Article 14

Transitional Measures

(Text as contained in E/CONF.2/C.2/G/M.13 with additions and deletions proposed by the representative of the United States of America indicated by underlining and square brackets respectively)

1. Any Member may maintain any non-discriminatory protective measure affecting imports which has been imposed for the establishment, development or reconstruction of particular industries or particular branches of agriculture, and which is not otherwise permitted by this Charter; Provided that notification is given of the nature and purpose of such measure and of each product in respect of which it is to be maintained:

(a) in the case of a Member signatory to the General Agreement on Tariffs and Trade Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment in respect of measures in force on 1 September 1947, which were notified to the other signatories to that Final Act not later than 10 October 1947;

(b) in the case of any other Member in respect of measures in force on March 1948, which were notified not later than the date of deposit of its instrument of acceptance of the Charter to the Organization, or, if the Charter has not yet entered into force, to those Governments which have deposited their instruments of acceptance of the Charter signed the Final Act of the United Nations Conference on Trade and Employment.

Any Member maintaining any such measure shall within one month of assuming Membership in the Organization notify it of the measure concerned, the considerations in support of its maintenance and the period for which it wishes to maintain the measure. The Organization shall, as soon as possible, but in any case within twelve months of such Member assuming Membership in the Organization, examine and give a decision concerning the measure as if it had been submitted to the Organization for its concurrence under Article 13.

Date of signature of the Final Act of the United Nations Conference on Trade and Employment.

5709 /2. The provisions
2. The provisions of this Article shall also apply to any such measure adopted by a Member between March 1948* and the date of entry into force of the Charter which is in conformity with the description contained in the provisions of sub-paragraph (a) or (b) of paragraph 4 of Article 13:

(a) any measure approved in accordance with the provisions of Article XVIII of the General Agreement on Tariffs and Trade;

(b) any measure approved in accordance with the provisions of Article XVIII of the General Agreement on Tariffs and Trade in effect at the time this Charter enters into force in effect thereafter, subject to the possibility of review by the Organization in accordance with the provisions of Article 13.

3. This Article shall not be construed to apply to any measure relating to a product in respect of which would be inconsistent with any obligation that the Member has assumed an obligation through negotiations with any other Member or Members of any such obligation.

4. The Organization, in making a decision under this Article specifying a date by which any modification in or withdrawal of the measure is to be made, shall have regard to the possible need of a Member for a suitable period of time in which to make such modification or withdrawal.

* Date of signature of the Final Act of the United Nations Conference on Trade and Employment.
ARTICLE 14

AUSTRALIAN PROPOSAL

Delete the proviso at the beginning of paragraph 1 and sub-paragraphs (a) and (b) and substitute:

"Provided that notification was given by that Member of the nature and purpose of any such measure in force on _March 19__8 and of each product in respect of which it is to be maintained not later than the date of deposit of its instrument of acceptance of the Charter to the Governments which have signed the Final Act of the United Nations Conference on Trade and Employment."

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5731
ARTICLE 14

AMENDMENTS PROPOSED BY IRAQ AND CHINA TO WHITE PAPER 5705

(a) Iraq - Add at the end of sub-paragraph 1 (a) the words "and to the Organization, or, if the Charter has not yet entered into force, to those Governments which have signed the Final Act of the United Nations Conference on Trade and Employment"

(b) China - Delete from paragraph 1 (a) the words "to the other signatories of that Act not later than 10 October 1947" and substitute "to those Governments which have signed the Final Act of the United Nations Conference on Trade and Employment."
In the case of export restrictions imposed for the establishment, development or reconstruction of particular industries or particular branches of agriculture, the Organization shall determine whether the restriction is to be maintained, modified or suspended, applying in this connection the provisions of sub-paragraphs (d), (e), (f) and (g) of paragraph 4 of Article 13.
ARTICLE 14

TRANSITIONAL MEASURES

1. Any Member may maintain any non-discriminatory protective measure affecting imports which has been imposed for the establishment, development or reconstruction of particular industries, or particular branches of agriculture, and which is not otherwise permitted by this Charter; Provided that notification was given of such measure and of each product in respect of which it is to be maintained:

(a) in the case of a Member signatory to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment in respect of measures in force on 1 September 1947, to the other signatories to that Act not later than 10 October 1947;

(b) in the case of any other Member not later than the date of deposit of its instrument of acceptance of the Charter in respect of measures in force at that date or at the date of entry into force of the Charter, whichever is the earlier, to the Organization, or, if the Charter has not yet entered into force, to those Governments which have signed the Final Act of the United Nations Conference on Trade and Employment.

Any Member maintaining any such measure shall within one month of assuming Membership in the Organization notify it of the considerations in support of the maintenance of the measure and the period for which it wishes to maintain it. The Organization shall, as soon as possible, but in any case within twelve months of such Member assuming Membership in the Organization, examine and give a decision concerning the measure as if it had been submitted to the Organization for its concurrence under Article 13.

2. Any measure approved in accordance with the provisions of Article XVIII of the General Agreement on Tariffs and Trade in effect at the time this Charter enters into force may remain in effect thereafter, subject to the possibility of review by the Organization in accordance with the provisions of Article 13.

3. This Article shall not be construed to apply to any measure relating to a product in respect of which the Member has assumed an obligation through negotiations.

4. The Organization, in making a decision under this Article specifying a date by which any modification in or withdrawal of the measure is to be made, shall have regard to the possible need of a Member for a suitable period of time in which to make such modification or withdrawal.
Article 14

Transitional Measures

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

(a) in the case of a Member signatory to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment which is a contracting party to the General Agreement on Tariffs and Trade at the time of its acceptance of this Charter, in respect of measures in force on 1 September 1947, to the other signatories of that Act not later than 10 October 1947 and thereafter as soon as practicable to signatories of the Final Act of the United Nations Conference on Trade and Employment and, when this Charter enters into force, to the Organization;

(b) in the case of any other Member, in respect of measures in force on the date of deposit of the Member's instrument of acceptance of the Charter if it has not yet entered into force or in respect of measures in force at the time the Charter enters into force if the instrument of acceptance is deposited after the Charter enters into force, to signatories of the Final Act of the United Nations Conference on Trade and Employment and, when the Charter enters into force, to the Organization; Provided that any such Member maintaining any such measure shall within one month of assuming Membership in the Organization notify it of the measure concerned, the considerations in support of its maintenance and the period for which it wishes to maintain the measure, and the Organization shall, as soon as possible, but in any case within twelve months of such Member assuming Membership in the Organization, examine and give a decision concerning the measure as if it had been submitted to the Organization for its concurrence under Article 13.

2. Any measure approved in accordance with the provisions of Article XVIII of the General Agreement on Tariffs and Trade in effect at the time this Charter enters into force may remain in effect thereafter, subject to review by the Organization in accordance with the provisions of Article 13.

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

4. The Organization, in making a decision under this Article specifying a date by which any modification in or withdrawal of the measure is to be made, shall have regard to the possible need of a Member for a suitable period of time in which to make such modification or withdrawal.
For inclusion in report on Article 14

With regard to paragraph 1(a) of Article 14, it was agreed that the wording of this sub-paragraph was not intended to prejudice in any way any relevant decision of the Contracting Parties.

6 March 1948
New (b)  

In the case of a signatory to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment which is not a contracting party to the General Agreement on Tariffs and Trade at the time of its acceptance of the Charter, in respect of measures in force on 1 September 1947 or on such other date as may be determined by the Contracting Parties of the General Agreement on Tariffs and Trade as a condition of such Member's becoming a contracting party to that agreement;
ARTICLE 14

TRANSITIONAL MEASURES

1. Any Member other than a Member signatory to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment may maintain any non-discriminatory protective measure affecting imports, imposed for the establishment, development and reconstruction of particular industries or branches of agriculture and not otherwise permitted by this Charter, which is in force on the date, at which the Member deposited its instrument of acceptance of this Charter, or on the date at which the Charter enters into force, whichever is the earlier, provided that, in depositing its instrument of acceptance, the Member notifies the Organization, or if the Charter is not yet in force, the signatories of the Final Act of the United Nations Conference on Trade and Employment, of such measure, of each product in respect of which it is to be maintained, the considerations in support of its maintenance and the period for which the Member wishes it to be maintained.

2. The Organization shall, as soon as possible, but in any case within twelve months of such Member assuming Membership in the Organization, examine and give a decision concerning the measure as if it had been submitted to the Organization for its concurrence under Article 13.

3. The provisions of this Article shall apply to a Member signatory to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, which is not a Contracting Party to the General Agreement on Tariffs and Trade on the date of deposit of its instrument of acceptance of the Charter, in respect of measures in force on 1 September 1947, or on such later date as may be determined by the Contracting Parties to that Agreement prior to such Member becoming a Party to it.

4. Any measure approved in accordance with the provisions of Article XVIII of the General Agreement on Tariffs and Trade in effect at the time this Charter enters into force may remain in effect thereafter, subject to the possibility of review by the Organization in accordance with the provisions of Article 13.

5. This Article shall not be construed to apply to any measure relating to a product in respect of which the Member has assumed an obligation through negotiations.

6. The Organization,
6. The Organization, in making a decision under this Article specifying a
date by which any modification in or withdrawal of the measure is to be
made, shall have regard to the possible need of a Member for a suitable
period of time in which to make such modification or withdrawal.
Article 14

Transitional Measures

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

(a) in the case of a Member signatory to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment in respect of measures in force on 1 September 1947 to the signatories of that Act not later than 10 October 1947 subject to the provisions of paragraph 6 of Article XVIII of the General Agreement on Tariffs and Trade; provided that, if in special circumstances the Contracting Parties to that Agreement agree to other dates than those specified in this sub-paragraph, such other dates shall apply;

(b) in the case of any other Member, in respect of measures in force on the date of deposit of its instrument of acceptance of the Charter or on the date of entry into force of the Charter, whichever is the earlier, in the former case to the signatories of the Final Act of the United Nations Conference on Trade and Employment and in the latter case to the Organization;

provided that any Member other than a Contracting Party to the General Agreement on Tariffs and Trade maintaining any such measure shall within one month of assuming Membership in the Organization notify it of the consideration in support of the maintenance of the measure and the period for which it wishes to maintain it, and the Organization shall, as soon as possible, but in any case within twelve months of such Member assuming Membership in the Organization, examine and give a decision concerning the measure as if it had been submitted to the Organization for its concurrence under Article 13.

2. Any measure approved in accordance with the provisions of Article XVIII of the General Agreement on Tariffs and Trade in effect at the time the Charter enters into force may remain in effect thereafter, subject to the possibility
possibility of review by the Organization in accordance with the provisions of Article 13.

3. This Article shall not be construed to apply to any measure relating to a product in respect of which the Member has assumed an obligation through negotiations.

4. The Organization, in making a decision under this Article specifying a date by which any modification in or withdrawal of the measure is to be made, shall have regard to the possible need of a Member for a suitable period of time in which to make such modification or withdrawal.
The delegate from Brazil indicated that it was his intention to seek an amendment to the G.A.T.T. relating to the position of a signatory to the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment who was unable for some time to apply the provisions of that agreement. It was his intention to ensure that in these circumstances the Contracting Parties could consider an application for new dates to be established and to replace those of 1 September 1947 and 10 October 1947 at present specified in paragraph 6 of Article XVIII.

In order to prevent any decision under the provisions of such an amendment, if it is accepted by the Contracting Parties, being ineffective on the date of coming into force of the Charter the Committee agreed to amend the provisions of paragraph 1 (a) of Article 14.
The Colombian delegation has considered and has expressed it on various occasions that the Charter, as a whole, lacks, when comparing the situation in which it places countries still in an early stage of economic development and that in which it places the most economically advanced countries, that equilibrium which would allow it to be considered as equitable for all nations and consequently acceptable to all of them.

Our reasons to think this are very clear: For various motives, the Charter will preserve certain situations which constitute indubitable privileges in favour of certain groups of countries, such as the maintenance of preferential systems, essentially contrary to the principles of the proposed Agreement. Thus, the Charter contains provisions such as Article 16, under which the elimination of certain existing preferences shall be subject to the same system of negotiations on reciprocal and mutually advantageous bases which is contemplated for the substantial reduction of tariffs, and even provisions such as that contained in point (b) of paragraph 5 of Article 23, which in conjunction with what is provided for in Article 16 and in the Annex referred to in this latter provision, leaves subjected to the same procedure preferential quotas, which, as has been occasionally pointed out by the Colombian delegation, can be considered by the two aspects most contrary to the principles of the Charter, as they are quantitative restrictions of a discriminatory character. Further, certain exceptions to rules and practices established by the Charter are of such a nature that, in practice, they can only be utilized by countries in a high degree of economic advance and fiscal capacity. This is the case, for instance, with some of the exceptions to the rule relating to the complete elimination of quantitative restrictions. For instance, the exception which is contained in point (c) (i) of paragraph 2 of Article 20, refers to restrictions on certain products of agriculture, the domestic production of which is also subject to restriction, and can obviously be useful only to countries in which all factors of production are already being fully utilized. Such exception can certainly not be of any use to countries wishing to increase a limited production. Certain provisions in the Charter relating to Subsidies and State trade will have very much the same effect: They cannot be advantageously applied but by countries which have a very efficient organization or great fiscal resources.

/On the other
On the other hand, the provisions which the Charter contains in the matter of economic development and which are, in principle, directed to promote the advance of undeveloped countries, far from affording, in practice, any adequate compensation to these countries, which would counterbalance the advantages which the Charter ensures for the highly developed countries, are clearly insufficient, as has been maintained not only by the Colombian delegation but also by many other delegations. There is no doubt that, in this matter, some of the amendments and modifications which have been presented in the course of the deliberations and which have so far been considered acceptable tend to modify such situation and would contribute to remedy to some extent that lack of equilibrium. There is not, however, any doubt either that such reforms are few in number and of no real great importance, and in the whole, quite insufficient.

The Colombian delegation has not opposed those provisions in the Charter tending to eliminate or reduce the use of quantitative restrictions in the free and arbitrary manner in which they have hitherto been so frequently and prejudicially used, because we have considered that, with due regard to such provisions, other stipulations in the Charter could be amended in such a way as to allow countries still in an early stage of economic development to provide for the creation of new industries and the maintenance and development of those already existing. It has been precisely to the rules relating in the Charter to economic development that we have thought some modification adequate to this end could be properly introduced. Article 13 of the Chapter relating to this matter recognizes that for the establishment and development of particular industries or particular branches of agriculture governmental assistance in the form of protective measures may be indispensable, and accordingly establishes the conditions in which countries may adopt non-discriminatory measures otherwise contrary to the provisions of Chapter IV, but such conditions are to such an extent restrictive. The measures which a country may propose being subject to an almost arbitrary decision of the Organization and in any case to very long delays, that it can be said that the provisions of the Charter on this point are entirely inadequate to the end to which they are apparently directed.

In accordance with the general considerations, the Colombian delegation suggests that in the redraft of Article 13 (in the part relative to the protective measures that conflict with Chapter IV, but do not conflict with prior commitments) the following should be taken into account:

1. In accordance with the redraft suggested by the Working Group No. 1 for paragraph 2 (a) related to non-discriminatory measures that conflict with prior commitments but not with provisions of Chapter IV; the
Colombian delegation considers that an alternative should be left in this case; that is to say, that the country which is going to apply protective measures can choose between the following:

(a) To ask the prior approval by the Organization.
(b) To adopt such measures subject to subsequent approval or disapproval by the Organization.

In either of the two cases, (a) or (b) the influence that the Organization should have in the matter is not lessened, but the applicant member has the right to choose whatever way it judges more convenient for its interests.

2. The Colombian delegation believes that due consideration should be given to the proposed amendments by the delegations of Cuba and New Zealand to include explicitly the world maintain so that no doubt be possible respecting governmental aid as contemplated in Article 13 could refer only to establishment, development or reconstruction or certain industries or branches of agriculture.

3. The Colombian delegation also believes that the Organization should always approve the measures, when such approval is required, if on the part of one Member there is no opposition in due time.

It is logical that if no Member State opposes the prospective measure it is because such measure does not affect the international trade of the product nor hurts appreciably the interests of any members.

The opposition by a Member or Members should be formulated by those countries that would suffer a substantial injury to their trade if such protective measures were taken.

The Organization should not withdraw its consent in any cases when no opposition to the measure exists by Members, nor should it argue that the measures are opposed in principle or inconvenient or that they are not appropriate for the economic development of the country. In other words, the opposition by a Member is the only cause that allows the Organization to judge if the measures are or are not convenient. It would be illogical to admit that the Organization would interfere with measures that would not jeopardize the economy of any other Member. Every country should be the judge of whether or not the advantages produced by the economic development of his productive capacity would compensate transitory sacrifices that such measures would impose on its own inhabitants.
4. A Member country wishing to oppose a protective measure adopted or to be adopted by another Member should not be allowed to be the judge in the appreciation of the measure or whether the measure is or not the most appropriate way to attain the end pursued, nor if it is regarding the opinion it may have regarding some other forms or branches of industry.

The opposition should only be based on the fact that the protective measure is going to be appreciably injurious to the trade of the opponent member or that such measures would considerably damage the international trade of the product in question. With respect to this last point it would be convenient to determine when a measure would have a real repercussion upon the international situation, and to this respect the only two circumstances that should be taken into account seem to be:

(a) The possibility that such measures would considerably affect the price of the product in the international market; or

(b) The possibility that such measure would aggravate a state of international super-production or aggravate substantial danger of super-production.

5. If another Member opposes the measure on account of any of the two motives above mentioned, the Organization should then study the opposition of the Member taking due account of the Charter as a whole, the economic development of the country concerned, the injury to international trade and the situation of the country or countries that oppose and of that Member which proposes to take the measures.

Therefore, in consequence, if the Conference accepts prior approval by the Organization the procedure could be as follows:

As soon as a country notifies to the Organization that he intends to apply measures, the Organization will give notice to all Members that are substantially interested in the trade of such product.

If within a period of .............. days no country opposes to the measure, the Organization must approve the measures as they were proposed and release the Member from obligations found under the Charter that conflicts with the measures.

The opposition by a Member can only be based on the two above mentioned motives. The opponent member will include with the opposition the appropriate data and evidence to support his attitude.

The Organization must decide taking in account the elements above mentioned. The decision should be taken within ....... days.
Additional Sentence for Insertion after the First Sentence of Paragraph 3 (b) Proposed by the United Kingdom

In reaching this determination the Organization shall have regard to the interests of those Members which supply a large proportion of the imports of the applicant Member in the product concerned, those Members which are substantially interested in world trade in that product and those Members whose economies are substantially dependent on exports of the product.
6. Notwithstanding the provisions in paragraphs 3 and 5, a Member may, under the following circumstances, adopt any non-discriminatory measure which would conflict with any provision of Chapter IV and obtain subsequent approval of the Organization:

(a) When, due to unforeseen circumstances, its programme of economic development or reconstruction gives rise suddenly to a surplus in certain product or products.

(b) When foreign competitors to domestic producers suddenly lower the prices of their products for the purpose of destroying the infant industry or industries of the applicant Member, which lowering of prices does not come within the scope of dumping, or if it does, against which the anti-dumping measures permitted under Article 33 have proved to be ineffective.
There was some discussion as to the proviso at the end of paragraph 4 (b). The representative of China was concerned that there might be a flood of imports in a short period equivalent to normal consumption over a very long period. It was agreed that the text would permit a Member to prohibit entirely or reduce the imports of a product to the extent needed to ensure that, over the whole period following the date of notification of the Member's application, that product was not imported at a rate greater than in the most recent representative period preceding the date of notification.
ARTICLE 13

PROCEDURE FOR MEASURES INCONSISTENT WITH NON-NEGOTIATED COMMITMENTS

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 materially affected by the proposed measure. Such Member or Members shall, within the time limit prescribed by the Organization, inform the Organization whether, in the light of the anticipated effects of the proposed measure on the economy of such Member or Members, there is any objection to the proposed measure. 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) If there be any objections, the Organization shall promptly examine the proposed measure having regard to the provisions of this Charter, to the consideration presented by the applicant Member and its stage of economic development or reconstruction, to the views of the Member or Members determined to be materially affected, and to the effect which the proposed measure, with or without modifications, is likely to have immediately and in the long run on international trade and in the long run on the standard of living within the territory of the applicant Member. If, as a result of such examination, the Organization concurs in the proposed measure, with or without modification, it may release the applicant Member from its obligations under the relevant provision of Chapter IV, subject to such limitations as it may impose.

4. (a) If, having regard to the provisions of sub-paragraph (c) of paragraph 3 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
economic condition of the applicant Member, the Organization shall concur in such measure, and grant such release as may be required to make such measure effective.

4. (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 threatened 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 decision by the Organization on the Member's application, provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made under paragraph 3 of this Article.

5. In the case of measures referred to in paragraph 3 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 (a) 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* within ninety days, it may, after communicating with the Organization, institute the proposed measure.

* It is suggested that if the words "final reply" relate not to a decision taken on appeal by the Conference but to an earlier decision, words such as "by the same organ primarily responsible" or "by the organ competent in the first instance" might be included provisionally.
3. 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 Member shall enter into direct consultations with the Member or Members which, in its judgement, will be materially affected by the measure, with a view to obtaining agreement. Upon complete or substantial agreement being reached, the Member interested in taking the measure shall apply to the Organization for release. The Organization shall promptly examine the application to ascertain whether the interests of all the materially affected Members were duly taken into account. If the Organization reaches this conclusion, with or without further consultations between the Members concerned, it shall grant the applicant Member the release requested; or

(b) Shall request the Organization to grant immediate release for the adoption of the proposed measure. The Organization shall grant release for the application of the proposed measure, with or without modification, provided that it is of the view that a prima facie case has been established that no measure other than the proposed one is more suitable in the circumstances of the particular industry or branch of agriculture and the general economic situation of the applicant Member, and that the proposed measure be taken subject to any possible subsequent representations from any Member or Members which may consider themselves to be adversely and materially affected by it; or

(c) Shall so notify the Organization and shall transmit to it a written statement of the considerations in support of the adoption of the proposed measure.

(i) The Organization shall promptly transmit, etc.

(ii) The Organization shall promptly examine, etc.
ARTICLE 13

PROCEDURE FOR MEASURES INCONSISTENT WITH NON-NEGOTIATED COMMITMENTS

BASED ON FIRST BRAZILIAN SUGGESTION

Taking Into Account Action Taken by Working Party No. 3 of Sub-Committee C of Committee II on 2 February 1948

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 materially affected by the proposed measure. Such Member or Members shall, within the time limit prescribed by the Organization, inform the Organization whether, in the light of the anticipated effects of the proposed measure on the economy of such Member or Members, there is any objection to the proposed measure. 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) If there be any objections, the Organization shall promptly examine the proposed measure having regard to the provisions of this Charter, to the consideration presented by the applicant Member and its stage of economic development or reconstruction, to the views of the Member or Members determined to be materially affected, and to the effect which the proposed measure, with or without modifications, is likely to have immediately and in the long run on international trade and in the long run on the standard of living within the territory of the applicant Member. If, as a result of such examination, the Organization concurs in the proposed measure, with or without modification, it may release the applicant Member from its obligations under the relevant provision of Chapter IV, subject to such limitations as it may impose.

4. (a) If, having regard to the provisions of sub-paragraph (c) of paragraph 3 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.
economic condition of the applicant Member, the Organization shall concur in such measure, 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 threatened 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 decision by the Organization on the Member's application, provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made under paragraph 3 of this Article.

5. In the case of measures referred to in paragraph 3 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 (a) 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. This date shall be not more than ninety days subsequent to the receipt of such statement; provided that, if before the date set, unforeseen difficulties arise, the period may be extended after consultation and agreement with the applicant Member. If the applicant Member does not receive such decision by the date set, it may after informing the Organization, institute the proposed measure.

Notes:

(a) It was agreed that paragraph 2 (b) of text regarding negotiated commitments approved by Sub-Committee C at Tenth Meeting (see E/CONF.2/C.2/L/11.9) should be made applicable to non-negotiated commitments and inserted at an appropriate place with the following words:

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

(b) With reference to the proviso at the end of paragraph 4 (b) it was agreed to insert the following in the report of the Working Party:

"There was some discussion as to the proviso at the end of paragraph 4 (b). The representative of China was concerned that /there might be
there might be a flood of imports in a short period equivalent to normal consumption over a very long period. It was agreed that the text would permit a Member to prohibit entirely or reduce the imports of a product to the extent needed to ensure that, over the whole period following the date of notification of the Member's application, that product was not imported at a rate greater than in the most recent representative period preceding the date of notification.

The Chinese representative reserved the right to raise the matter again in Sub-Committee.

(c) The representative of the United Kingdom reserved his position as regards the words "and agreement" in the eighth and ninth lines of paragraph 5.
5. (a) The Organization shall concur in any proposed measure and grant such release as may be required to make such measure effective whenever the applicant Member can prove any one of the following circumstances:

(i) that the proposed measure refers to the achievement of a plan of economical development already in operation at the date on which the Final Act of the Conference on Trade and Employment is signed, provided the production of the product to which the proposed measure will be applied has been expressly contemplated in such plan;

(ii) that the proposed measure is directed to protect an industry which constitutes the traditional occupation of important groups of population in the applicant country;

(iii) that the proposed measure refers to the protection of an industry for the transformation of mineral products existing in the territory of the applicant country;

(iv) that the internal demand has been reduced to such an extent as to constitute a serious threat of unemployment in the applicant country in the field of the industry or economical activity to which the proposed measure refers;

(v) that the proposed measure will not reduce imports of the product concerned below the level in any representative period selected in the manner provided for in paragraph 4 or Article 22.

(b) Countries imposing measures under this paragraph shall as much as possible avoid causing unnecessary damage to the interests of any other Members countries, and shall periodically report to the Organization regarding the application of such measures. The Organization may at any time make recommendations as to the manner in which any such damages can be avoided.

(c) Nothing in this paragraph shall prevent that the Organization may authorize protective measures in cases other than those contemplated in this provision.
The question was raised with reference to paragraph 3 (b) as to the meaning of the words "materially affected". It was agreed that this term would not be restricted to those countries, which in the past had been the principal suppliers and that it would be proper for the Organization to have regard, for instance, to the interests of those Members which supplied a large proportion of the imports of the applicant Member in the product concerned, those Members which were substantially interested in exporting the product to world markets and those Members, whose economies were materially dependent on exports of the product.
REPORT BY CHAIRMAN OF SUB-COMMITTEE C OF COMMITTEE II
ON ARTICLES 13 AND 14 TO CO-ORDINATING COMMITTEE

1. After general discussion of Article 13 of the Geneva Draft in the
Sub-Committee paragraph 1 was left to be considered later. The Sub-Committee
then considered the procedure for measures in conflict with negotiated
commitments but not inconsistent with non-negotiated commitments, i.e. with
other provisions of Chapter IV. In relation to these measures the Sub-
Committee has approved a procedure set out on pages 2 and 3 of
E/CONF.2/C.2/C/W.9 (Annex A). The Sub-Committee then considered measures in
conflict with non-negotiated commitments and referred the question to Working
Party No. 3. These are the difficult cases and if agreement could be reached
on them the problem could be considered settled. If a procedure were worked
out for measures in conflict with non-negotiated commitments, it would however
still be necessary to consider the procedure appropriate to measures which
were in conflict with both negotiated and non-negotiated commitments.

2. Working Party No. 3 has worked out a procedure under Article 13 for
dealing with non-negotiated commitments starting from suggestions originally
put forward by the representative of Brazil. This procedure has been worked
out on a personal basis and without committing the delegations concerned.
The representative of Mexico in particular has reserved his position as
regards the commitments with which this procedure might be concerned. The
procedure is set out in Annex B.

3. At the meeting of the Working Party on 30 January the representative of
China suggested two cases in which subsequent approval should be substituted
for prior approval and on 4 February the representative of Colombia suggested
cases in which the Organization would be required to concur in and grant
release from obligations with respect to measures proposed in accordance with
the procedure set out in Annex B. The suggestions of the representatives of
China and Colombia are set out respectively in Annexes C and D.

4. At the meeting of the Working Party on 4 February the representative of
Mexico emphasized that in his view the procedure set out in Annex B should
not be applicable to quantitative restrictions, unless the exceptions to
quantitative restrictions allowed under paragraph 2 of Article 20 with respect
to agricultural or fisheries products were submitted to the same procedure.
If, on the other hand, paragraph 2 of Article 20 were retained in its
present form, then he wished an equilibrium to be established and he wanted
quantitative restrictions for economic development to be capable of being
imposed on the same terms as quantitative restrictions under paragraph 2 of
Article 20. It was however agreed to leave this matter for discussion later
and to take
and to take up the suggestions of the representatives of Colombia and China.

5. It was decided that the suggestions raised by the representatives of Colombia, China and Mexico should be examined first. If no agreement could be reached either on the basis of the procedure already worked out and set out in Annex B or on the basis of the Colombian, Chinese or Mexican suggestions, then further suggestions listed in Annex E might be considered. These suggestions are to give an applicant Member three alternative possibilities of action - (a), (b) and (c) - of which (c) is the procedure already worked out and set out in Annex B.
ANNEX A
(See Pages 2 and 3)

SECOND COMMITTEE: ECONOMIC DEVELOPMENT

SUB-COMMITTEE C ON ARTICLES 13 AND 14

NOTES ON THE TENTH MEETING

Held at the Capitol, Havana, Cuba, on Wednesday, 28 January 1948 at 3.00 p.m.

Chairman: Mr. GUTIERREZ (Cuba)


The United Kingdom representative proposed the following sentence to be inserted at the end of the third sentence of paragraph 2 (c): "Such measures shall in any case be terminated as soon as the re-negotiations are completed or discontinued."

The representative of Mexico proposed that the words "the Organization determines that" be inserted before the words "the re-negotiations" in the United Kingdom amendment.

The representative of China proposed the substitution of the phrase "preceding the date on which the Member initiated action under this paragraph" for the words "preceding the date on which the Member's original notification was made under sub-paragraph (a) of this paragraph" in paragraph 2 (c).

The United States representative proposed that the words "sub-paragraph (a) of" be inserted before the words "this paragraph" in the Chinese amendment.

Paragraph 2 (c) as amended by the representatives of the United Kingdom, Mexico, China and the United States was approved by the Sub-Committee.

The Sub-Committee also agreed with the conclusion reached by the Working Party that the decision of the Sub-Committee established by the Sixth Committee to consider Chapter VIII of the Charter, as set out in document E/CONF.2/C.6/L9, met the purpose of the Cuban proposed amendment to paragraph 2 (a) (11).

Paragraph 2 (a) and (b) of Article 13, as approved by the Sub-Committee at its Sixth Meeting, with the addition of paragraph (c), would thus read as follows:

"2. (a) If a
"2. (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 obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, but which would not conflict with the provisions of that Chapter, such Member

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

(ii) shall initially or may in the event of failure to reach agreement under sub-paragraph (i) above apply to the Organization. The Organization shall determine, from among Members which have contractual rights, the Member or Members materially affected by the proposed measure and shall sponsor negotiations between the applicant Member and these Members with a view to obtaining expeditious and substantial agreement.

The Organization shall establish and communicate to the Members concerned a time schedule for such negotiations, following as far as practicable any time schedule which may have been proposed by the applicant Member. The Members shall commence and proceed continuously with such negotiations in accordance with the time schedule laid down by the Organization. At the request of a Member the Organization may, where it concurs in principle with the proposed measure, assist in the negotiations. Upon substantial agreement being reached, the applicant Member may be released by the Organization from the obligation referred to in this paragraph, subject to such limitations as may have been agreed upon in the negotiations between the Members concerned.

(b) The Organization and the Members concerned shall preserve the utmost confidence in respect of matters arising under this paragraph.

(c) If as a result of action initiated under this paragraph, there should be an increase in the importations of the product or products concerned, including products which can be directly substituted therefor, which if continued would be so great as to jeopardize substantially
substantially the plans of the applicant Member for the establishment, development or reconstruction of the industry, industries 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 provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this sub-paragraph. Except in unusual circumstances such measures shall not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member initiated action under sub-paragraph (a) of this paragraph. The Organization shall determine, as soon as practicable, whether such measures should be continued, discontinued or modified. Such measures shall in any case be terminated as soon as the Organization determines that the re-negotiations are completed or discontinued. It is recognized that the contractual relationships referred to in sub-paragraph (a) of this paragraph involve reciprocal advantages, and therefore any other Member with whose contractual rights such action conflicts and whose trade is materially affected by the action, may suspend the application to the trade of such Member of such substantially equivalent obligations or concessions under Chapter IV, the suspension of which the Organization does not disapprove. Any Member intending to suspend such application shall consult the Organization before doing so."
ANNEX B

ARTICLE 13

PROCEDURE FOR MEASURES INCONSISTENT WITH NON-NEGOTIATED COMMITMENTS

BASED ON SUGGESTIONS MADE BY THE REPRESENTATIVE OF BRAZIL AS WORKED OUT BY WORKING PARTY NO. 3 OF SUB-COMMITTEE C OF COMMITTEE II UP TO AND INCLUDING 4 FEBRUARY 1948

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 materially affected by the proposed measure. Such Member or Members shall, within the time limit prescribed by the Organization, inform the Organization whether, in the light of the anticipated effects of the proposed measure on the economy of such Member or Members, there is any objection to the proposed measure. 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) If there be any objections, the Organization shall promptly examine the proposed measure having regard to the provisions of this Charter, to the consideration presented by the applicant Member and its stage of economic development or reconstruction, to the views of the Member or Members determined to be materially affected, and to the effect which the proposed measure, with or without modifications, is likely to have immediately and in the long run on international trade and in the long run on the standard of living within the territory of the applicant Member. If, as a result of such examination, the Organization concurs in the proposed measure, with or without modification, it may release the applicant Member from its obligations under the relevant provision of Chapter IV, subject to such limitations as it may impose.

4. (a) If, having regard to the provisions of sub-paragraph (c) of paragraph 3 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...
economic condition of the applicant Member, the Organization shall concur in such measure, and grant such release as may be required to make such measure effective.

4. (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 threatened increase in the importations of the product or products concerned, including products which can be directly substituted therefore, 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 decision by the Organization on the Member's application, provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made under paragraph 3 of this Article.

5. In the case of measures referred to in paragraph 3 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 (a) 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. This date shall be not more than ninety days subsequent to the receipt of such statement; provided that, if before the date set, unforeseen difficulties arise, the period may be extended after consultation and agreement with the applicant Member. If the applicant Member does not receive such decision by the date set, it may after informing the Organization, institute the proposed measure.

Notes:

(a) It was agreed that paragraph 2 (b) of text regarding negotiated commitments approved by Sub-Committee C at Tenth Meeting (see E/CW/2/C.2/2/4/7/9) should be made applicable to non-negotiated commitments and inserted at an appropriate place with the following words:

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

(b) With reference to the proviso at the end of paragraph 4 (b) it was agreed to insert the following in the report of the Working Party:

"There was some discussion as to the proviso at the end of paragraph 4 (b). The representative of China was concerned that /there might be
there might be a flood of imports in a short period equivalent to normal consumption over a very long period. It was agreed that the text would permit a Member to prohibit entirely or reduce the imports of a product to the extent needed to ensure that, over the whole period following the date of notification of the Member's application, that product was not imported at a rate greater than in the most recent representative period preceding the date of notification. The Chinese representative reserved the right to raise the matter again in Sub-Committee.

(c) The representative of the United Kingdom reserved his position as regards the words "and agreement" in the eighth and ninth lines of paragraph 5.
ANNEX C

SUGGESTION OF CHINESE DELEGATION TO WORKING PARTY No. 3 OF SUB-COMMITTEE C

30 JANUARY 1948

6. Notwithstanding the provisions in paragraphs 3 and 5, a Member may, under the following circumstances, adopt any non-discriminatory measure which would conflict with any provision of Chapter IV and obtain subsequent approval of the Organization:

(a) When, due to unforeseen circumstances, its programme of economic development or reconstruction gives rise suddenly to a surplus in certain product or products.

(b) When foreign competitors to domestic producers suddenly lower the prices of their products for the purpose of destroying the infant industry or industries of the applicant Member, which lowering of prices does not come within the scope of dumping, or if it does, against which the anti-dumping measures permitted under Article 33 have proved to be ineffective.
ANNEX D

ARTICLE 13

PROCEDURE FOR MEASURES INCONSISTENT WITH NON-NEGOTIATED COMMITMENTS

ADDITIONAL PARAGRAPH PROPOSED BY REPRESENTATIVE OF COLOMBIA FOR INSERTION AFTER PARAGRAPH 4

5. (a) The Organization shall concur in any proposed measure and grant such release as may be required to make such measure effective whenever the applicant Member can prove any one of the following circumstances:

(i) that the proposed measure refers to the achievement of a plan of economical development already in operation at the date on which the Final Act of the Conference on Trade and Employment is signed, provided the production of the product to which the proposed measure will be applied has been excessively contemplated in such plan;

(ii) that the proposed measure is directed to protect an industry which constitutes the traditional occupation of important groups of population in the applicant country;

(iii) that the proposed measure refers to the protection of an industry for the transformation of mineral products existing in the territory of the applicant country;

(iv) that the internal demand has been reduced to such an extent as to constitute a serious threat of unemployment in the applicant country in the field of the industry or economical activity to which the proposed measure refers;

(v) that the proposed measure will not reduce imports of the product concerned below the level in any representative period selected in the manner provided for in paragraph 4 or Article 22.

(b) Countries imposing measures under this paragraph shall as much as possible avoid causing unnecessary damage to the interests of any other Members countries, and shall periodically report to the Organization regarding the application of such measures. The Organization may at any time make recommendations as to the manner in which any such damages can be avoided.

(c) Nothing in this paragraph shall prevent that the Organization may authorize protective measures in cases other than those contemplated in this provision.
ANNEX E
ARTICLE 13
PROCEDURE FOR MEASURES INCONSISTENT WITH NON-NEGOTIATED COMMITMENTS
SUGGESTIONS AS TO ALTERNATIVE PROCEDURES

3. 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 Member

(a) Shall enter into direct consultations with the Member or Members which, in its judgment, will be materially affected by the measure, with a view to obtaining agreement. Upon complete or substantial agreement being reached, the Member interested in taking the measure shall apply to the Organization for release. The Organization shall promptly examine the application to ascertain whether the interests of all the materially affected Members were duly taken into account. If the Organization reaches this conclusion, with or without further consultations between the Members concerned, it shall grant the applicant Member the release requested; or

(b) Shall request the Organization to grant immediate release for the adoption of the proposed measure. The Organization shall grant release for the application of the proposed measure, with or without modification, provided that it is of the view that a prima facie case has been established that no measure other than the proposed one is more suitable in the circumstances of the particular industry or branch of agriculture and the general economic situation of the applicant Member, and that the proposed measure be taken subject to any possible subsequent representations from any Member or Members which may consider themselves to be adversely and materially affected by it; or

(c) Shall so notify the Organization and shall transmit to it a written statement of the considerations in support of the adoption of the proposed measure.

(i) The Organization shall promptly transmit, etc.

(ii) The Organization shall promptly examine, etc.
Delete the proviso at the end of sub-paragraph (d) and insert at the end of the paragraph:

"and provided that the Organization shall not concur in or grant release in respect of any measure, which has the purpose of promoting the establishment or development of any industry engaged in the manufacture of any product, which can be directly substituted for a primary commodity the export of which is of great importance to any Member."
1. The Committee for Economic Development and Reconstruction shall be initially responsible for the economic development and reconstruction aspects of the functions of the Organization which have been assigned or may be delegated to the Executive Board including:

(a) the supervision in the field of economic development and reconstruction of the work of:
   (i) any commission established under Article 79 to deal with economic development or reconstruction;
   (ii) the Director-General and staff;
   (b) the co-ordination of the work of the Organization with other inter-governmental organizations in the field of economic development and reconstruction.

2. The Committee for Economic Development and Reconstruction shall consist of sixteen members selected by the Executive Board, of whom ten shall be selected from the membership of the Board and six from the Members who are not members of the Board. In selecting the members of the Committee for Economic Development and Reconstruction, the Executive Board shall try to ensure that Members at various stages of economic development and reconstruction are adequately represented to achieve a reasonable balance between them.

3. The activities of the Committee for Economic Development and Reconstruction shall be subject to supervision and review by the Executive Board.
## ANNEX A

### AMENDMENTS SUBMITTED TO ARTICLES 13 AND 14

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(a) Initial symbol E/CONF.2 omitted
(b) See also E/CONF.2/C.2/9/Add.4/Corr.3
(c) See E/CONF.2/C.2/6/Add.23

/ARTICLE 14
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(a) Initial symbol E/CONF.2/ omitted
(b) See also E/CONF.2/C.2/9/Add.4/Corr.3
(c) See E/CONF.2/C.2/6/Add.23
(d) See E/CONF.2/C.2/9/Add.1
ARTICLE 13

GOVERNMENTAL ASSISTANCE TO ECONOMIC DEVELOPMENT

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

2. If a Member in the interest of its economic development or reconstruction considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, but which would not conflict with the provisions of that Chapter, such Member (a) shall enter into direct negotiations with all the other Members which have contractual rights with a view to obtaining agreement. The Members shall be free to proceed in accordance with the terms of any such agreement, provided that the Organization is informed of the results of the negotiations; or (b) shall initially or may, in the event of failure to reach agreement under sub-paragraph (a) above, apply to the Organization. The Organization shall determine, from among Members which have contractual rights, the Member or Members materially affected by the proposed measure and shall sponsor negotiations between the applicant Member and these Members with a view to obtaining expeditious and substantial agreement. The Organization shall establish and communicate to the Members concerned a time schedule for such negotiations, following as far as practicable any time schedule which may have been proposed by the applicant Member. The Members shall commence and proceed continuously with such negotiations in accordance with the time schedule laid down by the Organization. At the request of a Member the Organization may, where it concurs in principle with the proposed measure, assist in the negotiations. Upon substantial agreement being reached, the applicant Member may be released by the Organization.
from the obligation referred to in this paragraph, subject to such limitations as may have been agreed upon in the negotiations between the Members concerned.

3. If as a result of action initiated under paragraph 2 above, there should be an increase in the import of the product or products concerned, including products which can be directly substituted therefor, which if continued would be so great as to jeopardize substantially the plans of the applicant Member for the establishment, development or reconstruction of the industry, industries 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; Provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this paragraph. Except in unusual circumstances, such measures shall not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member initiated action under paragraph 2. The Organization shall determine, as soon as practicable, whether such measures should be continued, discontinued or modified. Such measures shall in any case be terminated as soon as the Organization determines that the renegotiations are completed or discontinued. It is recognized that the contractual relationships referred to in paragraph 2 involve reciprocal advantages, and therefore any other Member which has a contractual right in respect of the product to which such action relates, and whose trade is materially affected by the action, may suspend the application to the trade of such Member of such substantially equivalent obligations or concessions under Chapter IV, the suspension of which the Organization does not disapprove. Any Member intending to suspend such application shall consult the Organization before doing so.

4. In the case of any non-discriminatory measure affecting imports which would conflict not only with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, but also with the provisions of that Chapter, the provisions of paragraph 2 (b) shall apply; Provided that before granting a release the Organization shall afford adequate opportunity for all Members which it determines to be materially affected to express their views. The provisions of paragraph 3 shall also be applicable in this case.

5. If a Member in the interest of its economic development or reconstruction considers
considers it desirable to adopt any non-discriminatory measure affecting
imports which would conflict with any provision of Chapter IV, but would
not conflict with any obligation which the Member has assumed through
negotiations with any other Member or Members pursuant to Chapter IV,
such applicant Member

(a) shall initially or may, in the event of failure of the Organization
to concur in the proposed measure under paragraph 6 below, enter into
direct consultations with the Member or Members which, in its judgment,
will be materially affected* by the measure, with a view to obtaining
agreement. At the same time, the Member shall inform the Organization
of the proposed measure and of the consultations relative thereto
in order to afford the Organization an opportunity to determine
whether all materially affected Members are included within such
consultations. Upon complete or substantial agreement being reached,
the Member interested in taking the measure shall apply to the
Organization for release. The Organization shall promptly examine
the application to ascertain whether the interests of all the
materially affected Members were duly taken into account. If the
Organization reaches this conclusion, with or without further
consultations between the Members concerned, it shall release the
applicant Member from its obligations under the relevant provision
of Chapter IV, subject to such limitations as it may impose; or
(b) shall initially or may, in the event of failure to reach
complete or substantial agreement under sub-paragraph (a) above,
apply to the Organization and transmit to it a written statement
of the considerations in support of the adoption of the proposed
measure.

6. In the case of measures to which the provisions of paragraph 5 (b)

* Text proposed by United Kingdom to be inserted in Report:

The question was raised with reference to paragraphs 5 (a) and 8 as
to the meaning of the words "materially affected". It was agreed that this
term would not be restricted to those countries, which in the past had been
the principal suppliers and that it would be proper for the Organization
to have regard, for instance, to the interests of those Members which
supplied a large proportion of the imports of the applicant Member in the
product concerned, those Members which were substantially interested in
exporting the product to world markets and those Members, whose economies
were materially dependent on exports of the product.
apply the Organization shall concur in the proposed measure and grant release
from the appropriate provision of Chapter IV for a specified period if,
having particular regard to the applicant Member's need for economic
development or reconstruction, it is established that the measure

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

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

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

(d) is unlikely to be more restrictive of international trade than any
other practicable and reasonable measure permitted under this Charter.

* Text to appear in Report: The Chinese delegation has expressed some doubt
about the meaning of the word "processing" which appears in (b) and (c) of
paragraph 6. It was agreed that the word "processing" meant the treatment
of a primary commodity in the production of semi-manufactured and
manufactured articles; it would not refer to highly developed industrial
processes such as the manufacture of precision instruments.

** Text to appear in Report: It was agreed that "international trade"
as cited in paragraph 4 (c) meant international trade in general
and not trade in the specific product to which the measure
related.
which could be imposed without undue difficulty and is the one most suitable for the purpose having regard to the economies of the branch of industry or agriculture concerned and to the applicant Member's need for economic development or reconstruction.

Provided that

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

(11) The Organization shall not concur in any measure under the provisions of sub-paragraphs (a), (b) or (c) which is likely to cause serious prejudice to exports of a primary commodity on which the economy of another Member is largely dependent.

7. The applicant Member shall apply all measures to which the provisions of paragraph 6 apply in such a way as to avoid unnecessary damage to the commercial or economic interests of any other Member.

8. If the proposed measure does not fall within the provisions of paragraph 5 (a) or 6 the Organization shall promptly transmit the statement submitted by the applicant Member to the Member or Members which are determined by the Organization to be materially affected by the proposed measure. Such Member or Members shall, within the time limits prescribed by the Organization, inform the Organization whether, in the light of the anticipated effects of the proposed measure on the economy of such Member or Members, there is any objection to the proposed measure. If there should be no objection on the part of the affected Member or Members to the proposed measure, the Organization shall immediately free the applicant Member to apply it. If there be any objection, the Organization shall promptly examine the proposed measure, having regard to the provisions of the Charter, to the considerations presented by the applicant Member and its need for economic development or reconstruction, to the views of the Member or Members determined to be materially affected, and to the effect which the proposed measure, with or without modifications, is likely to have, immediately and in the long run, on international trade, and, in the long run, on the standard of living within the territory of the applicant Member. If, as a result of such examination, the Organization concurs in the proposed measure, with or without modification, it may release the applicant Member from its obligations under the relevant provisions of Chapter IV, subject to such limitations.
9. If in anticipation of the concurrence of the Organization in the adoption of a measure referred to in paragraph 5 of this Article, there should be an increase or threatened 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, industries 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 decision by the Organization on the Member's application; Provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made.*

10. In the case of measures referred to in paragraph 5 of this Article, the Organization shall, at the earliest opportunity but ordinarily within fifteen days after receipt of the application** referred to in paragraph 5 (a) or of the application referred to in paragraph 5 (b) 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. This date shall be the earliest practicable but shall not be more than ninety days subsequent to the receipt of such application; Provided that

(a) if before the date set, unforeseen difficulties arise, the period may be extended after consultation with the applicant Member. If the applicant Member does not receive such decision by the date set, it may after informing the Organization, institute the proposed measure; and

(b) if a Member applies to the Organization under paragraph 5 (a) and subsequently under paragraph 5 (b) or vice versa the Organization may

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* Text proposed by the Chinese delegation to appear as an interpretative note.
It was agreed that paragraph 9 would permit a Member to prohibit entirely or reduce the imports of a product to the extent needed to ensure that, over the whole period following the date of notification of the Member's application, that product was not imported at a rate greater than in the most recent representative period preceding the date of notification.

** In the draft approved in principle by the Co-ordinating Committee it was decided to ask the Drafting Committee to consider the appropriate way of dealing with the time limit under the provisions of what was sub-paragraph 4 (c) (ii) and is now paragraph 8.
set a second date which shall be not more than ninety days subsequent to the receipt of the second application.

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

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1. Sub-Committee C was appointed at the sixteenth meeting of Committee II with terms of reference as follows:

"To examine and submit recommendations to Committee II concerning the proposals on Articles 13 and 14 with authority to consult, if considered necessary, with the Sub-Committee of Committee III on Articles 20 and 22."

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

- Argentina
- Australia
- Brazil
- Canada
- China
- Colombia
- Cuba
- India
- Iraq
- Mexico
- Netherlands
- Norway
- Philippines
- United Kingdom
- United States
- Uruguay

Dr. Gustavo Gutierrez (Cuba) 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 a special interest.

4. The Sub-Committee held thirteen meetings. It examined Articles 13 and 14 and the amendments submitted thereto as listed in Annex A and as a result of its examination decided to recommend texts of Articles 13 and 14 as set out in Annex B. It was agreed that this recommendation disposed of all the amendments listed in Annex A.

5. With regard to the meaning of the word "processing" appearing in sub-paragraphs b (ii) and b (iii) of paragraph 4 of Article 13 it was agreed that processing meant the treatment of a primary commodity in the manufacture of semi-finished and finished goods but that it would not refer to highly developed industrial processes such as the manufacture of precision instruments.

6. With regard to the reference to international trade at the end of sub-paragraph b (ii) of paragraph 4 of Article 13 it was agreed that this was a reference to international trade in general and not to trade in the specific product to which the measure in question related.
7. With regard to the words "materially affected" used in paragraph 4 (c) of Article 13 it was agreed that this term would not be restricted to those countries which in the past had been the principal suppliers and that it would be proper for the Organization to have regard, for instance, to the interests of those Members which supplied a large proportion of the imports of the applicant Member in the product concerned, those Members which were substantially interested in exporting the product to world markets and those Members, whose economies were materially dependent on exports of the product.

8. With regard to the proviso at the end of paragraph 5 of Article 13 it was agreed that this proviso would permit a Member to prohibit entirely or reduce the imports of a product to the extent needed to ensure that, over the whole period following the date of notification of the Member's application, that product was not imported at a rate greater than in the most recent representative period preceding the date of notification.

9. With regard to paragraph 5 of Article 13 it was agreed that the phrase "pending a decision by the Organization" referred to the final decision, which would be taken by the Conference in the event of previous adverse decisions being followed by an appeal to the Conference by the applicant Member.

10. With regard to paragraph 7 of Article 13 it was agreed that the date cited therein by which the applicant Member would be notified whether or not it would be released from its obligations was the date on which the Executive Board would give its ruling. It was further agreed that the question of the maintenance in force or suspension of a ruling of the Executive Board under Article 13 in the case of an appeal from that ruling was one which should be dealt with in the Rules of Procedure of the Executive Board to be adopted by the Board in accordance with paragraph 1 of Article 77 subject to confirmation by the Conference in accordance with paragraph 2 of Article 73. It was also noted that paragraph 2 of Article 73 permitted the Conference to establish rules of procedure appropriate for the carrying out of its functions during the intervals between its sessions, e.g. voting by cable or air mail. It was agreed that these questions should be dealt with in the first instance by the Interim Commission which would prepare draft Rules of Procedure of the Executive Board and of the Conference.
Article 13

Governmental Assistance to Economic Development

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

2. (a) If a Member in the interest of its economic development or reconstruction considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, but which would not conflict with the provisions of that Chapter, such Member shall enter into direct negotiations with all the other Members which have contractual rights with a view to obtaining agreement. The Members shall be free to proceed in accordance with the terms of any such agreement, provided that the Organization is informed of the results of the negotiations; or

(ii) shall initially or may in the event of failure to reach agreement under sub-paragraph (i) above apply to the Organization. The Organization shall determine, from among Members which have contractual rights, the Member or Members materially affected by the proposed measure and shall sponsor negotiations between the applicant Member and these Members with a view to obtaining expeditious and substantial agreement. The Organization shall
shall establish and communicate to the Members concerned a
time schedule for such negotiations, following as far as
practicable any time schedule which may have been proposed
by the applicant Member. The Members shall commence and
proceed continuously with such negotiations in accordance
with the time schedule laid down by the Organization. At
the request of a Member the Organization may, where it
concurs in principle with the proposed measure, assist in
the negotiations. Upon substantial agreement being reached,
the applicant Member may be released by the Organization
from the obligation referred to in this paragraph, subject
to such limitations as may have been agreed upon in the
negotiations between the Members concerned.

(b) If as a result of action initiated under this paragraph, there
should be an increase in the importations of the product or products
concerned, including products which can be directly substituted therefor,
which if continued would be so great as to jeopardize substantially the
plans of the applicant Member for the establishment, development or
reconstruction of the industry, industries 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;
Provided that such measures do not restrict imports more than necessary
to offset the increase in imports referred to in this sub-paragraph.
Except in unusual circumstances, such measures shall not reduce imports
below the level obtaining in the most recent representative period
preceding the date on which the Member initiated action under sub-
paragraph (a) of this paragraph. The Organization shall determine, as
soon as practicable, whether such measures should be continued,
discontinued or modified. Such measures shall in any case be terminated
as soon as the Organization determines that the re-negotiations are
completed or discontinued. It is recognized that the contractual
relationships referred to in sub-paragraph (a) of this paragraph
involve reciprocal advantages, and therefore any other Member which
has a contractual right in respect of the product to which such action
relates, and whose trade is materially affected by the action, may
suspend the application to the trade of such Member of such substantially
equivalent obligations or concessions under Chapter IV, the suspensions
/of which
of which the Organization does not disapprove. Any Member intending to suspend such application shall consult the Organization before doing so.

3. In the case of any non-discriminatory measure affecting imports which would conflict not only with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, but also with the provisions of that Chapter, the provisions of paragraph 2 (a) (ii) shall apply; Provided that before granting a release the Organization shall afford adequate opportunity for all Members which it determines to be materially affected to express their views. The provisions of paragraph 2 (b) shall also be applicable in this case.

4. (a) If a Member in the interest of its economic development or reconstruction considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with any provision of Chapter IV, but would not conflict with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to 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, for a specified period, of the proposed measure.

(b) The Organization shall concur in the proposed measure and grant release from such provision for a specified period if, having particular regard to the applicant Member's need for economic development or reconstruction, it is established that the measure

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

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

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

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

Provided that

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

(ii) the Organization shall not concur in any measure under the provisions of sub-paragraphs (i), (ii) or (iii) which is likely to cause serious prejudice to exports of a primary commodity on which the economy of another Member is largely dependent.

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

(d) If the proposed measure does not fall within the provisions of sub-paragraph (b), the Member

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

(ii) [shall] may initially or may in the event of failure to reach complete or substantial agreement under sub-paragraph (i) above apply to the Organization. The Organization shall promptly transmit the statement submitted by the applicant Member to the Member or Members which are determined by the Organization to be materially affected by the proposed measure. Such Member or Members shall, within the time limits prescribed by the Organization, inform the Organization whether, in the light of the anticipated effects of the proposed measure on the economy of such Member or Members, there is any objection to the proposed measure. If there should be no objection on the part of the affected Member or Members to the proposed measure, the Organization shall immediately free the applicant Member to apply it.

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

(f) If in anticipation of the concurrence of the Organization in the adoption of a measure referred to in this paragraph of this Article, there should be an increase or threatened 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, industries 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 decision by the Organization on the Member's application; Provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made.

(g) In the case of measures referred to in this 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 sub-paragraph (a) above or, in the case of measures dealt with either under in accordance with the provisions of sub-paragraph (d) (i) above or, after failure to reach complete or substantial agreement under that sub-paragraph, under sub-paragraph (d) (ii) above, of the application referred to in those sub-paragraphs 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. This date shall be the earliest practicable but shall not be more than ninety days subsequent to the receipt of such statement or application; Provided that, if before the date set, unforeseen difficulties arise, the period may be extended after consultation with the applicant Member. If the applicant Member does not receive such decision by the date set, it may after informing the Organization, institute the proposed measure.

(6) The Organization and the Members concerned shall preserve the utmost secrecy in respect of matters arising under this Article.
DRAFT REPORT OF SUB-COMMITTEE C OF COMMITTEE II ON ARTICLES 13 AND 14

1. Sub-Committee C was appointed at the sixteenth meeting of Committee II with terms of reference as follows:

"To examine and submit recommendations to Committee II concerning the proposals on Articles 13 and 14 with authority to consult, if considered necessary, with the Sub-Committee of Committee III on Articles 20 and 22."

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

- Argentina
- Iraq
- Australia
- Mexico
- Brazil
- Netherlands
- Canada
- Norway
- China
- Philippines
- Colombia
- United Kingdom
- Cuba
- United States
- India
- Uruguay

Dr. Gustavo Gutierrez (Cuba) 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 a special interest.

4. The Sub-Committee held thirteen meetings. It examined Articles 13 and 14 and the amendments submitted thereto as listed in Annex A and as a result of its examination decided to recommend texts of Articles 13 and 14 as set out in Annex B. It was agreed that this recommendation disposed of all the amendments listed in Annex A.

5. With regard to the meaning of the word "processing" appearing in sub-paragraphs b (ii) and b (iii) of paragraph 4 of Article 13 it was agreed that processing meant the treatment of a primary commodity in the manufacture of semi-finished and finished goods but that it would not refer to highly developed industrial processes such as the manufacture of precision instruments.

6. With regard to the reference to international trade at the end of sub-paragraph b (ii) of paragraph 4 of Article 13 it was agreed that this was a reference to international trade in general and not to trade in the specific product to which the measure in question related.
7. With regard to the interpretation of the words "materially affected" in paragraphs 3 and 4 (c) of Article 13 it was agreed that this term was not restricted to those countries which in the past were the principal suppliers and that it would be proper for the Organization to have regard, for instance, to the interests of those Members which supplied a large proportion of the imports of the applicant Member in the product concerned, those Members which were substantially interested in exporting the product to world markets and those Members, whose economies were materially dependent on exports of the product.

8. With regard to the proviso at the end of paragraph 5 of Article 13 it was agreed that this proviso would permit a Member to prohibit entirely or reduce the imports of a product to the extent needed to ensure that, over the whole period following the date of notification of the Member's application, that product was not imported at a rate greater than in the most recent representative period preceding the date of notification.

9. With regard to paragraph 5 of Article 13 it was agreed that the phrase "pending a decision by the Organization" referred to the final decision, which would be taken by the Conference in the event of previous adverse decisions being followed by an appeal to the Conference by the applicant Member.

10. With regard to paragraph 7 of Article 13 it was agreed that the date cited therein by which the applicant Member would be notified whether or not it would be released from its obligations was the date on which the Executive Board would give its ruling. It was also noted that paragraph 2 of Article 73 permitted the Conference to establish rules of procedure appropriate for the carrying out of its functions during the intervals between its sessions, e.g. voting by cable or air mail.
Article 34 (d)

Redrafted Proposed by the United Kingdom

(d) If the proposed measure does not fall within the provisions of sub-paragraph (b) above, either of the following procedures shall apply, at the choice of the applicant Member:

either (i) the Member may enter into direct consultations 

or (ii) the Organization shall promptly transmit the statement submitted by the Applicant Member under the provision of sub-paragraph (a) above to the Member or Members 

5678
1. Sub-Committee C was appointed at the sixteenth meeting of Committee II with terms of reference as follows:

.To examine and submit recommendations to Committee II concerning the proposals on Articles 13 and 14, with authority to consult, if considered necessary, with the Sub-Committee of Committee III on Articles 20 and 22.

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

Argentina  
Australia  
Brazil  
Canada  
China  
Colombia  
Cuba  
Indonesia  
Iraq  
Mexico  
Netherlands  
Norway  
Philippines  
United Kingdom  
United States  
Uruguay

Dr. Gustavo Gutierrez (Cuba) 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 a special interest.

4. The Sub-Committee held [thirteen] meetings. It examined Articles 13 and 14 and the amendments submitted there to as listed in Annex A. Article 13 and the amendments submitted thereto were also examined by the Co-ordinating Committee and the Sub-Committee took into account the text submitted by the Co-ordinating Committee (E/CONF.2/45/Rev.1) in accordance with the recommendations of the Heads of Delegations (E/CONF.2/51). As a result the Sub-Committee decided to recommend texts of Articles 13 and 14 as set out in Annex B. It was agreed that this recommendation disposed of all the amendments listed in Annex A.

5. The Sub-Committee considered the amendments of Cuba and New Zealand in relation to the insertion of the word "maintenance" or "maintain" in paragraph 1 of Article 13 (items 11 and 13 in Annex A) and expressed the view that the amendments were already covered in the text set out in Annex B. It was agreed that the word "development", as used in Article 13, might cover cases in which the branch of industry or agriculture to be developed had been established for some time before the date of the Member's application to the Organization.
6. The Sub-Committee considered it desirable to record that paragraph 4 (b) (ii) as originally submitted to the Co-ordinating Committee ended with the words "reduced as a result of new or increased restrictions imposed by some other government or governments".

7. With regard to the meaning of the word "processing" appearing in subparagraphs (b) (ii) and (b) (iii) of paragraph 4 of Article 13 it was agreed that processing meant the treatment of a primary commodity in the manufacture of semi-finished and finished goods but that it would not refer to highly developed industrial processes such as the manufacture of precision instruments.

8. With regard to the reference to international trade at the end of paragraph 4 (b) (ii) of Article 13 it was agreed that this was a reference to international trade in general and not to trade in the specific product to which the measure in question related.

9. With regard to the interpretation of the words "materially affected" in paragraphs 3 and 4 (d) of Article 13 it was agreed that this term was not restricted to those countries which in the past were the principal suppliers and that it would be proper for the Organization to have regard, for instance, to the interests of those Members which supplied a large proportion of the imports of the applicant Member in the product concerned, those Members which were substantially interested in exporting the product to world markets and those Members, whose economies were materially dependent on exports of the product.

10. With regard to paragraph 4 (f) of Article 13 it was agreed that the phrase "pending a decision by the Organization" referred to the final decision, which would be taken by the Conference in the event of previous adverse decisions being followed by an appeal to the Conference by the applicant Member.

11. With regard to the proviso at the end of paragraph 4 (f) of Article 13 it was agreed that this proviso would permit a Member to prohibit entirely or reduce the imports of a product to the extent needed to ensure that, over the whole period following the date of notification of the Member's application, that product was not imported at a rate greater than in the most recent representative period preceding the date of notification.

12. With regard to paragraph 4 (g) of Article 13 it was agreed that the date cited therein by which the applicant Member would be notified whether or not it would be released from its obligations was the date on which the Executive Board would give its ruling. It was also noted that paragraph 2 of Article 73 permitted the Conference to establish rules of procedure appropriate for the carrying out of its functions during the intervals between its sessions, e.g. voting by cable or air mail.
ARTICLE 13

TEXT AS DRAFTED AT CLOSE OF JOINT MEETING OF WORKING PARTIES 3 AND 4 OF SUB-COMMITTEE C OF COMMITTEE II ON 4 MARCH 1948

Article 13

Governmental Assistance to Economic Development

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

2. (a) If a Member in the interest of its economic development or reconstruction* considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, but which would not conflict with the provisions of that Chapter, such Member

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

(2) shall initially or may in the event of failure to reach agreement under sub-paragraph (1) above apply to the Organization. The Organization shall determine, from among

* Note by Secretary: The Co-ordinating Committee inserted at this point the words set out below in connection with its presentation of Article 15 (E/CONF.2/M/Rev.1, page 11): "or for the purpose of increasing a most favoured nation rate of duty in connection with the establishment of a new preferential agreement in accordance with Article 15."
Members which have contractual rights, the Member or Members materially affected by the proposed measure and shall sponsor negotiations between the applicant Member and these Members with a view to obtaining expeditious and substantial agreement. The Organization shall establish and communicate to the Members concerned a time schedule for such negotiations, following as far as practicable any time schedule which may have been proposed by the applicant Member. The Members shall commence and proceed continuously with such negotiations in accordance with the time schedule laid down by the Organization. At the request of a Member the Organization may, where it concurs in principle with the proposed measure, assist in the negotiations. Upon substantial agreement being reached, the applicant Member may be released by the Organization from the obligation referred to in this paragraph, subject to such limitations as may have been agreed upon in the negotiations between the Members concerned.

(b) If as a result of action initiated under this paragraph, there should be an increase in the importations of the product or products concerned, including products which can be directly substituted therefor, which if continued would be so great as to jeopardize substantially the establishment, development or reconstruction of the industry, industries 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; Provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this sub-paragraph. Except in unusual circumstances, such measures shall not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member initiated action under sub-paragraph (a) of this paragraph. The Organization shall determine, as soon as practicable, whether such measures should be continued, discontinued or modified. Such measures shall in any case

* The words "the plans of the applicant Member for" have been deleted from the text contained in G/CONF.2/G.2/C/W.9 in order to bring paragraph 2 (b) into line with paragraph 4 (f) from which the same words have been deleted.
be terminated as soon as the Organization determines that the re-
negotiations are completed or discontinued. It is recognized that the
contractual relationships referred to in sub-paragraph (a) of this
paragraph involve reciprocal advantages, and therefore any other Member
which has a contractual right in respect of the product to which such
action relates, and whose trade is materially affected by the action,
may suspend the application to the trade of such Member of such
substantially equivalent obligations or concessions under Chapter IV,
the suspensions of which the Organization does not disapprove. Any Member
intending to suspend such application shall consult the Organization
before doing so.

3. In the case of any non-discriminatory measure affecting imports which
would conflict not only with any obligation which the Member has assumed
through negotiations with any other Member or Members pursuant to Chapter IV,
but also with the provisions of that Chapter, the provisions of paragraph 2 (a)
shall apply; Provided that before granting a release the Organization
shall afford adequate opportunity for all Members which it determines to be
materially affected to express their views. The provisions of paragraph 2 (b)
shall also be applicable in this case.

4. (a) If a Member in the interest of its economic development or
reconstruction considers it desirable to adopt any non-discriminatory
measure affecting imports which would conflict with any provision of
Chapter IV, but would not conflict with any obligation which the Member
has assumed through negotiations with any other Member or Members
pursuant to 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, for a specified period,
of the proposed measure.

(b) The Organization shall concur in the proposed measure and grant
release from such provision for a specified period if, having particular
regard to the applicant Member's need for economic development
or reconstruction, it is established that the measure

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

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

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

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

Provided that

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

(ii) the Organization shall not concur in any measure under the provisions of sub-paragraphs (i), (ii) or (iii) which is likely to cause serious prejudice to exports of a primary commodity on which the economy of another Member is largely dependent.

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

(d) If the proposed measure does not fall within the provisions of sub-paragraph (b), the Member

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

(ii) may initially or in the event of failure to reach complete or substantial agreement under sub-paragraph (i) above apply to the Organization. The Organization shall promptly transmit the statement submitted under sub-paragraph (a) above by the applicant Member to the Member or Members which are determined by the Organization to be materially affected by the proposed measure. Such Member or Members shall, within the time limits prescribed by the Organization, inform the Organization whether, in the light of the anticipated effects of the proposed measure on the economy of such Member or Members, there is any objection to the proposed measure. If there should be no objection on the part of the affected Member or Members to the proposed measure, the Organization shall immediately free the applicant Member to apply it.

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

(f) If in anticipation of the concurrence of the Organization in the
adoption of a measure referred to in this paragraph there should be an increase or threatened increase in the importations of the product or products concerned, including products which can be directly substituted therefor, so substantial as to jeopardize the establishment, development or reconstruction of the industry, industries 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 decision by the Organization on the Member's application; Provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made.

(g)* In the case of measures referred to in this paragraph, the Organization shall, at the earliest opportunity but ordinarily within fifteen days after receipt of the statement referred to in subparagraph (a) above or, in the case of measures dealt with either under

sub-paragraph (d) (i) above or, after failure to reach complete or substantial agreement under that subparagraph, under sub-paragraph (d) (ii) above, of the application referred to in those sub-paragraphs 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. This date shall be the earliest practicable but shall not be more than ninety days subsequent to the receipt of such statement or application; Provided that, if before the date set, unforeseen difficulties arise, the period may be extended after consultation with the applicant Member. If the applicant Member does not receive such decision by the date set, it may after informing the Organization, institute the proposed measure.

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

* The text of the article was approved with the exception of paragraph 4 (g). The above draft of paragraph 4 (g) consists of the text as set out in E/CONF.2/45/Rev.1 with additions and deletions proposed by the United States delegation set out in E/CONF.2/48 indicated by underlining and square brackets respectively.
AUSTRALIAN PROPOSAL TO AMEND PARAGRAPH 4 (g) OF ARTICLE 13
AS SET OUT IN WHITE PAPER 5711

(1) As a necessary preliminary substitute the words "apply to" for the words "shall so notify" in the sixth line of paragraph 4 (a) and in the seventh line substitute "it" for the second mention of "the Organization".

(2) In paragraph 4 (g) delete the words "the statements referred to ............... in those [that] sub-paragraphs" in lines 3 to 8 inclusive and substitute the words "an application for a decision by the Organization under the provisions of sub-paragraph (b) or (d) (i) or (d) (ii)".

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The representative of the Philippines stated that the automatic prior approval criteria provided for under the proposed Article 13 of the Co-ordinating Committee did not even cover the minimum requirements of the Philippines as well as of Member countries similarly situated. Criterion No. 1 of that proposed Article recognized the validity of the claim of Member countries for special protection to their industries, which might or might not be efficient or desirable, as long as they were industries established immediately prior to the war and nurtured by abnormal conditions. Such a recognition without a corresponding concession to Member countries which did not have and could not have had the opportunity to establish new industries during the war should be viewed, and rightly so, as highly discriminatory, and as a link which would considerably weaken the high purposes of the Charter.

The representative of the Philippines also reminded the working party that his delegation withdrew its amendment to Article 13 and expressed its stand to support any proposition which would make the procedure under Article 13 more expeditious, would provide for automatic approval of protective measures when they satisfied the criteria to be stated in the Charter, or would recognize the necessity of a transitional period for Member countries whose economies had been partially or completely disrupted by the war. He expressed deep regret that the Co-ordinating Committee not only failed to recognize the special needs of devastated areas but even rendered unique protection to Member countries which might have secured unusual advantages and benefits during the war.
In the case of export restrictions imposed for the establishment, development or reconstruction of particular industries or particular branches of agriculture, the Organization shall determine whether the restriction is to be maintained, modified or suspended, applying in this connection the provisions of sub-paragraphs (d), (e), (f) and (g) of paragraph 4 of Article 13.
The delegate from Brazil indicated that it was his intention to seek an amendment to the G.A.T.T. relating to the position of a signatory to the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment who was unable for some time to apply the provisions of that agreement. It was his intention to ensure that in these circumstances the Contracting Parties could consider an application for new dates to be established and to replace those of 1 September 1947 and 10 October 1947 at present specified in paragraph 6 of Article XVIII.

In order to prevent any decision under the provisions of such an amendment, if it is accepted by the Contracting Parties, being ineffective on the date of coming into force of the Charter the Committee agreed to amend the provisions of paragraph 1 (a) of Article 14.
In connection with Article 14 the attention of the Sub-Committee was invited to the possibility that in certain special circumstances beyond their control some signatories to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment may find themselves unable for some time to apply the provisions of the General Agreement on Tariffs and Trade. The Sub-Committee considered that an application should be made to the Contracting Parties for an amendment to that Agreement to meet these cases. If the amendment were accepted, it would then be possible for the Contracting Parties to consider an application for new dates to be established and to replace those of 1 September 1947 and 10 October 1947 at present specified in paragraph 6 of Article XVIII of the Agreement. In order to prevent any decision under the provisions of such an amendment, if it were accepted by the Contracting Parties, from becoming ineffective on the date of entry into force of the Charter the Sub-Committee agreed to insert the proviso appearing at the end of paragraph 1 (a) of Article 14.
PROPOSAL OF DELEGATION OF PAKISTAN WITH REGARD TO
PARAGRAPH 7 OF REPORT OF SUB-COMMITTEE C ON ARTICLES 13 AND 14 (E/CONF.2/C.2/41)

After "Article 13" in the second line insert the words "consideration was given to the view of the Co-ordinating Committee and the proposal of the delegation of Pakistan (see Annex A)." and commence a new sentence with the words "It was agreed.". Add at the end of the paragraph a new sentence "Accordingly it was decided to insert the interpretative note set out at the end of the text of Article 13 in Annex B.".
CHANGES IN ARTICLES 13 AND 14 PROPOSED BY THE REPRESENTATIVE OF AUSTRALIA

(See E/CONF.2/C.2/41 Annex B)

1. Article 13:
   In paragraph 4 (f) delete the words "statement or" in the eighth line.
   Delete the word "decision" in the eleventh line and substitute the word "notification".

2. Article 14:
   (a) In the fifth line of paragraph 1 (a) insert before the words "the provisions" the words "decisions made under"
   (b) In the first line of paragraph 2 insert a comma after "any Member" and in the second line after the word "Trade" the words "in respect of whose measures decisions have been made under the provisions of paragraph 6 of Article XVIII of that Agreement,"
   (c) In the third line of paragraph 3 after the word "subject" insert the words "to the conditions of any such approval and".

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Article 24

Transitional Measures

(Text as contained in E/CONF.2/C.2/C/W.13 with additions and deletions proposed by the representative of the United States of America indicated by underlining and square brackets respectively)

1. Any Member may maintain any non-discriminatory protective measure which has been imposed for the establishment, development or reconstruction of particular industries, or particular branches of agriculture, and which is not otherwise permitted by this Charter; Provided that notification is given of the nature and purpose of such measure and of each product in respect of which it is to be maintained:

(a) in the case of a Member signatory to the [General Agreement on Tariffs and Trade] Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment in respect of measures in force on 1 September 1947, which were notified to the other signatories to that [agreement] act not later than 10 October 1947;
(b) in the case of any other Member in respect of measures in force on March 1948*, which are notified not later than the date of deposit of its instrument of acceptance of the Charter to the Organization, or, if the Charter has not yet entered into force, to those Governments which have [deposited their instruments of acceptance of the Charter] signed the Final Act of the United Nations Conference on Trade and Employment.

Any Member maintaining any such measure shall within one month of assuming Membership in the Organization notify it of the measure concerned, the considerations in support of its maintenance and the period for which it wishes to maintain the measure. The Organization shall, as soon as possible, but in any case within twelve months of such Member assuming Membership in the Organization, examine and give a decision concerning the measure as if it had been submitted to the Organization for its concurrence under Article 13.

* Date of signature of the Final Act of the United Nations Conference on Trade and Employment.

5636 /2. The provisions
2. The provisions of this Article shall also apply to:

(a) any such measure adopted by a Member between March 1948* and the date of entry into force of the Charter which is in conformity with the description contained in the provisions of sub-paragraph (b) (i) or (b) (ii) of paragraph h of Article 13 of the General Agreement on Tariffs and Trade.

(b) any measure approved in accordance with the provisions of Article XVIII of the General Agreement on Tariffs and Trade.

3. Any measure approved in accordance with the provisions of Article XVIII of the General Agreement on Tariffs and Trade in effect at the time this Charter enters into force may remain in effect thereafter, subject to the possibility of review by the Organization in accordance with the provisions of Article 13.

4. This Article shall not be construed to apply to any measure relating to a product in respect of which would be inconsistent with any obligation that the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV or which would tend to nullify or impair the benefits to such other Member or Members of any such obligation.

5. The Organization, in making a decision under this Article specifying a date by which any modification in or withdrawal of the measure is to be made, shall have regard to the possible need of a Member for a suitable period of time in which to make such modification or withdrawal.

* Date of signature of the Final Act of the United Nations Conference on Trade and Employment.