THIRD COMMITTEE: COMMERCIAL POLICY

SUB-COMMITTEE F (ARTICLES 21, 23 AND 24)

REPORT OF WORKING PARTY ON ARTICLE 24

1. At its Eighth Meeting Sub-Committee F requested the Working Party on Article 21, augmented by the delegate for Australia, to consider amendments to Article 24 which were referred to a Working Party by the Sub-Committee. Accordingly, the Working Party on Article 24 consisted of the delegates for Australia, Belgium, Brazil, Cuba, India, the United Kingdom and the United States of America, with Mr. J. A. GUERRA (Cuba) as Chairman.

2. The Working Party makes the following recommendations:

(a) After consideration of paragraph 2 of Article 24 in the light of the amendments proposed by Australia and New Zealand (Items 79 and 80 of the Annotated Agenda), the Working Party recommends the following text for paragraph 2:

"2. In all cases in which the Organization is called upon to consider or deal with problems concerning monetary reserves, balance of payments or foreign exchange arrangements, the Organization shall consult fully with the International Monetary Fund. In such consultation, the Organization shall accept all findings of statistical and other facts presented by the International Monetary Fund relating to foreign exchange, monetary reserves and balance of payments, and shall accept the determination of the Fund as to whether action by a Member in exchange matters is in accordance with the Articles of Agreement of the International Monetary Fund, or with the terms of a special exchange agreement between that Member and the Organization. When the Organization, in the purpose of reaching its final decision in cases involving the criteria set forth in paragraph 2 (a) of Article 21, is examining a situation in the light of the relevant considerations under all the pertinent provisions of Article 21, it shall accept the determination of the International Monetary Fund as to what constitutes a serious decline in the Member's monetary reserves."
reserves, a very low level of its monetary reserves or a reasonable rate of increase in its monetary reserves, and as to the financial aspects of other matters covered in consultation in such cases."

(b) The Working Party gave consideration to an amendment to paragraph 6 proposed by the delegate for Liberia, referring to the case of a country which does not use its own national currency. The Working Party recommends that paragraph 6 should be amended to meet this case in the manner indicated below.

In this connection, two members of the Working Party, while having no objection in substance to the text shown below, thought that the Sub-Committee should consider whether such a provision should be included in the text of Article 24, or whether the special situation of Liberia could be suitably dealt with under Article 74, which provides for the waiver of obligations under the Charter.

The Working Party also considers that paragraphs 6 and 7 of Article 24 can be combined with advantage, since they deal with the same subject. It also recommends that a consequential amendment should be included in the present paragraph 8 (new paragraph 7). With these modifications paragraphs 6 and 7 would read as follows:

"6. (a) Any Member of the Organization which is not a member of the International Monetary Fund shall, within a time to be determined by the Organization after consultation with the International Monetary Fund, become a member of the Fund or, failing that, enter into a special exchange agreement with the Organization. A Member of the Organization which ceases to be a member of the International Monetary Fund shall forthwith enter into a special exchange agreement with the Organization. Any special exchange agreement entered into by a Member under this paragraph shall thereupon become part of its obligation under this Charter.

7. (a) Such a special exchange agreement between a Member and the Organization under paragraph 6 of this Article shall provide to the satisfaction of the Organization that the objectives of this Charter will not be frustrated as a result of action in exchange matters by the Member in question.

(b) The terms of any such agreement shall not impose obligations on the Member in exchange matters generally more restrictive than those imposed by the Articles of Agreement of the International Monetary Fund on members of the Fund.

(d) No
(d) No special exchange agreement shall be required of a Member so long as it uses solely the currency of another country and so long as neither the Member nor the country whose currency is being used have exchange restrictions. Nevertheless, if the Organization at any time considers that the absence of a special exchange agreement may be permitting action which tends to impair the purposes of any of the provisions of this Charter, it may require the Member to enter into a special exchange agreement in accordance with the provisions of this Article. A Member of the Organization which is not a Member of the International Monetary Fund and which has no special exchange agreement may be required at any time to consult with the Organization on any exchange problem.

Note: Present paragraph 9 would be renumbered 8

(c) The Working Party, while aware of the desirability of keeping interpretative notes to a minimum, considers that the interpretative footnote to paragraph 4 of Article 24 of the Geneva text relating to "frustration" (Item 81 of the Annotated Agenda) is both essential and too detailed for inclusion in the text of Article 24. It therefore recommends that this interpretative note be appended to the text of Article 24.

(d) The Working Party took note of the amendment of Mexico (Item 82) which was referred to it by the Sub-Committee on the understanding that it would be desirable that a more specific amendment be submitted by Mexico for consideration by the Working Party.

Having heard a further explanation by the delegation of Mexico, the Working Party does not consider that the text of Article 24 requires any change in the light of the proposed Mexican amendment. It took note that the problem to which the delegation of Mexico had directed its amendment was similar to that being considered by Sub-Committee G of Committee III.

In the light of the Working Party's recommendation the Mexican delegate stated that his delegation reserved its position on Article 24.

(e) The Working
(e) The Working Party considers that the title of Article 24 would more clearly indicate its content if it were changed to read as follows: "Relationship with the International Monetary Fund and Exchange Arrangements". It recommends also that the title of Section B of Chapter IV would more clearly indicate the content of the section if it were to read: "Quantitative Restrictions and Related Exchange Matters" instead of "Quantitative Restrictions and Exchange Controls".