The following communication has been received from the representative of the International Chamber of Commerce:

"Capitolio Nacional (Room 6),
Havana.
28th January, 1948.

Sir,

ARTICLE 12.

INTERNATIONAL INVESTMENT FOR ECONOMIC DEVELOPMENT.

The representative of the International Chamber of Commerce has followed the discussions leading up to the Report to the Second Committee of Sub-Committee B. on Article 12 - International Investment for Economic Development (Document E/CONF.2/c.2/29 dated 23 January 1948).

Whilst giving full consideration and appreciation to the drafting difficulties in connection with the intention of some countries to retain the widest discretion and control of foreign investments, the International Chamber of Commerce presents its views for submission to the Second Committee.

In the Geneva Draft, the International Chamber noted with approval paragraphs 1 and 3, and also that part of paragraph 2(a) which states that no Member shall impose requirements on the investments of nationals of other Members which are appreciably more onerous than those imposed on its own or other nationals, (see paragraphs 46 and 47 of Document E/CONF.2/c). This provision has not been omitted.

Paragraphs 1 (c), (ii) and (iii) of the Havana draft, while fully understood by those members of the Sub-Committee who participated in the drafting discussion are, in the opinion of the International Chamber of Commerce, not being sufficiently specific in that they give no clear indication as to what are "requirements" as to the ownership of existing investments, and how they can be prescribed by the Government of a country to the investment receiving country when the investment has already been made.

The International Chamber of Commerce submits that in practice the present draft will tend to discourage private investors from venturing their capital
their capital abroad. The intent of Article 12 is, within limitations, to encourage foreign investment and this should be made clear so as to avoid misunderstanding.

The representative of the International Chamber of Commerce indicated in Committee II at the time of the first reading of Article 12 that a complete deletion of that Article would be preferable to its insertion in a form that would be prejudicial to the revival of international private capital movements. This observation is now repeated in view of the nature of the present draft of this Article.

I am, Sir
Yours faithfully,
(Signed) Wallace B. Phillips
(Wallace B. Phillips)
Representative of the
International Chamber of Commerce

The Executive Secretary,
Capitolio Nacional,
HAVANA."