SECOND COMMITTEE: ECONOMIC DEVELOPMENT

ARTICLE 13

AMENDED PROCEDURE PROPOSED BY THE BRAZILIAN DELEGATION FOR NON-NEGOTIATED COMMITMENTS INCONSISTENT WITH CHAPTER IV

3. (a) If a Member in the interest of its programme of economic development or reconstruction considers it desirable to adopt any non-discriminatory measure which would conflict with any provision of Chapter IV such applicant Member shall so notify the Organization and shall transmit to the Organization a written statement of the considerations in support of the adoption of the proposed measure.

(b) The Organization shall promptly transmit such statement to the Member or Members which are determined by the Organization to be substantially affected by the proposed measure. The Member or Members thus approached by the Organization shall treat the communication with the utmost confidence and shall transmit their views to the Organization within such period as shall be prescribed by the Organization but which shall be no longer than thirty days. If there should be no objection on the part of the affected Members to the proposed measure, the Organization shall immediately free the applicant Member to apply it.

(c) The Organization shall promptly examine the proposed measure having regard to the provisions of this Charter, to the considerations presented by the applicant Member and its stage of economic development or reconstruction, to the views presented by Members which may be substantially affected, and to the effect which the proposed measure, with or without modifications, is likely to have on international trade and the long run consequences on the standard of living within the territory of the applicant Member. If, as a result of such examination, the Organization concurs in the proposed measure with or without modification, it may release the applicant Member from its obligations under the relevant provisions of Chapter IV subject to such limitations as it may impose.
4. (a) If, having regard to the provisions of paragraphs 3 (c), it is established in the course of such examination that the proposed measure is unlikely to be more restrictive of international trade than any other practicable and reasonable measure permitted under this Charter which could be imposed without undue difficulty and that it is the one most suitable for the purpose having regard to the economics of the industry or branch of agriculture concerned and to the current economic condition of the applicant Member, the Organization shall concur in such measure, with or without modification, and grant such release as may be required to make such measure effective.

(b) If in anticipation of the concurrence of the Organization in the adoption of a measure concerning which notice has been given under paragraph 3 of this Article, there should be an increase or threat in increase in the importations of the product or products concerned, including products which can be directly substituted therefor, so substantial as to jeopardize the plans of the applicant Member for the establishment, development or reconstruction of the industry or industries concerned, or branches of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with, the Organization, adopt such other measures as the situation may require pending a determination by the Organization, provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made under paragraph 3 of this Article.

(i) Should the applicant Member decide to appeal to the Conference under Article 90, paragraph 3, from an adverse ruling of the Organization, it shall be entitled to keep the measure in force pending a decision by the Conference. Whenever the Conference is not in session voting shall take place by cable or by air mail, within such period as shall be prescribed by the Organization.

5. In the case of measures referred to in paragraph 4 of this Article, the Organization shall, at the earliest opportunity but ordinarily within fifteen days after receipt of the statement referred to in paragraph 3 (e) of this Article advise the applicant Member of the date by which it will be notified whether or not it is released from such obligation or obligations as may be relevant; provided that, if the applicant Member does not receive a final reply
final reply within ninety days, it may, after communicating with the Organization, institute the proposed measure.

NOTE: Add a note to Article 13 stating that by the Organization is meant the Executive Board.