At its first meeting on 16 December the Joint Sub-Committee of Committees II and VI considered the amendment proposed by Mexico to delete from Article 9 the words "through measures consistent with the other provisions of this Charter".

No Member of the Sub-Committee desired that Article 9 impose an absolute obligation on Members, i.e. to take action contrary to other provisions of the Charter. On the other hand some Members felt that there might be neutral measures which were neither consistent nor inconsistent with other provisions of the Charter, which might be prohibited by the present form of words.

It was also suggested that if the words "through measures consistent with the other provisions of this Charter" were necessary in this Article they would equally be necessary in other Articles in the Charter.

It was accordingly recommended

(a) that the question of whether it was necessary to include any words after "productivity" be referred to the Central Drafting Committee and
(b) that, if some form of words were required, the words "through measures not inconsistent with the other provisions of this Charter" should be used.
REPORT TO JOINT SUB-COMMITTEE OF COMMITTEES II AND VI OF THE WORKING PARTY
ON PREAMBLE TO PARAGRAPH 1 AND SUB-PARAGRAPH (a) OF PARAGRAPH 1 OF NEW
ARTICLE 12A PROPOSED BY COLOMBIA

1. The Joint Sub-Committee of Committees II and VI at its fourth meeting
on 18 December 1947 constituted the Working Party to examine the preamble
to paragraph 1 and sub-paragraph (a) of paragraph 1 of the New Article 12A
proposed by Colombia and to make recommendations as to how the objectives
of the proposed New Article might be attained, whether by appropriate
re-drafting in the Charter, by a resolution of the Conference or by reference
to a study group to be constituted by the Conference.

2. Pursuant to its instructions the Working Party agreed that Articles 10
and 69 should be amended in the manner shown in Annexes A and B respectively.
It also agreed that the Conference should by a resolution in the form shown
in Annex C direct the Interim Commission of the International Trade
Organization, or if no such Commission is established a special committee
to study and report as to the appropriate structure and administrative
methods for carrying out the positive functions of the Organization in the
field of economic development.

3. In the proposed re-draft of Article 10 (Annex A) it was agreed that the
words "regional or", placed in square brackets, should be included
 provisionally to ensure that there would be appropriate collaboration with
regional inter-governmental organizations. It was agreed that the Central
Drafting Committee should be asked to decide whether the words placed in
square brackets or similar words should be retained or whether the term
"inter-governmental organizations" included "regional inter-governmental
organizations", particularly in view of the limited interpretation given to
the term "inter-governmental organization" by Committee I. (See

4. The Working Party considered that the powers of the Organization as
stated in the proposed re-draft of paragraph 2 of Article 10 included the
duty of advising on establishments for technical training necessary for
progressive industrial and general economic development. However to remove
any possible doubt as to the Organization's powers to promote international
agreements for this purpose sub-paragraph (iv) was included in the proposed
re-draft of paragraph (c) of Article 69 (Annex B).

5. The Working Party, being solely concerned with the preamble of paragraph 1
and sub-paragraph (a) of paragraph 1 of New Article 12A proposed by Colombia,
did not take into consideration either the amendments proposed to Article 10
or the proposals of Mexico relating to the establishment of an Economic
Development Committee. Accordingly the proposed re-drafts of Articles 10 and
69 should not be construed to prejudice these amendments.

/ANNEX A
ANNEX A

Article 10 - Paragraph 2

Replace existing text by:

"With a view to promoting industrial and general economic development especially of those countries which are still relatively undeveloped and subject to any arrangements entered into between the Organization and the Economic and Social Council and appropriate inter-governmental organizations, the Organization shall, within its powers and resources, at the request of any Member:

(a) (i) study its natural resources and assist in the formulation of plans for its economic development;
(ii) furnish it with appropriate advice concerning its plans for economic development;
(iii) provide appropriate advice concerning the carrying out of its programmes for economic development;

or (b) assist it to procure such advice or study.

These services are to be provided on terms to be agreed and in such collaboration with regional or/other inter-governmental organizations as will use fully the special competence of each of them."
ANNEX B

Article 69 - Paragraph (c)*

Text to read:
"to undertake studies on, make recommendations for, and promote international bilateral or multi-lateral agreements on, measures designed

(i) to assure .......... enterprises;
(ii) to expand .......... taxation;
(iii) to carry out on a regional or other basis, having due regard to the activities of existing regional or other organizations, the functions specified in paragraph 2 of Article 10;
(iv) to promote and encourage establishments for the technical training that is necessary for progressive industrial and general economic development; and
(v) generally to achieve any of the objectives set forth in Article 1."

* ______ = add to present draft.
ANNEX C

DRAFT RESOLUTION 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 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 of Members are an essential condition for the realization of the purpose stated in Article 1 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 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 of the possibilities of their industrial development, whether general or of 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

   (i) the structure and administrative methods,

   (ii) the working relations with the United Nations, the specialized agencies and other inter-governmental

* If no such Commission is formed, a special committee shall be named.
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 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.

* If no such Commission is formed, a special committee shall be named.
ITALIAN AND URUGUAYAN AMENDMENTS
TO THE FIRST SENTENCE OF PARAGRAPH 1 OF ARTICLE 11
(Page 5 of E/CONF.2/C.2/9)

The amendments to the first sentence of paragraph 1 of Article 11 submitted by Italy and Uruguay to add additional items to the list of facilities required for economic development were referred by Committee II at its eighth meeting for consideration by the Joint Sub-Committee of Committees II and VI. There was considerable agreement in the Committee that manpower and transport facilities are essential technical requirements needed for industrial development. Even though some of the problems associated with manpower were different in kind from those associated with materials, several delegates thought that it could nevertheless be considered a technical requirement and that the inclusion of a mention of transport facilities was justified on the grounds that the process of production was not complete until goods were transported to the place where they were to be sold. The following is suggested as a redraft of the first sentence of paragraph 1 to take account of the Uruguayan and Italian amendments:

"Progressive industrial and general economic development requires, among other things, adequate supplies of capital funds, modern equipment and technology, technical and managerial skills, manpower, raw and other materials, and access to international transport facilities."
AMPENDMENTS RELATING TO RECOMMENDATIONS TO THE BANK, TO FINANCIAL CO-OPERATION BETWEEN GOVERNMENTS AND THE PROVISION OF INFORMATION ON REQUIREMENTS AND AVAILABILITIES OF CAPITAL

1. Two amendments relating to recommendations to the Bank, the first by Turkey to Article 10, paragraph 2, and the second by China to paragraph 1 of Article 11, paragraph 2 of new Article 12A proposed by Colombia relating to recommendations regarding financial co-operation between Governments and an additional paragraph in Article 12 proposed by Chile relating to information as to requirements and availabilities of capital have been referred to the Joint Sub-Committee of Committees II and VI.

2. The Turkish proposal regarding recommendations to the Bank is to add to the end of paragraph 2 of Article 10 the following:

"The Organization shall, in addition, recommend the International Bank for Reconstruction and Development to consider applications for grants of capital made by the economically backward countries".

3. The Chinese proposal is to add to paragraph 1 of Article 11 the words: "The Organization shall implement its advice concerning plans for economic development mentioned in Article 10, paragraph 2 by making recommendations to the International Bank for Reconstruction and Development for financial assistance necessary to the execution of such plans. In so doing, the Organization shall, in accordance with Article 8 and Article 1, paragraph 2, give preferential consideration to those countries which are still in the early stages of industrial development."

4. Paragraph 2 of New Article 12A proposed by Colombia reads as follows:

"Members recognize that in the absence of a normal and adequate flow of private international investments, the action of international agencies of a financial and monetary nature should be contemplated by means of inter-governmental agreements regarding loans for monetary stabilization and economic development. The Organization may formulate recommendations regarding financial co-operation between governments with a view to eliminating or reducing the necessity of using restrictive measures."

5. The additional paragraph in Article 12 proposed by Chile reads as follows:

"The Organization shall establish organs or procedures suitable for the collection and centralization of information regarding the availability and
availability and volume of private capital available and the requirements, conditions and possibilities of the countries requiring such capital, in order to effect contact between capitalists wishing to make investments and enterprises requiring capital and to facilitate and control the operation and application of the provisions of this Article. Local bodies including members of the associations representing industry, trade and banking in the various countries shall serve as liaison organs to facilitate the collection of the information referred to in this Article."

6. Reference is made to the Report of the Working Party No. 1 to the Joint Sub-Committee of Committees II and VI (E/CONF.2/C.76/A/W.2) which includes suggested redrafts of Article 10, paragraph 2 and Article 69, paragraph (c), as well as a draft resolution to be adopted by the Conference. Article 10 as redrafted provides for collaboration between the ITO and the Bank in the provision of advice including advice as to the financing of programmes for economic development and the resolution requires the Interim Commission to report as to the best methods of giving effect to this collaboration. It is understood that it is the intention of the delegation of China to withdraw their amendment if this report is approved by the Joint Sub-Committee. It is suggested that the delegations of Colombia and Chile may be prepared likewise to withdraw their proposals subject to the approval of the report of the Working Party.
During the discussion at the eighth meeting of Committee II on 16 December 1947 the Australian and United States representatives drew attention to the difference between the Italian and Uruguayan amendments and that put forward by Chile to add "stable markets and remunerative prices" to the list of facilities cited in the first sentence of paragraph 1. While the former dealt with technical requirements necessary for production, the latter introduced a type of requirement on the demand side with which Article 11 was not concerned. The representative of Chile expressed the view that it was difficult to separate facilities which would make for production and facilities which would make that production of value in the effort to gain higher standards of living.

The purpose of the first paragraph of Article 11 is to assist underdeveloped countries to obtain technical facilities needed for their economic development and the first sentence constitutes a list of such facilities. The existence of stable markets and remunerative prices generally would appear to depend upon the general state of effective demand which is covered by Chapter II. It is a question therefore whether the Sub-Committee in the light of the provisions of Chapter II considers that this addition to Article 11 is necessary. If it is so desired it would appear preferable to separate the reference to general market considerations from the technical factors with which this Article is primarily concerned. A possible wording would be:

"Progressive industrial and general economic development will be assisted by the maintenance of world-wide economic conditions conducive to the existence of a large and steadily growing demand and of stable prices for goods and services in general but in particular requires such facilities as adequate supplies of capital funds, materials, modern equipment and technology, and technical and managerial skills."
MEXICAN AMENDMENT TO SECOND SENTENCE OF PARAGRAPH I
OF ARTICLE II (Pages 5 and 6 of E/CONF.2/C.2/9).

The Mexican amendment to paragraph 1 of Article II is to delete the present second sentence and to insert an affirmative sentence. "The Members shall make every effort necessary to ensure that the underdeveloped countries are able to obtain on equitable terms the facilities required for their economic development".

During the discussion at the eighth meeting of Committee II, the Mexican representative stated as his main desire that the text should be affirmative. The representative of the United States agreed with the point of view of making the obligations regarding economic development more positive but felt that the Mexican proposal would eliminate a certain balance which had been achieved as between paragraph 1 and paragraph 2. The Mexican amendment would not introduce affirmative language in paragraph 2.

A possible redraft of the second sentence of paragraph 1 laying greater emphasis on the affirmative obligations of Members with regard to the provision of facilities for economic development whilst maintaining a parallel between paragraph 1 and paragraph 2 is given below:

"Accordingly, in order to stimulate and assure the provision of these requirements, Members shall co-operate in accordance with Article 10 in providing or arranging for the provision of such requirements 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 requirements for their economic development".
BURMESE AMENDMENT TO PARAGRAPH 2 OF ARTICLE 11
(Page 8 of E/CONF.2/C.2/9)

The Burmese amendment proposes that "no Member shall take [unreasonable or unjustifiable] action within its territories [injurious] discriminatory to the rights or interests of nationals of other Members....."]*

During the discussion at the eighth meeting of Committee II the representative of Burma made it clear that the intention of his Government was to give equal but not better treatment to foreign investment. He objected to the words "unreasonable and unjustifiable" in conjunction with the words "injurious to the rights or interests of nationals of other Members" because it was difficult to know who should judge in such cases. The insertion of the word "discriminatory" proposed by Burma was strongly objected to by Australia on the grounds that it was necessary to maintain the right of a country to discriminate against foreign investment and that this right was in fact preserved in Article 12. The representative of the United States reserved his position on the Burmese amendment.

It is suggested that if foreign and domestic investment were treated equally, it could reasonably be argued that such treatment would not be "unreasonable or unjustifiable". For this reason it is doubtful whether the change suggested is necessary to protect the Burmese Government.

* [ ] - delete  [ ] - add

/CHILIAN
CHILEAN AMENDMENT TO PARAGRAPH 2 OF ARTICLE 11
(Page 9 of E/CONF.2/C.2/9)

The Chilean amendment is as follows:

"In order to stimulate and assure the provision and exchange of facilities for industrial and general economic development, no Member shall take the Members undertake: (a) to notify the Organization in the event of a shortage of consumer goods or goods essential for the maintenance of established industries and to consult with countries having a substantial interest in the importation of such goods in order to reserve an essential minimum supply for them; (b) to prevent all speculation in consumer goods of vital importance to other Member countries; (c) not to take unreasonable or unjustifiable action within its territories injurious to the rights or interests of nationals of other Members in the enterprise, skills, capital, arts or technology which they have supplied." *

During the discussion at the eighth meeting of Committee II the Australian representative expressed the opinion that there was an uncertainty in the text of sub-paragraph (a). If this sub-paragraph should be interpreted to mean that certain countries would have a prior claim on scarce goods because they have been in the past large buyers, then the small countries whose interest is less substantial would have more difficult access to supplies.

The Brazilian Delegate supported the principle of the Chilean amendment on the ground that it strengthened the position of under-developed countries and thus established a just balance between the under-developed countries and the countries to be reconstructed. The text, however, as it stood was somewhat unclear and he hoped that the Chilean representative would clarify in Sub-Committee some of the obscure points.

The Chilean representative stated that the suggestion that priority should be reserved as regards to sending of certain goods to certain countries was aimed at preventing unnecessary crises.

The United States Delegate stated that, perhaps the Chilean amendment could be re-drafted but at the present time it would not be possible for his

* [ ] = delete
[ ] = add

/delegation
delegation to accept as mandatory the enactment of special legislation concerning the allocation of scarce materials and the fixing of maximum prices.

It would also appear that the Chilean amendment may be in conflict with paragraph 2 (a) of Article 20, which allows a country to impose export prohibitions or restrictions temporarily to prevent or relieve shortages of products essential to the exporting country. Paragraph (b) of the Chilean amendment is very widely drawn. It is suggested that the sense of the limited number of views expressed at the meeting of Committee II was on balance not in favour of the Chilean amendment.
AMENDMENTS RELATING TO RECOMMENDATIONS TO THE BANK, TO FINANCIAL
CO-OPERATION BETWEEN GOVERNMENTS AND THE PROVISION OF
INFORMATION ON REQUIREMENTS AND
AVAILABILITIES OF CAPITAL

1. Two amendments relating to recommendations to the Bank, the first by Turkey to Article 10, paragraph 2, and the second by China to paragraph 1 of Article 11, paragraph 2 of new Article 12A proposed by Colombia relating to recommendations regarding financial co-operation between Governments and an additional paragraph in Article 12 proposed by Chile relating to information as to requirements and availabilities of capital have been referred to the Joint Sub-Committee of Committees II and VI.

2. The Turkish proposal regarding recommendations to the Bank is to add to the end of paragraph 2 of Article 10 the following:

"The Organization shall, in addition, recommend the International Bank for Reconstruction and Development to consider applications for grants of capital made by the economically backward countries".

3. The Chinese proposal is to add to paragraph 1 of Article 11 the words:

"The Organization shall implement its advice concerning plans for economic development mentioned in Article 10, paragraph 2 by making recommendations to the International Bank for Reconstruction and Development for financial assistance necessary to the execution of such plans. In so doing, the Organization shall, in accordance with Article 8 and Article 1, paragraph 2, give preferential consideration to those countries which are still in the early stages of industrial development."

4. Paragraph 2 of New Article 12A proposed by Colombia reads as follows:

"Members recognize that in the absence of a normal and adequate flow of private international investments, the action of international agencies of a financial and monetary nature should be contemplated by means of inter-governmental agreements regarding loans for monetary stabilization and economic development. The Organization may formulate recommendations regarding financial co-operation between governments with a view to eliminating or reducing the necessity of using restrictive measures."

5. The additional paragraph in Article 12 proposed by Chile reads as follows:

"The Organization shall establish organs or procedures suitable for the collection and centralization of information regarding the/availability and
availability and volume of private capital available and the requirements, conditions and possibilities of the countries requiring such capital, in order to effect contact between capitalists wishing to make investments and enterprises requiring capital and to facilitate and control the operation and application of the provisions of this Article. Local bodies including members of the associations representing industry, trade and banking in the various countries shall serve as liaison organs to facilitate the collection of the information referred to in this Article."

6. Reference is made to the Report of the Working Party No. 1 to the Joint Sub-Committee of Committees II and VI (E/CONF.2/C.2&6/A/W.2) which includes suggested redrafts of Article 10, paragraph 2 and Article 69, paragraph (c), as well as a draft resolution to be adopted by the Conference. Article 10 as redrafted provides for collaboration between the ITO and the Bank in the provision of advice including advice as to the financing of programmes for economic development and the resolution requires the Interim Commission to report as to the best methods of giving effect to this collaboration. It is believed that it is the intention of the delegation of China to withdraw their amendment in view of the approval of this report by the Joint Sub-Committee. The Chilean and Colombian delegations may likewise wish to reconsider their amendments in the light of the approval of this report.
The Pakistan Delegation suggests a text for the second sentence of paragraph (1) of Article 11 based on the following principles:

1. The text should be more affirmative.

2. The Members have an obligation and common interest in industrial and general economic development of all countries by virtue of Article 8.

3. Paragraph (1) of Article 10 and substance of paragraph (2) of Article 11 should be the operative principles for fulfilling the obligation.

4. The words "in order to stimulate and assure the provision of these requirements" after the word "Accordingly" as suggested in paper No. 2394 circulated by the Secretariat, occur in paragraph (2) of Article 11 of the Geneva Draft and therefore should not be repeated in paragraph (1) of Article 11.

5. Members requiring facilities for their development should get a fair share of such facilities commensurate with the demands of others in a similar position.

Suggested Text of Second Sentence of Paragraph (1) of Article 11

"Accordingly, recognizing their obligation to promote such development, 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 resources and shall not impose unreasonable or unjustifiable impediments that would prevent other Members from obtaining on equitable terms a fair share of such facilities for their economic development".
The Mexican amendment to the second sentence of paragraph 1 of Article 11 (pages 5 and 6 of E/CONF.2/C.2/9) was referred to Working Party No. 3 at the eleventh meeting of the Joint Sub-Committee of Committees II and VI (E/CONF.2/C.2&6/A/V.3). It was agreed at the meeting of the Working Party on 9 January that the text of the second sentence of paragraph 1 should read as follows:

"Accordingly, in order to stimulate and assist in the provision and exchange of these facilities, 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."

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1. The Peruvian amendment cited in the heading was referred to the Joint Sub-Committee of Committees II and VI at the eighth meeting of Committee II. The purpose of the Peruvian amendment is to implement the obligations contained in paragraph 1 of Article 11. It provides for negotiations at the request of a Member, for sponsorship of negotiations by the Organization and for recourse to Chapter VIII. It establishes a procedure analogous to that established in paragraph 4 of Article 21 and paragraphs 2, 3 and 4 of Article 50 and other places in the Charter. In this way, in the view of the Peruvian Delegation, effective action is provided for.

2. The discussion of this amendment in Committee II was limited. The representative of France felt that the proposal was a reasonable one and deserved consideration in Sub-Committee. The representative of the United States recalled that in the opinion of the legal experts in Geneva the provisions of Chapter VIII applied to all parts of the Charter and did not require specific mention on each occasion. This is also the opinion of the legal advisor of the Secretariat.

3. Sub-paragraph (b) of the additional paragraph proposed by Peru refers to impediments encountered by a Member in obtaining the means of development which are of concern to any inter-governmental agency. According to this sub-paragraph a Member may request in such circumstances that negotiations with the inter-governmental agency concerned be carried out under the auspices of the ITO. In this connection references is made to the communication from the International Bank for Reconstruction and Development (document E/CONF.2/C.2/11) in particular to paragraph III of that document in which the Vice-President of the Bank expresses his views as regards the intervention of another inter-governmental agency in matters arising between the Bank and its Member governments. Certain delegations have indicated that it might not be appropriate to include sub-paragraph (b) of the additional paragraph proposed by Peru, referring to inter-governmental agencies in the Charter. It may also be pointed out that there is ample provision in Article 84 for effective co-operation between the ITO and other inter-governmental agencies.

4. If the Sub-Committee should decide to include a provision with regard to the sponsorship of negotiations by the Organization, the following might be a possible way of doing it: Add a sub-paragraph (iii) to the draft of paragraph 3 of Article 11 as approved by the Joint Sub-Committee of Committee's II and VI (see E/CONF.2/C.2/W.6/A/W.3 and E/CONF.2/C.2/W.6/A/W.6),

/to read as follows:
to read as follows:

"3. The Organization may, in such collaboration with other inter-governmental organizations as may be appropriate, make recommendations for and promote bilateral or multilateral agreement on measures designed:

(i) ...........

(ii) ...........

(iii) to assist Members to give effect to their obligations."
The proposed new Article 11A was referred to the Joint Sub-Committee of Committees II and VI at the eighth meeting of Committee II. The representative of Chile pointed out that the new Article had been drawn up to protect underdeveloped countries from current economic crises from which they had suffered.

The representatives of France and of the United States felt that the proposed new Article imposed a positive obligation on Members, which at the present time could not be assumed by them.

The representative of the United States thought in particular that paragraph 2 contained an absolute commitment by one country to supply credits merely at the request of another country. Although his country had in the past supplied credits for industrial development, it could not assume an obligation in this respect. The representative of Chile indicated a willingness to make changes in paragraph 2.

With regard to paragraph 3 (a) of the new Article regarding the elimination of disparities between the prices of raw materials and prices of manufactured products, the Chairman suggested to Committee II at its eighth meeting that this sub-paragraph might more appropriately be considered either in Committee III dealing with Chapter IV or in Committee V dealing with Chapter VI. However, on the request of the representative of Chile, the whole Article was referred to the Joint Sub-Committee of Committees II and VI. Certain delegations have, however, indicated that this sub-paragraph does not relate solely to economic development and could not easily be incorporated in Chapter III. In this connection attention is also drawn to two amendments submitted by Ecuador dealing with the relationship between the prices of raw materials and manufactured goods. The first of these is to Article 1 and is to be found in E/CONF.2/C.6/12/Add.2 and the second of these is a new Article proposed to be added in Chapter IV in the section on "subsidies" to be found on pages 6 and 7 of E/CONF.2/C.3/8. These amendments are similar in character to paragraph 3 (a) of new Article 11A proposed by Chile.

With regard to paragraph 3 (b) which deals with patents, attention is drawn to the proposal contained in E/CONF.2/C.266/A/W.15 to add an additional sub-paragraph under paragraph 3 (a) in Article 11 as amended with words "to facilitate an equitable distribution of skills, technology, materials and equipment". While this additional sub-paragraph is designed to meet the
Chilean amendment to paragraph 2 of Article 11, the Afghanistan amendment to paragraph 3 of Article 11 and the Pakistan amendment to paragraph 2 of Article 10, "industrial patents" would be included in the term "technology" mentioned in the proposed additional sub-paragraph. Consequently the purpose of paragraph 3 (b) of new Article 11A proposed by Chile may be met by this new text. In this connection attention is also drawn to Article 46 concerning "Studies relating to Restrictive Business Practices" according to which "the Organization is authorized (a) to conduct studies, .... relating to .......... (ii) conventions, laws and procedures concerning, for example, ...... trade marks, copyrights, patents and the exchange and development of technology, in so far as they are relevant to restrictive business practices affecting international trade; ....".
"3. 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 the flow of foreign private investments;
   (iii) to enlarge to the greatest extent possible the benefits accruing to Members from the fulfillment of the obligations under this Article.
   (b) formulate and promote...investment."

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In connection with the proposal of the United States Delegation that paragraph 2 of Article 11 be approved (without prejudice to other amendments connected with it) on the basis of a note, to be inserted in the Sub-Committee's official record, the Working Party has prepared a text for such a note. The Delegate of Mexico participated in the drafting of the note, but reserved his position. The note reads as follows:

It was agreed that

(1) approval of paragraph (2) of Article 11 would in no way prejudice the right of any Delegation to reopen this Article on the basis of such provisions of Article 12 or any other relevant Article of the Charter as may emerge from Sub-Committee discussion;

(2) on the basis of the points raised by the Venezuelan, Colombian and Mexican Delegations, that "national treatment" would be taken as evidence that the treatment did not constitute "unreasonable or unjustifiable" action. However, it was agreed that cases could arise where national treatment could not properly be considered to be reasonable or justifiable;

(3) in interpretation of the words "unreasonable or unjustifiable", in paragraphs 1 and 2 of Article 11, it would be necessary to consider other relevant provisions of the Charter, such as Article 12, and that these words would not be taken to prohibit any action expressly permitted by other Charter provisions.
TEXT OF ARTICLE 11

Taking into account decisions taken by the Joint Sub-Committee of Committees II and VI up to and including the seventeenth meeting on 14 January (additions to and deletions from Geneva Draft are shown by underlining and square brackets respectively).

Article 11

Means of Promoting Economic Development

1. Progressive industrial and general economic development 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, 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.*

2. In order to stimulate and assist in the provision and exchange of facilities for industrial and general economic development, no Member shall take unreasonable or unjustifiable action within its territories injurious to the rights or interests of nationals of other Members in the enterprise, skills, capital, arts or technology which they have supplied.**

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

(a) make recommendations for and promote international 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 the flow of foreign private investments;***

* In addition to the changes indicated what was the first part of the second sentence in the Geneva Draft is the second part in the above text and what was the second part of the second sentence in the Geneva Draft is the first part in the above text.

** No decision yet taken on Mexican proposal to delete this paragraph.

*** Sub-paragraph (ii) agreed at ninth meeting (E/CONF.2/0.266/A/W.6) subject to the problem of discriminatory tax burdens being put on the agenda of the Joint Sub-Committee and being discussed after the Sub-Committee on Article 12 had finished its work.

3340 /{ii} to enlarge
(iii) to enlarge to the greatest extent possible 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) [Including the elaboration and] formulate and promote the adoption of a general agreement or statement of principles as to the conduct, practices and treatment of foreign investment.

* Precise wording proposed by Working Party in accordance with decision in principle at fifteenth meeting (E/CONF.2/C.2/W6/A/M.17).
Add a sub-paragraph (e) to paragraph 4 of E/CONF.2/C.2&6/A/W.15:

"(e) in the light of the note of the Pakistan delegation appearing on page 3 of E/CONF.2/C.2/9 the authority granted to the Organization to make recommendations and promote agreements designed to facilitate an equitable distribution of skills, arts, technology, materials and equipment would enlarge the scope of the co-operation and the assistance which the Organization could give to Members in accordance with Article 10 and would be of assistance to countries which, as envisaged in the Pakistan amendment to Article 10, were having difficulties in obtaining the capital goods, equipment and materials which they required."
Suggested text for inclusion as a new Article in Chapter III or in Chapter IX.

"In the exercise of its functions the Organization shall give consideration to the degree of assistance extended to a Member by other Members, by the Economic and Social Council of the United Nations and by appropriate inter-governmental Organizations"

Notes:

(1) Article 10 (1) requires co-operation to be extended to a Member.

(2) The degree of assistance given to a Member would be relevant to the exercise of its functions by the Organization under paragraph (2), and also in some circumstances to decisions that the Organization may make under other Articles of the Charter e.g. Article 14.

(3) This text is extended to require the Organization to consider the assistance extended to a Member. The Organization would first determine, in its consideration, whether or not such assistance was relevant and if it were would then have regard to that assistance in the exercise of its functions.
1. The Joint Sub-Committee of Committees II and VI was of the opinion that, while it was difficult to be precise at this stage due to the nature of appropriate measures, more equitable and widely spread use of the means to economic development could be achieved by joint action by Members. It seemed desirable, therefore, that it should be made clear that the Organization had the necessary authority, with due respect to the functions and activities of other inter-governmental organizations, to make recommendations for and promote agreements whether bilateral or multilateral to provide for such joint action, if study of the circumstances suggested that such a course were desirable. The Sub-Committee drew attention to the fact that whether any agreements would in fact be concluded was dependent upon the willingness of governments to enter into them and that the scope of such agreements would be dependent upon the discretion of the governments concerned.

2. The Sub-Committee felt that the text approved would enable the Organization to make recommendations and promote international agreements to assist countries encountering difficulties as a result of shortages.

3. The Sub-Committee considered that:

(a) the words "facilitate an equitable distribution" made clear that conditions of "shortage" as stated in the Chilean amendment and condition of "short supply" as stated in the Afghanistan amendment were contemplated, since if supplies were ample the problem of equitable distribution would not arise;

(b) the promotion of an agreement to facilitate an equitable distribution of skills, arts, technology, materials and equipment, was not restricted by the use to which these facilities were put, i.e. if these facilities were essential to established industries as well as to economic development, the Organization could recommend an agreement in appropriate circumstances;

(c) without presuming to judge whether such action would in fact be desirable, the text approved would permit the Organization, if it believed that speculation was affecting the equitable distribution of the facilities referred to in Article 11 and it judged that such action was relevant and appropriate, could recommend and promote agreements between governments providing for measures against speculation;

(d) "industrial
(d) "Industrial patents" would be included in the term "technology", consequently, without prejudice to the discussion in the Sub-Committee of the new Article 11 A proposed by Chile, the purpose of paragraph 3 (b) of that proposal might be met by this amendment.

(e) in the light of the note of the Pakistan Delegation appearing on page 3 of E/CONF.2/0.2/9 the authority granted to the Organization to make recommendations and promote agreements designed to facilitate an equitable distribution of skills, arts, technology, materials and equipment would enlarge the scope of the co-operation and the assistance which the Organization could give to Members in accordance with Article 10 and would be of assistance to countries which, as envisaged in the Pakistan amendment to Article 10, were having difficulties in obtaining the capital goods, equipment and materials which they require.
PROPOSED ARTICLE 12 A

PARAGRAPH 3

SUGGESTION BY AUSTRALIA

Suggested text for inclusion as a new Article in Chapter III or in Chapter IX.

"In the exercise of its functions the Organization shall give consideration to the degree of assistance extended to a Member by other Members, by the Economic and Social Council of the United Nations and by appropriate inter-governmental Organizations"

Notes:

(1) Article 10 (1) requires co-operation to be extended to a Member.

(2) The degree of assistance given to a Member would be relevant to the exercise of its functions by the Organization under paragraph (2), and also in some circumstances to decisions that the Organization may make under other Articles of the Charter e.g. Article 14.

(3) This text is extended to require the Organization to consider the assistance extended to a Member. The Organization would first determine, in its consideration, whether or not such assistance was relevant and if it were would then have regard to that assistance in the exercise of its functions.
<table>
<thead>
<tr>
<th>Chilean Proposal</th>
<th>Effect of Proposal</th>
<th>Comment</th>
<th>Relevant Article</th>
<th>Possible amendment to give effect to purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. (a) Members undertake to facilitate by all means in their power</td>
<td>Meaning is not clear but probably</td>
<td>1. Processing industries would come within &quot;industrial and general economic development&quot; but there may be some purpose in specifying this type of development, which specification may of course bend to limit obligation.</td>
<td>10 (1)</td>
<td>1. Members shall co-operate on promoting industrial and general economic development and in particular the processing locally produced raw materials</td>
</tr>
<tr>
<td>(a) the industrial development of raw materials constituting the basic production of the industrially underdeveloped countries.</td>
<td>1. To place an obligation on Members to help establish industries processing raw materials in the countries where they are produced</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. To require this obligation to be carried out directly not in co-operation</td>
<td>2. The omission of &quot;co-operate&quot; may suggest a right of foreigners to establish industries without the consent of the national government</td>
<td>10 (1)</td>
<td>2. Members shall directly and in co-operation with one another facilitate and promote in promoting</td>
</tr>
<tr>
<td></td>
<td>3. to require the use of &quot;all means in their power.&quot;</td>
<td>3. &quot;by all means in their power&quot; appears to place an absolute obligation on members to facilitate such development irrespective of their own needs and interests or other relevant circumstances. It is doubtful whether any government could accept or implement such an obligation.</td>
<td>10 (1)</td>
<td>3. Members shall...promote by all means in their power industrial and general economic development.</td>
</tr>
</tbody>
</table>

/1. (b) Members undertake
<table>
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<tr>
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</thead>
<tbody>
<tr>
<td>1. (b) Members undertake power</td>
<td>1. to place an obligation on members to help establish and develop industries in underdeveloped countries but</td>
<td>1. This would appear to be provided for in 10 (1) but with the limitations referred to in 2 and 3 above.</td>
<td>10 (1)</td>
<td>1. No amendment necessary.</td>
</tr>
<tr>
<td></td>
<td>2. to limit the industries to which such help must be granted.</td>
<td>2. Is it desirable to require that these conditions be fulfilled in all cases?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. See 2 and 3 above.</td>
<td>3. See 2 and 3 above.</td>
<td>10 (1)</td>
<td>3. See above.</td>
</tr>
<tr>
<td></td>
<td>4. See 2 and 3 above.</td>
<td>4. See 2 and 3 above.</td>
<td>10 (1)</td>
<td>4. See above.</td>
</tr>
<tr>
<td>1. (c) Members undertake to facilitate power</td>
<td>To impose an obligation on Members by all means in their power (e.g. legislative, financial, tariff policies)</td>
<td>Would appear to be an absolute obligation which it is unlikely governments would be prepared to accept. For instance glass is a &quot;key&quot; export for Belgium, fish for Norway, textiles for the United Kingdom, nitrates for Chile but it is unlikely that for example Australia would undertake to facilitate their port</td>
<td></td>
<td>not relevant to Chapter 3.</td>
</tr>
<tr>
<td></td>
<td>1. to facilitate imports from other countries of their key exports.</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td>Would appear to be an absolute obligation which it is unlikely governments would be prepared to accept. For instance glass is a &quot;key&quot; export for Belgium, fish for Norway, textiles for the United Kingdom, nitrates for Chile but it is unlikely that for example Australia would undertake to facilitate their port</td>
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<tr>
<td>2. to facilitate their sale (a) at remunerative prices</td>
<td>irrespective of its own development plans, fiscal requirements, balance of payments, etc. Similarly, the requirement to facilitate sale at remunerative prices would appear to require minimum price legislation. Insofar as this means merely an undertaking to take action designed to maintain good general conditions of demand it would appear to be covered by Chapter 2. If purpose is to emphasize importance of these demand conditions to economic development might be possible to cover this point in a preambulatory phrase at the beginning of Article 11. It should be noted however that the sub-committee previously rejected such a proposal.</td>
<td>Article 11 (l)</td>
<td>Progressive industrial and economic development will be facilitated by the existence in all countries of a large and steadily growing demand for goods both domestic and imported but on particular requires such policies as....</td>
<td></td>
</tr>
<tr>
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</tr>
<tr>
<td>2. Members shall, for this purpose, supply one another in accordance with the provisions of Article 11, paragraph 1, with technical skills, production goods, and the necessary credit.</td>
<td>Places an obligation on Members to supply these requirements, irrespective of their own needs or other circumstances - unless &quot;in accordance with provisions of Article 11, paragraph 1&quot;. Re-introduces qualifications contained in that Article: In the latter case, the effect would appear to be identical with present draft.</td>
<td>It has been made clear that Members cannot accept an absolute obligation to supply.</td>
<td>11 (1)</td>
<td>Progressive industrial facilities. Members shall co-operate in accordance with Article 10 in providing or arranging for provision of supply one another with such facilities within the limits of their power by all means in their power and.........</td>
</tr>
</tbody>
</table>

| 3. (a) The Organization shall study and propose to Members, procedures and measures adequate to: | To place an obligation on the Organization: (a) To study price relationships between raw materials and manufactured goods. (b) To make recommendations to Members. | The Organization has ample power to undertake studies (see 69 (c) (ii)) and (iii)) and to make recommendations when in a report to the Conference or directly (see 69 (d)). The questions are, therefore: 1. Whether it is appropriate to make a specific direction to the Organization to undertake this particular study. 2. Whether such directions should be | 69 (c) | The Organization shall have the following functions: (c) To undertake studies on, make recommendations for, and promote international agreement or measures designed (i) (ii) (iii) progressively to eliminate any unwarranted disparity in the relationship between the prices of |

(a) progressively to eliminate any unwarranted disparity between the prices of raw materials and the prices of manufactured goods. |  |  |  |  |
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<tr>
<td></td>
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<td>should be in the Charter.</td>
<td>Possible amendment to give effect to purpose</td>
</tr>
<tr>
<td></td>
<td></td>
<td>raw materials and manufacturer goods respectively.</td>
<td></td>
</tr>
</tbody>
</table>

If it is thought that a resolution would meet the situation a possible wording:

Whereas, unwarranted disparities on the relationships between the price of raw materials and of manufactured goods can produce serious economic distress in the countries affected.

The United Nations Conference on Trade and Employment resolves

That the Organization shall at an early date study such relationships with a view to presenting to the Conference a report with such recommendations as appear to it appropriate and useful.

/3. (b) The Organization:
Chilean Proposal

3. (b) The Organization shall study measures adequate to facilitate the knowledge, employment and reciprocal use of industrial patents among Member States on fair commercial items.

Effect of Proposal

To place an obligation on the Organization to study and make recommendations and facilitate wider use of technology in the form of industrial patents.

Comment

The purpose would appear to be covered by the proposed amendment to Article 11 (3) (d).

Relevant Article

11 (3) (d)

Possible amendment to give effect to purpose

No further amendment necessary.
TEXT OF ARTICLES 9, 10 AND 11

Taking into account decisions taken by the Joint Sub-Committee of Committees II and IV up to and including the eighteenth meeting on 16 January (additions to and deletions from Geneva Draft are shown by underlining and square brackets respectively).

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 consistent not inconsistent with the other provisions of this Charter.*

Article 10
Co-operation for Economic Development
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 promoting industrial and general economic development.
2. With a view to promoting industrial and general economic development specially of those countries which are still relatively undeveloped and** subject to any arrangements entered into between the Organization and the Economic and Social Council and appropriate inter-governmental organizations, the Organization shall, within its powers and resources, at the request of any Member:
   (a) (i) study its natural resources and assist in the formulation of plans for its economic development.
   (ii) furnish any Member which so requests it with appropriate advice concerning its plans for its economic development;
   (iii) provide appropriate advice concerning the financing and the carrying out of its programmes for economic development;
   or (b) shall assist it to procure such advice or study. Such advice or assistance shall be furnished upon. These services are to be provided on terms to be agreed and in such collaboration with

* The question of the inclusion of the words following the word "productivity" was referred to the Central Drafting Committee.

** It was decided that the Preamble to paragraph 3 should remain in square brackets. It is presumed that for the same reason the Preamble to paragraph 2 should remain in square brackets too.

3512 /Regional or/
The Organization shall upon the same conditions likewise aid members in procuring appropriate technical assistance.

3. With a view to promoting industrial and general economic development especially of those countries which are still relatively undeveloped the Organization shall co-operate fully with the Economic and Social Council of the United Nations and appropriate inter-governmental Organizations on all phases of economic development within their special competence and in particular in respect of finance, equipment, technical assistance and managerial skills.

Article II
Means of Promoting Economic Development

1. Progressive industrial and general economic development 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, 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.

2. In order to stimulate and assist in the provision and exchange of facilities for industrial and general economic development, no Member shall take unreasonable or unjustifiable action within its territories injurious to the rights or interests of nationals of other Members in the enterprise, skills, capital arts or technology which they have supplied.

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

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* It was agreed that the words "regional or" be placed in square brackets pending the decision by the Central Drafting Committee as to the correct interpretation of the words "Inter-governmental Organizations" (E/CN.2/C.2&6/A/W.2).

** It was agreed at the fifteenth meeting of the Joint Sub-Committee that the Preamble should remain in square brackets pending consideration of this amendment by Sub-Committee D of Committee 2 on the footnote to Chapter III on Reconstruction (E/CN.2/C.2&6/A/W.17).

*** In addition to the changes indicated what was the first part of the second sentence in the Geneva Draft is the second part in the above text and what was the second part of the second sentence in the Geneva Draft is the first part in the above text.

**** No decision yet taken on Mexican proposal to delete this paragraph.
(a) make recommendations for and promote international 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 Member country to another;

(ii) to avoid international double taxation in order to stimulate the flow of foreign private investments;*

(iii) to enlarge to the greatest extent possible 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) including the elaboration and formulate and promote the adoption of a general agreement or statement of principles as to the conduct, practices and treatment of foreign investment.

*** The term "nationals" as used in Articles 11 and 12 comprises natural and legal persons.

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* Sub-Paragraph (ii) agreed at ninth meeting (E/CONF.2/C.285/A/W.6) subject to the problem of discriminatory tax burdens being put on the agenda of the Joint Sub-Committee and being discussed after the Sub-Committee on Article 12 had finished its work.

** Precise wording proposed by Working Party in accordance with decision in principle at fifteenth meeting (E/CONF.2/C.285/A/W.17).

*** This paragraph was not yet discussed by the Sub-Committee.
1. The Joint Sub-Committee of Committees II and VI was of the opinion that, while it was difficult to be precise at this stage due to the nature of appropriate measures, more equitable and widely spread use of the means to economic development could be achieved by joint action by Members. It seemed desirable, therefore, that it should be made clear that the Organization had the necessary authority, with due respect to the functions and activities of other inter-governmental organizations, to make recommendations for and promote agreements whether bilateral or multilateral to provide for such joint action, if study of the circumstances suggested that such a course were desirable. The Sub-Committee drew attention to the fact that whether any agreements would in fact be concluded was dependent upon the willingness of governments to enter into them and that the scope of such agreements would be dependent upon the discretion of the governments concerned.

2. The Sub-Committee felt that the text approved would enable the Organization to make recommendations and promote international agreements to assist countries encountering difficulties as a result of shortages.

3. The Sub-Committee considered that:

(a) the words "facilitate an equitable distribution" made clear that conditions of "shortage" as stated in the Chilean amendment and condition of "short supply" as stated in the Afghanistan amendment were contemplated, since if supplies were ample the problem of equitable distribution would not arise;

(b) the promotion of an agreement to facilitate an equitable distribution of skills, arts, technology, materials and equipment, was not restricted by the use to which these facilities were put, i.e. if these facilities were essential to established industries as well as to economic development, the Organization could recommend an agreement in appropriate circumstances;

(c) without presuming to judge whether such action would in fact be desirable, the text approved would permit the Organization, if it believed that speculation was affecting the equitable distribution of the facilities referred to in Article 11 and it judged that such action was relevant and appropriate, could recommend and promote agreements between governments providing for measures against speculation;

(d) "industrial
(d) "industrial patents" would be included in the term "technology", consequently, without prejudice to the discussion in the Sub-Committee of the new Article 11 A proposed by Chile, the purpose of paragraph 3 (b) of that proposal might be met by this amendment.

(e) in the light of the note of the Pakistan Delegation appearing on page 3 of E/CONF.2/C.2/9 the authority granted to the Organization to make recommendations and promote agreements designed to facilitate an equitable distribution of skills, arts, technology, materials and equipment would enlarge the scope of the co-operation and the assistance which the Organization could give to Members in accordance with Article 10 and would be of assistance to countries which, as envisaged in the Pakistan amendment to Article 10, were having difficulties in obtaining the capital goods, equipment and materials which they required.
The United Nations Conference on Trade and Employment recognised, when drafting the Charter for an International Trade Organization, that the inter-dependence of producers of raw materials and producers of manufactured products is a matter of great importance, which should be taken into account when working for the economic recovery and development of Members.

This inter-dependence is clearly brought out, for example, when the prices of consumer goods and goods in current use (such as clothing, tools, foodstuffs, etc.) which are necessary to workers, undergo substantial fluctuations that do not correspond with the fluctuations in the workers' wages, because the product of the labour of certain producers is not subject to price fluctuations parallel with those of the consumer goods or goods in current use which they themselves require.

A breakdown in price equilibrium may result in excessive economic pressure on certain classes of producers, and when this pressure is not sufficiently slow to allow those concerned to adapt themselves to the situation, either by emigration or by change of occupation, it may cause serious social harm and deterioration in the means of production, to the ultimate detriment of all.

On the other hand it became apparent that fixing the relation of prices of different goods, among them those of raw materials and manufactured products, would present very great practical difficulties arising both from incidental fluctuations or the natural development of production conditions for various goods, such as result from the disruptions caused by war, and also from the absence of adequate administrative arrangements in Member countries, calculated effectively to ensure directed distribution of goods and total price control.

For these reasons the Conference did not consider it possible to incorporate in the Charter forthwith, provisions that would have resulted, for Members, in obligations that they would be unable to fulfil. The immediate formulation of such obligations would of necessity be too vague for them to be brought into line with the other obligations of the Charter, and to lead to practical and concrete action.

The Conference nevertheless desires that the Organization should undertake the study of this problem and determine, inter alia, all the various conditions that should be fulfilled in order that it may find a solution.
TEXT OF ARTICLES 9, 10 AND 11

Taking into account decisions taken by the Joint Sub-Committee of Committees II and IV up to and including the nineteenth meeting on 17 January (additions to and deletions from Geneva Draft are shown by underlining and square brackets respectively).

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

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 promoting industrial and general economic development.

2. With a view to promoting industrial and general economic development especially of those countries which are still relatively undeveloped and (c) subject to any arrangements entered into between the Organization and the Economic and Social Council and appropriate inter-governmental organizations, the Organization shall, within its powers and resources, at the request of any Member:

(a) (i) study its natural resources and assist in the formulation of plans for its economic development;

(ii) furnish any Member which so requests it with appropriate advice concerning its plans for economic development;

(iii) provide appropriate advice concerning the financing and the carrying out of its programmes for economic development or assist it to procure such advice or study.

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

/2. With a view
3. With a view to promoting industrial and general economic development especially of those countries which are still relatively undeveloped (c) the Organization shall co-operate fully with the Economic and Social Council of the United Nations and appropriate inter-governmental Organizations on all phases of economic development within their special competence and in particular in respect of finance, equipment, technical assistance and managerial skills.

Article 11

Means of Promoting Economic Development

1. Progressive industrial and general economic development 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, 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 no Member shall 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. (d)

2. In order to stimulate and assure assist in the provision and exchange of facilities for industrial and general economic development, no Member shall take unreasonable or unjustifiable action within its territories injurious to the rights or interests of nationals of other Members in the enterprise, skills, capital arts or technology which they have supplied. (e)

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

(a) make recommendations for and promote international 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 the flow of foreign private investments; (f)

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

(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;

(g) Including
(g) Including the elaboration and formulate and promote the adoption of a general agreement or statement of principles as to the conduct, practices and treatment of foreign investment.

4. The term "nationals" as used in Articles 11 and 12 comprises natural and legal persons. *(h)*

(a) The question of whether it was necessary to include any words after "productivity" was referred to the Central Drafting Committee together with the decision that, if some form of words were required, the words "through measures not inconsistent with the other provisions of this Charter" should be used (E/CONF.2/C.2/25).

(b) It was agreed that the words "regional or" should be included provisionally to ensure that there would be appropriate collaboration with regional inter-governmental organizations. It was agreed that the Central Drafting Committee should be asked to decide whether these or similar words should be retained or whether the term "inter-governmental organizations" included "regional inter-governmental organizations", particularly in view of the limited interpretation given to the term "inter-governmental organization" by Committee I. (See E/CONF.2/C.25/A/W.2 and E/CONF.2/C.1/15.

(c) It was agreed at the fifteenth meeting of the Joint Sub-Committee that the preamble to 10(3) ending with the words "still relatively undeveloped" should be retained provisionally pending consideration of this amendment by Sub-Committee D of Committee II on the footnote to Chapter III on "Reconstruction" (E/CONF.2/C.25/A/W.17). It is presumed that this decision must also apply to the preamble to 10(2).

(d) In addition to the changes indicated what was the first part of the second sentence in the Geneva Draft is the second part in the above text and what was the second part of the second sentence in the Geneva Draft is the first part in the above text.

(e) No decision yet taken on Mexican proposal to delete this paragraph.

(f) Sub-Paragraph (ii) was agreed at ninth meeting of Joint Sub-Committee (E/CONF.2/C.25/A/W.6) subject to the problem of discriminatory tax burdens being put on the agenda of the Joint Sub-Committee and being discussed after Sub-Committee B of Committee II on Article 12 had finished its work.

(g) Precise wording proposed by Working Party in accordance with decision in principle at fifteenth meeting of Joint Sub-Committee (E/CONF.2/C.25/A/W.17).

(h) Mexican proposal to delete this paragraph not yet discussed by the Joint Sub-Committee.
Article 60

Functions

The Organization shall perform the functions provided for elsewhere in this Charter. In addition the Organization shall have the following functions:

(a) ........

(b) ........

(c) ........

(d) ........

(e) ........

(f) in such collaboration with the Economic and Social Council of the United Nations and with other inter-governmental organizations as may be appropriate, to undertake studies on the relationship between world prices of primary commodities and manufactured products, to consider and, where appropriate, to recommend international agreement on, measures designed to reduce progressively any unwarranted disparity in those prices.
Article 69

Functions

The Organization shall perform the functions provided for elsewhere in this Charter. In addition the Organization shall have the following functions:

(a) .......
(b) .......
(c) .......
(d) .......
(e) .......
(f) In such collaboration with the Economic and Social Council of the United Nations and with other inter-governmental organizations as may be appropriate, to undertake studies on the relationship between world prices of primary commodities and manufactured products, to consider and, where appropriate, to recommend international agreement on, measures designed to reduce progressively any unwarranted disparity in those prices.
With reference to the decision of the sixteenth meeting to make an addition to paragraph 3 of Article 11 with regard to the equitable distribution of skills, arts, technology, materials and equipment as indicated in E/CONF.2/C.266/A/18 and the interpretative text approved at the twenty-first meeting (E/CONF.2/C.265/A/24), the Joint Sub-Committee of Committees II and VI expressed the additional opinion that agreements promoted or recommended for adoption under paragraph 3 of Article 11 would not fall within paragraph 4 of Article 74 unless they were of the nature of a general convention. A two-thirds majority in the Conference would accordingly not be required when the Conference recommended them for acceptance. Functions under paragraph 3 of Article 11 would be exercised by the Conference but the Conference could assign these functions to the Executive Board.
TEXT OF ARTICLES 9, 10 AND 11 AND OF PROPOSED RESOLUTION

Taking into account decisions taken by the Joint Sub-Committee of Committees II and IV up to and including the twenty-third meeting on 24 January (additions to and deletions from Geneva Draft are shown by underlining and square brackets respectively).

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 consistent not inconsistent (a) with the other provisions of this Charter.

Article 10
Co-operation for Economic Development

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.

2. With a view to promoting industrial and general economic development and consequently higher standards of living, especially of those countries which are still relatively undeveloped, and subject to any arrangements entered into between the Organization and the Economic and Social Council and appropriate inter-governmental organizations, the Organization shall, within its powers and resources, at the request of any Member:

   (a) (i) study its natural resources and its potentialities for industrial and general economic development and assist in the formulation of plans for such development;
   (ii) furnish any Member which so requests it with appropriate advice concerning its plans for economic development;
   (iii) provide appropriate advice concerning the financing and the carrying out of its programmes for economic development or
   (b) assist it to procure such advice or study.

Such advice or assistance shall be furnished upon These services are to be provided on terms to be agreed and in such collaboration with appropriate regional or (b) other inter-governmental organizations as will use fully the competence of each of them. The Organization shall, upon the same conditions, likewise aid members in procuring appropriate technical assistance.

/3. With a view
3. With a view to promoting industrial and general economic development especially of those countries which are still relatively undeveloped (b) the Organization shall co-operate fully with the Economic and Social Council of the United Nations and appropriate inter-governmental Organizations on all phases of economic development within their special competence and in particular in respect of finance, equipment, technical assistance and managerial skills.

Article 11 (c)

Means of Promoting Economic Development

1. Progressive industrial and general economic development 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, 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.

2. In order to stimulate and assist in the provision and exchange of facilities for industrial and general economic development, no Member shall take unreasonable or unjustifiable action within its territories injurious to the rights or interests of nationals of other Members in the enterprise, skills, capital arts or technology which they have supplied.

3. 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 the flow of foreign private investments;

(iii) to enlarge to the greatest extent possible 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;
(g) Including the elaboration and formulate and promote the adoption of a general agreement or statement of principles as to the conduct, practices and treatment of foreign investment.

4. The term "nationals" as used in Articles 11 and 12 comprises natural and legal persons.

(a) The question of whether it was necessary to include any words after "productivity" was referred to the Central Drafting Committee together with the decision that, if some form of words were required, the words "through measures not inconsistent with the other provisions of this Charter" should be used (E/CONF.2/C.2/25).

(b) It was agreed at the fifteenth meeting of the Joint Sub-Committee that the preamble to 10(3) ending with the words "still relatively undeveloped" should be retained provisionally pending consideration of this amendment by Sub-Committee D of Committee II on the footnote to Chapter III on "Reconstruction" (E/CONF.2/C.226/A/W.17).

(c) At the sixteenth meeting the representative of Mexico reserved his position on the whole of Article 11 until he had seen the final text of Article 12.

(d) In addition to the changes indicated what was the first part of the second sentence in the Geneva Draft is the second part in the above text and what was the second part of the second sentence in the Geneva Draft is the first part in the above text.
The United Nations Conference on Trade and Employment, having considered the problem of the industrial and general economic development 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 of Members are an essential condition for the realization of the purpose stated in Article 1 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 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

(1) the structure and administrative methods,

(ii) the working relations with the United Nations, the specialized agencies and other inter-governmental

* If no such Commission is formed, a special committee shall be named.
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 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.

* If no such Commission is formed, a special committee shall be named.
JOINT SUB-COMMITTEE OF COMMITTEES II AND VI

TEXT OF ARTICLES 9, 10 AND 11 AND OF PROPOSED RESOLUTION

(Draft No. 3: 26 January 1948)

Taking into account decisions taken by the Joint Sub-Committee of Committees II and IV up to and including the twenty-third meeting on 24 January and recommendations made by Working Party No. 3 on 25 January* (additions to and deletions from Geneva Draft are shown by underlining and square brackets respectively).

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 consistent not inconsistent with the other provisions of this Charter.

Article 10

Co-operation for Economic Development

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.

2. With a view to promoting industrial and general economic development and consequently higher standards of living, especially of those countries which are still relatively undeveloped, and subject to any arrangements entered into between the Organization and the Economic and Social Council and appropriate inter-governmental organizations, the Organization shall, within its powers and resources, at the request of any Member:

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

* Working Party No. 3 recommended 2 drafting charges on 25 January:
(1) Second sentence of paragraph 1 of Article 11 to become sub-paragraph (a); paragraph 2 of Article 11 to become sub-paragraph (b) of paragraph 1 thereby making it unnecessary to repeat the words "in order to stimulate and assist in the provision and exchange of these facilities"; paragraph 3 as a consequence to be renumbered paragraph 2. (2) The words "greatest extent possible" in new paragraph 2 (a) (iii) to become "greatest possible extent".

/(ii) furnish
(ii) furnish any Member which so requests it with appropriate advice concerning its plans for economic development;

(iii) provide appropriate advice concerning the financing carrying out of its programmes for economic development, or (b) shall assist it to procure such advice or study.

Such advice or assistance shall be furnished upon These services are to be provided on terms to be agreed and in such collaboration with appropriate regional or (b) other inter-governmental organizations as will use fully the competence of each of them. The Organization shall, upon the same conditions, likewise aid members in procuring appropriate technical assistance.

3. With a view to promoting industrial and general economic development especially of those countries which are still relatively undeveloped (b) the Organization shall co-operate fully with the Economic and Social Council of the United Nations and appropriate inter-governmental Organizations on all phases of economic development within their special competence and in particular in respect of finance, equipment, technical assistance and managerial skills.

Article 11 (c)

Means of Promoting Economic Development

1. Progressive industrial and general economic development 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 (No Member shall) 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. (d)

(b) no Member shall take unreasonable or unjustifiable action within its territories 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 the flow of foreign private investments;

(iii) to enlarge to the greatest possible extent the benefits to Members from the fulfillment 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) [Including the elaboration and] formulate and promote the adoption of a general agreement or statement of principles as to the conduct, practices and treatment of foreign investment.

4. The term "national" as used in Articles 11 and 12 comprises natural and legal persons.

(a) The question of whether it was necessary to include any words after "productivity" was referred to the Central Drafting Committee together with the decision that, if some form of words were required, the words "through measures not inconsistent with the other provisions of this Charter" should be used (E/CONF.2/C.2/25). The Central Drafting Committee agreed that it was necessary to include a form of words and that the words proposed were appropriate (E/CONF.2/C.2 and 6/A/W.28).

(b) It was agreed at the fifteenth meeting of the Joint Sub-Committee that the preamble to 10(3) ending with the words "still relatively undeveloped" should be retained provisionally pending consideration of this amendment by Sub-Committee D of Committee II on the footnote to Chapter III on "Reconstruction" (E/CONF.2/C.26/A/W.17). At its meeting on 25 January Sub-Committee D of Committee II agreed to recommend that the words "together with the reconstruction of those countries whose economies have been devastated" should be placed after the words "still relatively undeveloped" in both paragraphs 2 and 3 of Article 10 and that Committee II should in turn ask the Central Drafting Committee to make such changes at the relevant places in Chapter III so that development and reconstruction are treated on equal terms.

(c) The representative of Mexico reserves his position on paragraphs 1 (b) and 4 of Article 11.

(d) In addition to the changes indicated what was the first part of the second sentence in the Geneva Draft is the second part in the above text and what was the second part of the second sentence in the Geneva Draft is the first part in the above text.
PROPOSED RESOLUTION 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 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 of Members are an essential condition for the realization of the purpose stated in Article 1 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 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

   (i) the structure and administrative methods,

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

* If no such Commission is formed, a special committee shall be named.

/which will enable
which will enable the International Trade Organization most effectively to carry out its positive functions for the promotion of the economic development 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.

* If no such Commission is formed, a special committee shall be named.
1. The Joint Sub-Committee was appointed at the sixth meeting of Committee II and 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. A number of representatives of delegations who were not members of the Sub-Committee attended as observers and in many cases took part in the discussion on particular amendments for which they were primarily responsible or in which they had special interest. Representatives of the International Bank for Reconstruction and Development and of the Food and Agricultural Organization, as well as the Director of the Fiscal Division of the Economic Affairs Department of the United Nations gave their views to the Sub-Committee.

/4. The Sub-Committee
4. The Sub-Committee had held meetings at the date of approval of this report. It examined Articles 9, 10 and 11 and all the amendments and proposals submitted to it in connection with these articles as listed in Annex A in accordance with paragraphs 1 and 3 of its terms of reference. As a result of its examination the Sub-Committee decided to recommend:

(i) revised texts of Articles 9, 10 and 11 as set out in Annex B;

(ii) a resolution to be adopted by the Conference as set out in Annex C; and

(iii) changes in Article 69 as set out in Annex D.

It was agreed that the aforementioned recommendations disposed of all the amendments and proposals listed in Annex A.

5. In accordance with the decision of Committee II at its sixteenth meeting to establish Sub-Committee D to examine and submit recommendations concerning the footnote to Chapter III on "Reconstruction" the Joint Sub-Committee did not consider the question of the inclusion of any reference to reconstruction with respect to any of the changes recommended in Articles 9, 10 or 11.

6. With respect to paragraph 1 (b) of Article 11 the Sub-Committee took the view that "national treatment" would be taken as evidence that the treatment did not constitute "unreasonable or unjustifiable" action. However, it was agreed that cases could arise where national treatment could not properly be considered to be reasonable or justifiable. The Sub-Committee took the view that in interpreting the words "unreasonable or unjustifiable impediments" in paragraph 1 (a) and the words "unreasonable or unjustifiable action within its territories injurious to the rights or interests of nationals of other Members" in paragraph 1 (b), it would be necessary to consider other relevant provisions of the Charter, such as Article 12, and these words would not be taken to prohibit any action permitted by other Charter provisions.
## ANNEX A

**AMENDMENTS AND PROPOSALS SUBMITTED TO JOINT SUB-COMMITTEE**

**IN CONNECTION WITH ARTICLES 9, 10 AND 11**

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* Also E/CONF.2/0.2/9/Add.4/Corr.3
ANNEX B

TEXT OF ARTICLES 9, 10 AND 11 RECOMMENDED

(Additions to and deletions from Geneva Draft are shown by underlining and square brackets respectively)

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 consistent not inconsistent with the other provisions of this Charter.

Article 10

Co-operation for Economic Development

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.

2. With a view to promoting industrial and general economic development and consequently higher standards of living, especially of those countries which are still relatively undeveloped, and subject to any arrangements entered into between the Organization and the Economic and Social Council and appropriate inter-governmental organizations, the Organization shall, within its powers and resources, at the request of any Member:

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

(ii) furnish any Member which so requests it with appropriate advice concerning its plans for economic development and the financing and carrying out of its programmes for economic development;

or (b) assist it to procure such advice or study.

Such advice or assistance shall be furnished upon These services are to 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, upon the same conditions, likewise aid members in procuring appropriate technical assistance.

/3. With a view
3. With a view to promoting industrial and general economic development especially of those countries which are still relatively undeveloped the Organization shall co-operate fully with the Economic and Social Council of the United Nations and appropriate inter-governmental Organizations on all phases of economic development within their special competence and in particular in respect of finance, equipment, technical assistance and managerial skills.

Article 11
Means of Promoting Economic Development

1. Progressive industrial and general economic development 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 [no Member shall] 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 [*]*

(b) no Member shall take unreasonable or unjustifiable action within its territories 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 international 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 the flow of 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

* In addition to the changes indicated what was the first part of the second sentence in the Geneva Draft has become the second part of sub-paragraph (a) and what was the second part of the second sentence in the Geneva Draft has become the first part of sub-paragraph (a).
equipment with due regard to the needs of all Members;

(c) [including the elaboration and] formulate and promote the adoption of a general agreement or statement of principles as to the conduct, practices and treatment of foreign investment.

4. The term "nationals" as used in Articles 11 and 12 comprises natural and legal persons.
ANNEX C

PROPOSED RESOLUTION 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 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 of Members are an essential condition for the realization of the purpose stated in Article 1 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 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 relations with the United Nations, the specialized agencies and other inter-governmental organizations including

* If no such Commission is formed, a special committee shall be named.
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 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.

* If no such Commission is formed, a special committee shall be named.
ANNEX D

RECOMMENDED CHANGES IN ARTICLE 69

(Text of Geneva Draft with recommended additions and deletions indicated by underlining and square brackets respectively)

Article 69

Functions

The Organization shall perform the functions provided for elsewhere in this Charter. In addition the Organization shall have the following functions:

(a) to collect, analyse and publish information relating to international trade, including information relating to commercial policy, business practices, commodity problems and industrial and general economic development;

(b) to encourage and facilitate consultation among Members on all questions relating to the provisions of this Charter;

(c) to undertake studies on, make recommendations for, and promote international bilateral or multilateral agreements on, measures designed

(i) to assure just and equitable treatment for foreign nations and enterprises;

(ii) to expand the volume and to improve the bases of international trade, including measures designed to facilitate commercial arbitration and the avoidance of double taxation;

(iii) to carry out on a regional or other basis, having due regard to the activities of existing regional or other organizations, the functions specified in paragraph 2 of Article 10;

(iv) to promote and encourage establishments for the technical training that is necessary for progressive industrial and general economic development; and

(v) generally to achieve any of the objectives set forth in Article 1,

(a) generally to consult with and make recommendations and, as necessary, furnish advice and assistance to Members regarding any matter relating to the operation of this Charter, and to take any other action necessary and proper to carry out the provisions of this Charter;

(e) to co-operate with the United Nations and inter-governmental organizations in furthering the achievement of the economic and social objectives of the United Nations and the restoration and maintenance of international peace and security;

(/f) in such
(f) in such collaboration with the Economic and Social Council of the United Nations and with other inter-governmental organizations as may be appropriate to undertake studies on the relationship between world prices of primary commodities and manufactured products, to consider and, where appropriate, to recommend international agreement on, measures designed to reduce progressively any unwarranted disparity in those prices.
The following text is proposed in connection with the Colombian amendment (paragraph 3 of new Article 12A) and the Italian amendment with respect to "unfair injury":

"In the exercise of its functions the Organization shall have due regard to the economic circumstances of Members, to the factors affecting those circumstances and to the consequences of its determinations upon the interests of the Member or Members concerned."

The following is proposed as a paragraph of comment to be inserted in the Sub-Committee's report:

"The Sub-Committee agreed that this text would require the Organization, in cases where the economic circumstances of Members were relevant, to give consideration to all of the factors affecting those economic circumstances. Among such factors might be the degree of assistance extended to a Member by other Members or by existing inter-governmental organizations."
ADDENDA TO DRAFT REPORT OF JOÎNT SUB-COMMITTEE OF COMMITTEES
II AND VI ON ARTICLES 9, 10 AND 11 WITH REFERENCE TO
PARAGRAPH 3 OF NEW ARTICLE 12 A PROPOSED BY COLOMBIA

1. Add (iv) in paragraph 4 as follows:
"(iv) inclusion in Chapter IX of the text set out in Annex E."

2. Add paragraph 7 as follows:
"7. With reference to the text recommended to be included in
Chapter IX and set out in Annex E, the Sub-Committee noted that
this text would be acceptable to the Italian delegation in disposing
of the new article proposed by them to be inserted between Articles 69
and 70 (E/CONF.2/C.6/12, page 4) and the amendment submitted by them
to Article 81 (E/CONF.2/C.6/12, page 13).

The Sub-Committee agreed that this text would require the
Organization, in cases where the economic circumstances of Members
were relevant, to give consideration to all of the factors affecting
those economic circumstances. Among such factors might be the degree
of assistance extended to a Member by other Members or by existing
inter-governmental organizations."

3. Add at the end of the draft report Annex E as follows:
"Annex E

Additional Text Recommended to be Included in Chapter 9

"In the exercise of its functions the Organization shall have
due regard to the economic circumstances of Members, to the factors
affecting those circumstances and to the consequences of its
determinations upon the interests of the Member or Members concerned."
The Sub-Committee considered that:

(a) the words "facilitate an equitable distribution" made clear that conditions of "shortage" and conditions of "short supply" were contemplated since if supplies were ample the problem of equitable distribution would not arise;

(b) the promotion of an agreement to facilitate an equitable distribution of skills, arts, technology, materials and equipment, was not restricted by the use to which these facilities were put, i.e. if these facilities were essential to established industries as well as to economic development, the Organization could recommend an agreement in appropriate circumstances;

(c) without presuming to judge whether such action would in fact be desirable, the text approved would permit the Organization, if it believed that speculation was affecting the equitable distribution of the facilities referred to in paragraph 1 and it judged that such action was relevant and appropriate, could recommend and promote agreements between governments providing for measures against speculation;

(d) the authority granted to the Organization to make recommendations and promote agreements designed to facilitate an equitable distribution of skills, arts, technology, materials and equipment would enlarge the scope of the co-operation and the assistance which the Organization could give to Members in accordance with Article 10 and would be of assistance to countries which were having difficulties in obtaining the capital goods, equipment and materials which they required.
The Sub-Committee took the view that measures of a religious, political or moral nature lay outside the scope of the Charter and a decision as to their reasonableness and justifiability lay with the Member applying the measures.
With respect to paragraph 2 (b) of Article 11 the Sub-Committee took the view that, while it was difficult to be precise at this stage as to the nature of appropriate measures, more equitable and widely spread use of the means to economic development could be achieved by joint action by Members. It seemed desirable, therefore, that it should be made clearer that the Organization had the necessary authority, with due respect to the functions and activities of other inter-governmental organizations, to make recommendations for and promote agreements whether bilateral or multilateral to provide for such joint action, if study of the circumstances suggested that such a course were desirable. The Sub-Committee drew attention to the fact that whether any agreements would in fact be concluded was dependent upon the willingness of governments to enter into them and that the scope of such agreements would be dependent upon the discretion of the governments concerned. The Sub-Committee felt that the proposed paragraph 2 (b) would enable the Organization to make recommendations and promote international agreements to assist countries encountering difficulties as a result of shortages.
With respect of paragraph 2 of Article 11 the Sub-Committee took the view that agreements promoted or recommended for adoption under paragraph 3 of Article 11 would not fall within paragraph 4 of Article 74. A two-thirds majority in the Conference would accordingly not be required when the Conference recommended them for acceptance. Functions under paragraph 3 of Article 11 would be exercised by the Conference but the Conference could assign these functions to the Executive Board.
The attention of the Sub-Committee was drawn to constitutional provisions of certain Members requiring that controversies arising out of contracts, to which the state or its subdivisions were parties, be adjudicated in national courts. It was agreed that such constitutional requirements were not in conflict with any of the provisions of the Charter. It was further agreed that any action by the Organization in connection with such situations could be limited to compensatory release of obligations or concessions on the basis of nullification or impairment of a benefit.
DELETION OF ARTICLE 11 (4) OF GENEVA DRAFT

In connection with 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 pointed out 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. It was therefore agreed that the text should be deleted.

The deletion is to be taken as reflecting only the desire of the Committee to make clear that the constitutional provisions referred to are not prejudiced and are outside the scope of the Charter, without on the other hand affecting 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.