Article 23

Exceptions to the Rule of Non-discrimination

1. (a) The Members recognize that the aftermath of the war has brought difficult problems of economic adjustment which do not permit the immediate full achievement of non-discriminatory administration of quantitative restrictions and therefore require the exceptional transitional period arrangements set forth in this paragraph.

(b) A Member which applies restrictions under Article 21, may, in the use of such restrictions, deviate from the provisions of Article 22 in a manner having equivalent effect to restrictions on payments and transfers for current international transactions which that Member may at that time apply under Article XIV of the Articles of Agreement of the International Monetary Fund, or under an analogous provision of a special exchange agreement entered into pursuant to paragraph 6 of Article 24.

(c) A Member which is applying restrictions under Article 21 and which on March 1, 1948 was applying import restrictions to safeguard its balance of payments in a manner which deviated from the rules of non-discrimination set forth in Article 22 may, to the extent that such deviation would not have been covered on that date by sub-paragraph (b) of this paragraph, continue so to deviate, and may adapt such deviation to changing circumstances.

(d) Any Member which before July 1, 1948 has signed the Protocol of Provisional Application agreed upon at Geneva on October 30, 1947, and which by such signature has provisionally accepted the principles of paragraph 1 of Article 23 of the Draft Charter submitted to the United Nations Conference on Trade and Employment by the Preparatory Committee, may elect, by written notice to the Interim Commission of the International
Trade-Organization or to the Organization before 1/ January 1, 1949, to be governed by the provisions of Annex of this Charter, which embodies such principles, in lieu of the provisions of sub-paragraphs (b) and (c) of this paragraph. Annex shall not be applicable to any Member which does not elect. The provisions of sub-paragraphs (b) and (c) of this paragraph shall not be applicable to Members which have so elected to be governed by the provisions of Annex; and conversely, the provisions of Annex shall not be applicable to Members which have not so elected.

(a) The policies applied in the use of import restrictions under sub-paragraphs (b) and (c) of this paragraph or under Annex in the postwar transitional period shall be designed to promote the maximum development of multilateral trade possible during that period and to expedite the attainment of a balance of payments position which will no longer require resort to the provisions of Article 21 or to transitional exchange arrangements.

(f) A Member may deviate from the provisions of Article 22 pursuant to sub-paragraphs (b) or (c) of this paragraph or pursuant to Annex only so long as it is availing itself of the post-war transitional period arrangements under Article XIV of the Articles of Agreement of the International Monetary Fund, or of an analogous provision of a special exchange agreement under Article 23, paragraph 6 entered into under paragraph 6 of Article 24.

(g) Not later than 1/ March 1, 1950 (three years after the date on which the International Monetary Fund began operations) and in each year thereafter, the Organization shall report on any action still being taken by Members under sub-paragraphs (b) and (c) of this paragraph or under Annex. In March 1952, and in each year thereafter, any Member still entitled to take action under the provisions of sub-paragraph (c) or of Annex shall consult the Organization as to any deviations from Article 22 still in force pursuant to such provisions and as to its continued resort to such provisions. After 1/ March 1, 1952, any action under Annex going beyond the maintenance in force of deviations on which consultation has taken place and which the Organization has not found unjustifiable, or their adaptation to changing circumstances, shall be subject to any limitations of a general character which the Organization may prescribe in the light of the Member's circumstances.

(h) The Organization may, if it deems such action necessary in exceptional circumstances, make representations to any Member entitled to take action under the provisions of sub-paragraph (c) that conditions are favourable for the termination of any particular deviation from the provisions of Article 22, or for the general abandonment of deviations, under the provisions of that sub-paragraph. After 1/ March 1, 1952, the Organization may make /such
such representations, in exceptional circumstances, to any Member entitled to take action under Annex. The Member shall be given a suitable time to reply to such representations. If the Organization finds that the Member persists in unjustifiable deviation from the provisions of Article 22, the Member shall, within sixty days, limit or terminate such deviations as the Organization may specify.

2. Notwithstanding the termination of the Member's transitional period arrangements have terminated pursuant to paragraph 1 (f) of this Article, a Member which is applying import restrictions under Article 21 may, with the consent of the Organization, temporarily deviate from the provisions of Article 22 in respect of a small part of its external trade where the benefits to the Member or Members concerned substantially outweigh any injury which may result to the trade of other Members.

3. The provisions of Article 22 shall not preclude restrictions in accordance with the provisions of Article 21 which either

(a) are applied against imports from other countries, but not as among themselves, by a group of territories having a common quota in the International Monetary Fund, on condition that such restrictions are in all other respects consistent with the provisions of Article 22, or

(b) assist, in the period until December 31, 1951, by measures not involving substantial departure from the provisions of Article 22, another country whose economy has been disrupted by war.

4. A Member applying import restrictions under Article 21 shall not be precluded by this Section from applying measures to direct its exports in such a manner as to increase its earnings of currencies which it can use without deviation from the provisions of Article 22.

5. A Member shall not be precluded by this Section from applying quantitative restrictions

(a) having equivalent effect to exchange restrictions authorized under Section 3 (b) of Article VII of the Articles of Agreement of the International Monetary Fund; or

(b) under the preferential arrangements provided for in Annex A of this Charter, pending the outcome of the negotiations referred to therein.

/Interpretative
Interpretative Note to sub-paragraph 1 (g) of Article 23

Ad Article 23

Paragraph 1 (g)

The provisions of paragraph 1 (g) shall not authorize the Organization to require that the procedure of consultation be followed for individual transactions unless the transaction is of so large a scope as to constitute an act of general policy. In that event, the Organization shall, if the Member so requests, consider the transaction, not individually, but in relation to the Member's policy regarding imports of the product in question taken as a whole.

Interpretative Note to Paragraph 2 of Article 23

Paragraph 2

One of the situations contemplated in paragraph 2 is that of a Member holding balances acquired as a result of current transactions which it finds itself unable to use without a measure of discrimination.

ANNEX
ANNEX—

Exceptions to the Rule of Non-discrimination

(Applicable to Members who so elect, in accordance with paragraph 1 (d) of Article 23, in lieu of paragraphs 1 (b) and 1 (c) of Article 23.)

1. (a) A Member applying import restrictions under Article 21 may relax such restrictions in a manner which departs from the provisions of Article 22 to the extent necessary to obtain additional imports above the maximum total of imports which it could afford in the light of the requirements of paragraphs 3 (a) and 3 (b) of Article 21 if its restrictions were fully consistent with the provisions of Article 22; Provided that

(i) levels of delivered prices for products so imported are not established substantially higher than those ruling for comparable goods regularly available from other Member countries, and that any excess of such price levels for products so imported is progressively reduced over a reasonable period;

(ii) the Member taking such action does not do so as part of any arrangement by which the gold or convertible currency which the Member currently receives directly or indirectly from its exports to other Members not party to the arrangement is appreciably reduced below the level it could otherwise have been reasonably expected to attain;

(iii) such action does not cause unnecessary damage to the commercial or economic interests of any other Member, including interests under Articles 3 and 9.

(b) Any Member taking action under this paragraph shall observe the principles of sub-paragraph (a) of this paragraph. A Member shall desist from transactions which prove to be inconsistent with that sub-paragraph but the Member shall not be required to satisfy itself, when it is not practicable to do so, that the requirements of that sub-paragraph are fulfilled in respect of individual transactions.

2. Any Member taking action under paragraph 1 of this Annex shall keep the Organization regularly informed regarding such action and shall provide such available relevant information as the Organization may request.

3. If at any time the Organization finds that import restrictions are being applied by a Member in a discriminatory manner inconsistent with the exceptions provided for under paragraph 1 of this Annex, the Member shall, within sixty days, remove the discrimination or modify it as specified by the Organization; Provided that any action under paragraph 1 of this Annex, to the extent that it has been approved by the Organization /at the request
at the request of a Member under a procedure analogous to that of paragraph 5 (c) of Article 21, shall not be open to challenge under this paragraph or under paragraph 5 (d) of Article 21 on the ground that it is inconsistent with the provisions of Article 22.

Interpretative Note to Annex —

It is understood that the fact that a Member is operating under the provisions of paragraph 1 (b) (i) of Article 23 does not preclude that Member from operation under this Annex, but that the provisions of Article 23 (including this Annex) do not in any way limit the rights of Members under paragraph 1 (b) (i) of Article 23.