The foregoing provisions of this sub-paragraph are subject to the following conditions:

(1) Any proposal by the applicant Member to apply any such measure, with or without modification, after the end of the initial period, shall not be subject to the provisions of this paragraph; and

(2) The Organization shall not concur in any measure under the provisions of (1), (ii) or (iii) above which is likely to cause serious prejudice to exports of a primary commodity on which the economy of another Member country is largely dependent.

(b) The applicant Member shall apply any measure permitted under sub-paragraph (a) in such a way as to avoid unnecessary damage to the commercial or economic interests of any other Member, including interests under the provisions of Articles 3 and 9.

8. If the proposed measure does not fall within the provisions of paragraph 7, the Member

(a) may enter into direct consultations with the Member or Members which, in its judgment, would be materially affected by the measure. At the same time, the Member shall inform the Organization of such consultations in order to afford it an opportunity to determine whether all materially affected Members are included within the consultations. Upon complete or substantial agreement being reached, the Member interested in taking the measure shall apply to the Organization. The Organization shall promptly examine the application to ascertain whether the interests of all the materially affected Members have been duly taken into account. If the Organization reaches this conclusion, with or without further consultations between the Members concerned, it shall release the applicant Member from its obligations under the relevant provision of Chapter IV, subject to such limitations as the Organization may impose; or

(b) may initially, or in the event of failure to reach complete or substantial agreement under sub-paragraph (a), apply to the Organization. The Organization shall promptly transmit the statement submitted under paragraph 6 to the Member or Members which are determined by the Organization to be materially affected by the proposed measure. Such Member or Members shall, within the time limits prescribed by the Organization, inform it whether, in the light of the anticipated effects of the proposed measure on the economy of such Member country or countries, there is any objection to the proposed measure. The Organization shall:

(1) if there
(i) if there is no objection to the proposed measure on the part of the affected Member or Members, immediately release the applicant Member from its obligations under the relevant provision of Chapter IV; or

(ii) if there is objection, promptly examine the proposed measure, having regard to the provisions of this Charter, to the considerations presented by the applicant Member and its need for economic development or reconstruction, to the views of the Member or Members determined to be materially affected, and to the effect which the proposed measure, with or without modification, is likely to have, immediately and in the long run, on international trade, and in the long run, on the standard of living within the territory of the applicant Member. If, as a result of such examination, the Organization concurs in the proposed measure, with or without modifications, it shall release the applicant Member from its obligations under the relevant provision of Chapter IV, subject to such limitations as it may impose.

9. If, in anticipation of the concurrence of the Organization in the adoption of a measure referred to in paragraph 6, there should be an increase or threatened increase in the imports of any product concerned, including products which can be directly substituted therefor, so substantial as to jeopardize the establishment, development or reconstruction of the industry or branch of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with, the Organization, adopt such other measures as the situation may require, pending a decision by the Organization on the Member's application; Provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which notification was given under paragraph 6.

10. The Organization shall, at the earliest opportunity but ordinarily within fifteen days after receipt of an application under the provisions of paragraph 7 or sub-paragraphs (a) or (b) of paragraph 8, advise the applicant Member of the date by which it will be notified whether or not it is released from the relevant obligation. This shall be the earliest practicable date and not later than ninety days after receipt of such application; Provided that, if unforeseen difficulties arise before the date set, the period may be extended after consultation with the applicant Member. If the applicant Member is not so notified by the date set, it may, after informing the Organization, institute

/ the proposed
the proposed measure.

Interpretative Note

Ad Article 13

Paragraphs 7. (c) (ii) and (iii)

The word "processing", as used in these sub-paragraphs, means the transformation of a primary commodity or of a by-product of such transformation into semi-finished or finished goods but does not refer to highly developed industrial processes.
Article 14

Transitional Measures

1. Any Member may maintain any non-discriminatory protective measure affecting imports which has been imposed for the establishment, development or reconstruction of a particular industry or branch of agriculture and which is not otherwise permitted by this Charter, provided that notification has been given of such measure and of each product to which it relates:

(a) in the case of a Member signatory to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment in respect of measures in force on September 1, 1947, subject to decisions made under paragraph 6 of Article XVIII of the General Agreement on Tariffs and Trade; except that if in special circumstances the CONTRACTING PARTIES to that Agreement agree to dates other than those specified in this sub-paragraph, such other dates shall apply;

(b) in the case of any other Member not later than the day on which it deposits its instrument of acceptance of this Charter in respect of measures in force on that day or on the day of the entry into force of the Charter, whichever is the earlier;

and provided further that notification has been given under sub-paragraph (a) to the other signatories to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment and under sub-paragraph (b) to the Organization, or, if the Charter has not entered into force on the day of such notification, to the signatories to the Final Act of the United Nations Conference on Trade and Employment.

2. Any Member maintaining any such measure, other than a measure approved by the CONTRACTING PARTIES to the General Agreement under paragraph 6 of Article XVIII of that Agreement, shall, within one month of becoming a Member of the Organization, submit to it a statement of the considerations in support of the maintenance of the measure and the period for which it wishes to maintain it. The Organization shall, as soon as possible, but in any case within twelve months of such Member becoming a Member of the Organization, examine and give a decision concerning the measure as if it had been submitted to the Organization for its concurrence under Article 13.

3. Any measure, approved in accordance with the provisions of Article XVIII of the General Agreement, and which is in effect at the time this Charter enters into force, may remain in effect thereafter, subject to the conditions of any such approval and, if the Organization so decides, to review by the Organization.

4. This Article shall not apply to any measure relating to a product in
respect of which the Member has assumed an obligation through negotiations pursuant to Chapter IV.

5. In cases where the Organization decides that a measure should be modified or withdrawn by a specified date, it shall have regard to the possible need of a Member for a period of time in which to make such modification or withdrawal.
Article 15

Preferential Agreements for Economic Development and Reconstruction

1. The Members recognize that special circumstances, including the need for economic development or reconstruction, may justify new preferential agreements between two or more countries in the interest of the programmes of economic development or reconstruction of one or more of them.

2. Any Member contemplating the conclusion of such an agreement shall communicate its intention to the Organization and provide it with the relevant information to enable it to examine the proposed agreement. The Organization shall promptly communicate such information to all Members.

3. The Organization shall examine the proposal and, by a two-thirds majority of the Members present and voting, may grant, subject to such conditions as it may impose, an exception to the provisions of Article 16 to permit the proposed agreement to become effective.

4. Notwithstanding the provisions of paragraph 3, the Organization shall authorize, in accordance with the provisions of paragraphs 5 and 6, the necessary departure from the provisions of Article 16 in respect of a proposed agreement between Members for the establishment of tariff preferences which it determines to fulfill the following conditions and requirements:

(a) the territories of the parties to the agreement are contiguous one with another, or all parties belong to the same economic region;

(b) any preference provided for in the agreement is necessary to ensure a sound and adequate market for a particular industry or branch of agriculture which is being, or is to be, created or reconstructed or substantially developed or substantially modernized;

(c) the parties to the agreement undertake to grant free entry for the products of the industry or branch of agriculture referred to in sub-paragraph (b) or to apply customs duties to such products sufficiently low to ensure that the objectives set forth in that sub-paragraph will be achieved;

(d) any compensation granted to the other parties by the party receiving preferential treatment shall, if it is a preferential concession, conform with the provisions of this paragraph;

(e) the agreement contains provisions permitting, on terms and conditions to be determined by negotiation with the parties to the agreement, the adherence of other Members, which are able to qualify as parties to the agreement under the provisions of this paragraph, in the interest of their programmes of economic development or reconstruction. The provisions of Chapter VIII may be invoked by such a Member in this respect
only on the ground that it has been unjustifiably excluded from participation in such an agreement;
(f) the agreement contains provisions for its termination within a period necessary for the fulfillment of its purposes but, in any case, not later than at the end of ten years; any renewal shall be subject to the approval of the Organization and no renewal shall be for a longer period than five years.

5. When the Organization, upon the application of a Member and in accordance with the provisions of paragraph 6, approves a margin of preference as an exception to Article 16 in respect of the products covered by the proposed agreement, it may, as a condition of its approval, require a reduction in an unbound most-favoured-nation rate of duty proposed by the Member in respect of any product so covered, if in the light of the representations of any affected Member it considers that rate excessive.

6. (a) If the Organization finds that the proposed agreement fulfills the conditions and requirements set forth in paragraph 4 and that the conclusion of the agreement is not likely to cause substantial injury to the external trade of a Member country not party to the agreement, it shall within two months authorize the parties to the agreement to depart from the provisions of Article 16, as regards the products covered by the agreement. If the Organization does not give a ruling within the specified period, its authorization shall be regarded as having been automatically granted.

(b) If the Organization finds that the proposed agreement, while fulfilling the conditions and requirements set forth in paragraph 4, is likely to cause substantial injury to the external trade of a Member country not party to the agreement, it shall inform interested Members of its findings and shall require the Members contemplating the conclusion of the agreement to enter into negotiations with that Member. When agreement is reached in the negotiations, the Organization shall authorize the Members contemplating the conclusion of the preferential agreement to depart from the provisions of Article 16 as regards the products covered by the preferential agreement. If, at the end of two months from the date on which the Organization suggested such negotiations, the negotiations have not been completed and the Organization considers that the injured Member is unreasonably preventing the conclusion of the negotiations, it shall authorize the necessary departure from the provisions of Article 16 and at the same time shall fix a fair compensation to be granted by the parties to the agreement to the injured Member or, if this is not possible or reasonable, shall prescribe such modification of the agreement as will give such Member fair treatment. The provisions of Chapter VIII may be invoked by such Member only if it does not accept the decision of the Organization regarding such compensation.

/(c) If the Organization
(c) If the Organization finds that the proposed agreement, while fulfilling the conditions and requirements set forth in paragraph 4, is likely to jeopardize the economic position of a Member in world trade, it shall not authorize any departure from the provisions of Article 16 unless the parties to the agreement have reached a mutually satisfactory understanding with that Member.

(d) If the Organization finds that the prospective parties to a regional preferential agreement have, prior to November 21, 1947, obtained from countries representing at least two-thirds of their import trade the right to depart from most-favoured-nation treatment in the cases envisaged in the agreement, the Organization shall, without prejudice to the conditions governing the recognition of such right, grant the authorization provided for in paragraph 5 and in sub-paragraph (a) of this paragraph, provided that the conditions and requirements set out in sub-paragraphs (a), (e) and (f) of paragraph 4 are fulfilled. Nevertheless, if the Organization finds that the external trade of one or more Member countries, which have not recognized this right to depart from most-favoured-nation treatment, is threatened with substantial injury, it shall invite the parties to the agreement to enter into negotiations with the injured Member, and the provisions of sub-paragraph (b) of this paragraph shall apply.

Interpretative Notes

Ad Article 15

Paragraph 1

The special circumstances referred to in paragraph 1 are those set forth in Article 15.

Paragraph 4 (a)

The Organization need not interpret the term "economic region" to require close geographical proximity if it is satisfied that a sufficient degree of economic integration exists between the countries concerned.

Paragraph 6 (d)

The words "the prospective parties to a regional preferential agreement have, prior to November 21, 1947, obtained from countries representing at least two-thirds of their import trade the right to depart from most-favoured-nation treatment in the cases envisaged in the agreement" cover rights to conclude preferential agreements which may have been recognized in respect of mandated territories which became independent prior to November 21, 1947, in so far as these rights have not been specifically denounced before that date.

/ANNEX VIII
ANNEX VIII

RESOLUTION PROPOSED TO BE ADOPTED BY THE CONFERENCE

The United Nations Conference on Trade and Employment, having considered the problem of the industrial and general economic development and reconstruction of the Members of the International Trade Organization; and

Having noted the related activities of other inter-governmental organizations and specialized agencies; and

Having determined that positive measures for the promotion of the economic development and reconstruction of Members are an essential condition for the realization of the purpose stated in Article I of the Charter of the International Trade Organization and to the accomplishment of the objectives therein set forth; and

Having regard to the provisions of Articles 10, 69 and 84 of the Charter

Therefore resolves:

1. That the Interim Commission of the International Trade Organization is hereby directed to examine

   (i) the powers, responsibilities and activities in the field of industrial and general economic development and reconstruction of the United Nations, of the specialized agencies and of other inter-governmental organizations, including regional organizations;

   (ii) the availability of facilities for technical surveys or studies of: the natural resources of underdeveloped countries; or the possibilities of their industrial development, whether general or in relation to the processing of locally produced raw materials or other particular industries; or for the improvement of their systems of transportation and communications; or with respect to the manner in which investment of foreign capital may contribute to their economic development; and in the light of this examination to report to the Organization upon

   (a) the structure and administrative methods,

   (b) the working relation with the United Nations, the specialized agencies and other inter-governmental organizations including regional organizations

which will enable the International Trade Organization most effectively to carry out its positive functions for the promotion of the economic
development and reconstruction of Members.
2. That the report and recommendations of the Interim Commission shall be submitted in such a manner and at such a time as will enable the Conference of the International Trade Organization to take appropriate action at its first session.