Mr. HOLMES (United Kingdom), on a point of order, questioned the publicity of the proceedings of the Coordinating Committee of Wednesday as contained in documents ITO/CO/6 and ITO/155. In particular, the statement attributed to him was misleading; albeit of fine shade, he was most anxious that he not be misunderstood. He had meant to convey that he could not be sure, when his government saw the United States proposals, they would welcome them, and all he was able to undertake was to accept them on his own responsibility as a basis for discussion.

The statement in ITO/155 that the second plan (Article 13) "limited the length of time..." was not correct. The proviso at the top of page 5 of the US draft of Article 13 was independent of Alternatives A or B. Because of these inaccuracies, the Committee should reconsider the publicity which should be given to future meetings.

Mr. LLERAS-RESTREPO (Colombia) agreed with Mr. Holmes' statement and felt that he also had been inaccurately quoted. He requested that the press release of today's meeting include a correction of his final remarks made Wednesday to the effect that "...it is my hope that this Coordinating Committee may be able to make an effort to find a new formula to cover cases of agriculture in peculiar circumstances. If not, I must declare that I cannot assume responsibility, as a member of this Committee, for recommending the formula, and I ask the Chairman to transmit my statement as an explanation for my refusing to recommend that formula".

The CHAIRMAN (Mr. Suetens, Belgium) said that document ITO/CO/6 had been approved by him. He had not seen the other document and suggested postponing further consideration until the matter had been studied.

Mr. HUILER (Chile) stated that another meeting of Latin American Delegations would be required to complete their study of Article 15 and the proposed Committees, and suggested that Article 13 should be considered.
Mr. WILCOX (United States) expressed concern with the time factor and thought perhaps Articles 15 and the proposal for Committees should be discussed by Heads of Delegations. However, Mr. MULLER (Chile) and Mr. PHILIP (France) thought the present procedure better, and the CHAIRMAN agreed that Article 13 should be studied today; Friday, when the results of the Latin American meeting were at hand, Article 15 and the proposed Economic Development Committee could be studied without respite so that a meeting of Heads of Delegations could be called either for Saturday or Sunday.

ARTICLE 13:

Paragraph 1: Approved as amended — (retaining the words in square brackets).

Paragraph 2 (a): approved as amended — (deleting the words in square brackets).

Paragraph 2(b): approved as amended — (retaining the words in square brackets).

Paragraph 3: approved.

Paragraph 4 (a): approved as amended — (deleting the words in square brackets).

Paragraph 4 (b):

Mr. WILCOX (United States) thought that the adjective "relative" was necessary if the Organization in considering the need for development, considered, for example, the relative need as between two countries. But if there was ambiguity in the use of the word, it should be deleted.

Mr. MULLER (Chile) said "relative" was useful only if it stressed the right of under-developed countries for assistance.

Mr. NOVOA (Mexico) supported the deletion of the word.

It was agreed to delete the word "relative" from line 3 of paragraph 4 (b).

Mr. HOLMES (United Kingdom) said that his amendment to retain the last three lines of 4 (b) in square brackets stemmed from his understanding that under-developed countries were anxious to proceed with development according to plan, rather than haphazardly. Encouragement should be given to industries likely to become independent and therefore not requiring the indefinite use of quantitative restrictions.
Mr. MULLER (Chile) thought the measure was drafted in such a way as to cover also the possibility of use by many countries not under-developed. The Latin-American countries opposed the necessity of including the criteria of a government planned economy; in certain circumstances private capital might request assistance under the criteria and procedure of paragraph 4 and neither should it be excluded nor should it be obliged to come under a government controlled plan. Therefore, the portion in square brackets should be deleted.

The word "agriculture" could be retained provided the English interpretation of the word "industry" as discussed at the previous meeting was not applicable in sub-paragraphs (i), (ii) and (iii).

Mr. LLERAS-RESTREPO (Colombia) agreed with Mr. Muller as to the deletion of the phrase. As to the word "agriculture", sub-paragraph (i), (ii), and (iii) were drafted so clearly as not to be applicable to agriculture in any way. It would be inequitable to deprive agriculture of the provisions of sub-paragraph (iv), which interpretation had already been accepted in the Geneva draft. Therefore, aside from any interpretation of "industry", "agriculture" could be maintained.

Mr. HAKIM (Lebanon) supported Mr. Muller by deleting the phrase, the Organization's approval would not be subject to the condition that the measures was related to a program of economic developmen which might not in fact exist. The only possible interpretation of sub-paragraphs (i), (ii) and (iii) was that they related to manufacturing industries; therefore, the protection of agriculture could be considered during the discussion of (iv).

Mr. NOVOA (Mexico) also agreed that the phrase should be deleted. The retention of such a phrase would be contradictory to the philosophy of freedom of trade, which inspired the Charter.
Mr. HAKIM (Lebanon) agreed with the representative of Chile.

If the words were retained and the measure were subject to being part of the programme of economic development or reconstruction, first there might be no such programme, and second the effect of sub-paragraph (b) (i) of paragraph 4 might be nullified as industries established during the war would need protection even before a Member were able to draw up a programme of economic development. The whole phrase "relates... and that the measure" should be deleted.

Mr. NOVOA (Mexico) emphatically supported the deletion of the phrase "relates...the measure"; to retain it would be contradictory to the philosophy of the Charter which was to promote a freedom of trade which had been undermined by directed economy, causing the last war. Economic planning was the result of a directed economy.

Mr. FERRERO (Peru) supported the retention of the words "relates to a branch of industry or agriculture" and the deletion of the remainder of the sentence in square brackets. The fourth criterion was to be applied, and was the only one which could be applied, to agriculture.

Mr. HOLMES (United Kingdom) said he did not attach specific importance to the words under discussion, but felt that the concept should be retained in some form. Regard should be paid to what might be called the viability in its own right of the branch of industry or agriculture which the measure was designed to assist for a period.

He pointed out, and Mr. MULLER (Chile) concurred, that according to the Latin American amendment to paragraph 4 (b), there was repetition of the phrase "...that the measure", and there might be an improvement in drafting.

Mr. WUNSZ-KING (China) supported the deletion of the whole phrase "relates to a branch...that the measure".
Mr. WUNSZ-KING (China) supported the deletion of the whole phrase "relates to a branch...that the measure".

Mr. WILCOX (United States of America) said it was not necessary to make reference in paragraph 4 (b) either to industry or agriculture because there was no limitation intended, and the whole article related to both in its earlier paragraphs. The Chilean amendment would ruin the text; the words "relates...that the measure" should be deleted.

It was agreed that all the words in square brackets should be deleted so the sentence would read: "...it is established that the measure (i) is designed to protect a branch of industry..."

Mr. HOLMES (United Kingdom) thought it might be desirable to reconsider the point at a later stage.

Amendment by the Latin American Countries to Article 13, paragraph 4 (b) (i)

Mr. WILCOX (United States) said that the inclusion of the words proposed by the Latin American countries would introduce into the first case which was designed to be automatic, an element of judgement on the part of the Organization as to whether or not in a particular case production was on a commercial scale. An industry established before 1940 which was not in production until that year, and was perhaps established in anticipation of the outbreak of war, would have been brought into existence during 1939. It would be more explicit and would probably cover the case if the date in his text were changed to January 1, 1939, leaving the matter definite.

Mr. MULLER (Chile) said it would be very unfair that an industry established in 1938 or 1939 and undeveloped on a commercial scale until the war and as an indirect consequence of war, should not be encouraged under paragraph 4. The procedure of that paragraph only provided protection for a limited time. Industries should be given the opportunity to become consolidated so that they could continue without protection. The idea had been to avoid their certain destruction, and the change of date made by Mr. Wilcox did not solve the problem. It was true that objective criteria existed which would have to be judged, but it would be difficult to find a compromise.
Mr. PHILIP (France) said the amendment would bring unsuperable difficulties. The establishment of an industry and the building of a plant was action on a commercial scale. The words "commercial scale" might be substituted by "at the assembly-line stage" but the Latin American amendment called not only for judgement by the Organization, but also a judgement which would inevitably cause much controversy. Amending the date to January 1, 1939 would cover at least ninety-five percent of the cases to which Mr. Muller (Chile) had referred.

Mr. HAKIM (Lebanon) supported the January 1, 1939 date.

The CHAIRMAN believed it would be better to retain the first criterion as an automatic one. It would be well to support the proposal made by Mr. WILCOX (United States of America).

Mr. MULLER (Chile) pointed out that few industries had been created during the war because of lack of equipment, etc., but many had been developed, and the object was to protect them for the time allotted by the Charter.

He would be inclined to accept the change of date to January 1, 1939.

Mr. COOMBS (Australia) pointed out that the wording would have to be altered since industries "the production of which was not on a commercial scale before January 1, 1940" would include all industries to be established in the future.

The United States amendment was approved.

Mr. WILCOX (United States of America) drew attention to the Brazilian amendment to paragraph 4 (b) (i) where the words "...the first period of its development" had been amended to read "...that period of its development".

Amendment by the Latin American Countries to Article 13, paragraph 4 (b) (i)
Mr. WILCOX (United States of America) proposed that, instead of the deletion suggested by the Latin American countries, the last sentence of his text of paragraph 4 (b) (ii) should be amended to read: "...materially reduced as a result of new or increased restrictions imposed abroad..."

Mr. MULLER (Chile) explained that deletion of the sentence after "materially reduced" had been proposed because restrictions of other countries might take the form for instance of subsidized industries. This would not be covered by the new wording.

Mr. NOVOA (Mexico) said that during the war and up to the present time countries producing raw materials were forced to make large investments to satisfy the increasing demand. A great part of the population depended for employment on that economic activity. If the demand for the articles produced was reduced not only because of restrictions imposed but because the articles had become non-essential, then the producing country would be faced with a supply of dormant capital, and equipment, and unemployed labour. It would, therefore, appear just that in these circumstances the country concerned could take protective measures to develop these products which were not exported at the time. For example, Mexico had exported large numbers of cattle until a disease had spread among them which had made it necessary to close the frontiers. The situation could not remain static - production could not be limited; therefore, it had been necessary to develop industrial processes to take care of the surplus.

Conditions during the war and after the war had increased the demand for Mexican lead. Large investments had had to be made in order to increase production. If by the simple fact that the demand decreased, Mexico would have far greater production of lead than she could absorb, and it would be only just that she should be allowed
to protect and develop this primary commodity converting it into products which might be acceptable elsewhere. For these reasons he supported the amendment proposed by Mr. Muller.

Mr. HAKIM (Lebanon) said that to make the deletion suggested by Mr. Mulley would not cover the situation. The last sentence of sub-paragraph (ii) might be amended to read: "...materially reduced as a result of a fall in the foreign demand for that primary commodity;" It might be that the exports were materially reduced not as a result of new or increased restrictions but as a result of many other important factors such as the development of synthetic substitutes for a primary commodity, of natural factors or of depressions, etc. In any case hardship was caused the exporter of the primary commodity who might be helped by the establishment of an industry. His proposed amendment would not restrict the provisions to cases where the decrease in exports was the result of new or increased restrictions. The words "materially reduced" afforded sufficient safeguard.

Mr. WILCOX (United States of America) said that the only reason he was willing to consider the automatic aspects involved in (i) and (ii) was because it had been represented that those cases were limited in extent and were particularly meritorious. Cases had been cited where the external sales of a commodity were the result of action on the part of another government, and the exporter had to do something to provide a market for its products. That was the only reason why category (ii) had been established.

If its whole justification were destroyed, the entire section should be deleted. Already there were ample provisions for specific cases in the Article.
Mr. MALIK (India) supported the words originally proposed by Mr. Wilcox. It would help the producers of primary products more in the end if the door were opened for quantitative restrictions with automatic approval in the case of a fall in demand. Cases should be confined to those in which the demand in the export market for the goods was the result of restrictive action, otherwise the same circumstances might obtain as those which lead up to the last depression.

The CHAIRMAN pointed out that the aim of the draft was to make the criteria as objective as possible, to avoid ambiguity, and to make the application of the criteria automatic on the part of the Organization. Specific cases were covered by other parts of the Article.

Sub-paragraph (ii) of paragraph 4 (b) was approved as it stood with the exception of the last words which were amended by Mr. Wilcox to read: "...materially reduced as a result of new or increased restrictions imposed abroad".

In reply to a question which Mr. WUNZ-KING (China) had submitted in writing, Mr. WILCOX (United States of America) said that a processing operation was a manufacturing operation. "Processing" implied the use of primary commodities. Every manufacturing industry was engaged in the processing of something. The word covered such things as milling, textile operation. It would not include such highly developed industries as those producing precision instruments. It tied manufacturing closer to the idea that domestic raw materials were being used, but it certainly was not limited to first processing; it would cover a succession of stages of processing such as industries employed.
Mr. WUNZ-KING (China) asked that an interpretative note in the sense of the explanation of the word "processing" should be appended to the article, but after a request by the CHAIRMAN who said there were already too many interpretative notes, he agreed to its appearing in the report of the Co-ordinating Committee. A suggested amendment to the wording by Mr. COOMBS (Australia) would cause too many complications and was therefore not considered.

Paragraph 4 (b) (iii) and (iv)

Mr. HOLMES (United Kingdom) explained that his amendment had the purpose of fusing these sub-paragraphs with the preamble. In his opinion the wording which he suggested was more precise than that contained in the text of sub-paragraph (iii) put forward by the United States representative.

Mr. WILCOX (United States) agreed with the United Kingdom representative and pointed out that the wording which he had suggested had been designed to meet the views of the Latin American representatives.

On the suggestion of Mr. MULLER (Chile), the meeting was suspended so that representatives would have time to study the amendments proposed by the United Kingdom delegation.

The meeting rose at 8:15 p.m.
UNITED KINGDOM PROPOSED AMENDMENT TO THE UNITED STATES PROPOSALS.

As it was considered unlikely that a compromise solution would be found through discussing the United Kingdom amendment, it was agreed that the proposal made by Mr. NOVOA (Mexico) should be accepted. The Co-ordinating Committee then proceeded to examine the United States compromise proposal concerning Article 13, together with the observations of the Latin American nations.

Mr. HOLMES (United Kingdom) agreed to the discussion proceeding on the United States draft, but pointed out that the United Kingdom amendment dealt with the criteria of (iii) and (iv) in a more logical arrangement. When the proviso was discussed, he would deal with the passages to which it referred. It would be seen that the proviso was being applied to (i) and (ii) and not necessarily to (iii) and (iv), and that might possibly correct a misapprehension in the mind of Mr. Muller.

CONTINUATION OF DISCUSSION ON DRAFT OF ARTICLE 13 SUBMITTED BY MR. WILCOX (UNITED STATES OF AMERICA) TOGETHER WITH AMENDMENT SUBMITTED BY MR. MULLER (CHILE).

Paragraph 4 (b) (iii)

Mr. WILCOX (United States of America) pointed out that an attempt was being made in the Committee to reach compromise solutions. For that reason he had opposed the United Kingdom draft, and also opposed amendment proposed by Mr. MULLER (Chile) to drop "is necessary" and substitute "is designed". That amendment would be completely unacceptable to the United States.
Mr. MULLER (Chile) said that criteria (iii) had several subjective conditions that had to be fulfilled. There were several qualifications to allow the application of protective measures together, naturally, with the general limitation in time for the application of those measures. The addition of the word "necessary", which might be the strongest word in that criteria, might make it difficult to prove the necessity of the measure to be taken, and as that would be judged by the Organization, it had been feared that there might not be the necessary comprehension in the cases where the protective measures were applied to develop economy.

If what could be done under (i) and (ii) were taken into consideration, protective measures under (iii) were very restrictive. To add the word "necessary" gave very little hope of applying protective measures for the development of an industry.

Mr. COOMBS (Australia) thought it desirable that the word "necessary" should be retained. Great significance was attached to those aspects which, without making obvious discrimination, provided a basis for a country to use the particular type of device mentioned in the Article.

"Necessary" referred to the type of protection contemplated. The Organization should not judge as to whether a particular industry was a desirable industry to protect or develop. The Committee was in a better position to judge. They did not have the same concern in its taking an interest in the particular form of protection which might be used, especially if it prevented other countries from using it if they had not the same necessity. The use of the word "necessary" would enable the Organization to prevent countries/ additional types of protective measures from using a type which would be a detriment to other and less developed countries. The retention of the word would be a valuable protection against quantitative restrictions used by more highly developed communities.
Mr. ROYER (France) agreed with Mr. COOMBS (Australia) regarding the retention of the word "necessary". It assisted the underdeveloped countries in introducing the idea of choice of measures. The first effect of the word "necessary" was to prohibit the use of those special protective devices by countries which might avail themselves of other methods of protection. The field of application from a geographical point of view would be limited, and experience had shown that private interests required that resort should be had to quantitative restrictions even if other protective means were available. It would be a good thing if the governments could say that resort could not be had to those measures because the ITO provided others.

Mr. WUNSZ KING (China) proposed that the beginning of the sub-paragraph should be amended to read "is suitable for/promotion...." as a compromise solution.

Mr. CHAIRMAN pointed out that "au nécessaire" in French did not reflect the substance correctly.

Mr. MULLER (Chile) said that "necessary" might be suitable or convenient.

Mr. ILLERAS-RESTREPO (Colombia) said that in case the word "necessary" was not accepted, advantage should be taken of the interpretation given by Mr. COOMBS (Australia) and Mr. ROYER (France) and the words "...in view of the resources of the applicant Member" should be added after the words "is necessary".

It was agreed that the words "is necessary" should stand.

It was agreed that the brackets should be removed from the words "or for the processing of a by-product of such a branch of industry which would otherwise be wasted", as proposed by Mr. MULLER (Chile).
As the four criteria were to be covered, and the idea that special methods should not be used to protect products which were the vital exports of other members was in the first proviso, it was proposed to delete the words "on exports of a primary commodity on which the economy of another Member was largely dependent on".

Mr. WILCOX (United States of America) agreed to the deletion but suggested that discussion of the exact wording should be postponed. **It was agreed to delete the phrase.**

Mr. WILCOX (United States of America) did not think it necessary to add the words "on international trade in general as proposed by Mr. MULLER (Chile), as the meaning was clear. However, it might be desirable to indicate the fact in the Committee's Report.

Mr. MULLER (Chile) accepted the text as it stood. All trade on a special product would be affected, and to a greater or lesser extent according to the capacity of the country. **It was agreed that the text should stand.**

Paragraphs 4 (b) (iv)

Mr. LLERAS -RESTREPO (Colombia) said that he had heard no valid reasons against the inclusion of his amendment. One opinion was that the amendment was unnecessary because agricultural products could be protected by other systems which were permissible and consistent with the Charter. This was such a general argument that it might be applied to agriculture and industry. If the Charter were sufficiently broad to permit adequate protection for industry and production, then Article 13 was redundant. But paragraph 1 of Article 13 recognized that there were special circumstances requiring protective measures, and also that it might not be sufficient only to apply those permitted by the Chapter.
There seemed to be no reason for the creation of special systems which might make it possible to protect manufacturing industries and not to protect agricultural production. A manufacturing industry might also resort to the Organization for permission to establish certain measures, but it was felt that automatic measures should be established for manufacturing industries. The question to be discussed was not whether agricultural industries would fall under the provisions of Article 13, but rather whether it should be preferable to single out manufacturing industries and set aside the agriculture. The basis for prosperity was in maintaining agricultural industries. The purpose of the Charter was to give concrete results. It should be ascertained in what cases it was the more urgent to raise standards of living. In Colombia, although it would be useful to help the manufacturing industries, it was more urgent to raise the standard of living of the rural population. To maintain stability in the agricultural production field was more difficult than maintaining manufacturing standards. There was a need for ensuring stable and remunerative prices and not allowing fluctuation, in agricultural industries, and provision for this should be included in Article 13. Nothing should be introduced into the Article which would prejudice the position of the underdeveloped countries. New industries might be damaged through the protective measures of other countries. The Article already contained provisions for taking into consideration the economic condition of a country. Nothing was being propounded in the Colombian amendment. It was to apply to countries that had certain industries and wanted these industries to utilize their own raw materials. It would be strange to create an automatic system for manufacturing industries established during the war, and to establish non-automatic and more restricted conditions to take advantage of natural and raw materials and resources of a country. It would be logical not to apply this to products which fall under the three divisions.
Mr. LLERAS-RESTREPO (Colombia) said that when he criticized the proposal of Mr. WILCOX, he referred to the proposal itself and not to the attitude of the country he represented, which he was sure did not intend to exclude agriculture. The Colombian proposal complemented the proposal by Mr. WILCOX (United States of America).
Mr. COOMBS (Australia) opposed the Colombian proposal on the grounds that that particular type of problem was not characteristic of under-developed countries. In Australia, for example, the standard of living of primary producers was not dependent on domestic, but on world markets. Further, the provision would allow for the protection of the wool industry in the United States and the sugar-beet industry in Europe to the detriment of agricultural producers in under-developed countries. The proviso that the product had to have been traditionally produced in the country and that the measure was intended to increase low standards of living would not prevent the provision being applied with respect to the two examples he had given above.

In his opinion, the proposal was dangerous to under-developed countries and therefore the problem raised by the representative of Colombia should be solved otherwise than by the application of automatically approved quantitative restrictions.

Mr. HAKIM (Lebanon) agreed with the representative of Australia that the Colombian proposal was a dangerous one for its provisos would not prevent its use by the developed countries. It would also open the door to conflict between one under-developed country and another and would give a privileged place to particular types of agriculture.

To meet the point of view of the Australian representative, Mr. Lleras Restrepo (Colombia) suggested that the beginning of his proposal be changed to read as follows: "is necessary in view of "

Although the new Colombian amendment made the proposal less objectionable, Mr. Coombs (Australia) was still unable to accept it with enthusiasm.

Mr. WUNZ-KING (China) felt that the new Colombian amendment
made the proposal more acceptable and as a further concession suggested that the words "generally recognized" be inserted before the phrase "low standard of living".

Mr. ROYER (France) expressed the view that the Colombian proposal was covered by the fourth criterion and by the terms of Article 18.

Mr. WILCOX (United States) said that the Colombian proposal was not concerned with economic development but with the traditional agricultural field and that if it were to be adopted it would destroy the justification for the provisions of Article 13 and of Chapter III as a whole.

Mr. FERRERO (Peru) considered that the Colombian proposal would have a harmful effect on primary producing countries and might prove to be more dangerous than Article 20 (2). Paragraph 2 (c) of that Article contained many more safeguards than the Colombian proposal and yet his delegation continued to oppose Article 20.

The problem raised by the representative of Colombia needed to be solved but he agreed with the representative of France that that solution lay in the provisions of Article 13 (b) (iv) and Article 18.

Mr. LLERAS RESTREPO (Colombia) could not agree that the Colombian case was covered by the terms of Article 18. He accepted the rejection of his proposal, but reserved his vote and asked that the statement which he had made at yesterday's meeting be transmitted to the Conference.

The meeting accepted the Chilean amendments to retain the words "or agriculture" and "relative".

Mr. MULLER (Chile) drew attention to the proviso which he suggested should be added to sub-paragraphs (i) to (iv) inclusive.

Mr. WILCOX (United States) was in general agreement with the Chilean amendment but suggested that the words "a primary commodity"
be inserted after the word "exports".

Mr. MULLER (Chile) agreed that the United States suggestion improved his amendment.

Mr. ROYER (France) felt that the proviso was perhaps too broad in its implications and pointed out that the Charter envisaged only serious harmful effects. The amendment might meet the views of the Colombian representative if it applied to the first three sub-paragraphs only.

Mr. LLERAS RESTREPO (Colombia) said that the present wording of the amendment did not establish a relationship between "the injury" and the "Member", and therefore he proposed the insertion of the words "the manufacture of products" for the word "exports".

Mr. NOVOA (Mexico) suggested the substitution of the word "for" for "which has" and the words "a commodity and" for "primary commodities".

Mr. WILCOX (United States) drew the attention of the Colombian and Mexican representatives to the fact that it was not the "commodity" but "measure" which would have the harmful effect. He suggested the deletion of the phrase "or grant release of".

Mr. COOMBS (Australia) suggested the deletion of the phrase "engaged in the manufacture of primary commodities".

Mr. NOVOA (Mexico) agreed to accept the original United States suggestion to insert the words "of a primary commodity" after the word "exports".

Mr. LLERAS RESTREPO was unable to accept the United States suggestion.

The meeting agreed to postpone discussion of this question until it had written texts of the various amendments.

Meeting rose at 12:15 A.M.
MEETING OF THE CO-ORDINATING COMMITTEE

Held on the 27th of February, 1948, at 4 p.m.

Chairman: Mr. SUETENS (Belgium)

Alternative B (ii)

Mr. LLERAS-RESTREPO (Colombia) proposed the deletion of the word "this" and the deletion of the brackets enclosing the figures (i), (ii) and (iii).

On the suggestion of the representative of MEXICO, it was agreed to accept the Colombian proposal subject to any further comment which the Brazilian delegation might wish to make.

The French amendment to delete the brackets enclosing the words "cause serious prejudice to" was accepted by the meeting.

Alternatives A and B

Mr. MULLER (Chile) did not feel that compensation should be obligatory concerning non-negotiated commitments. The underdeveloped countries were in a disadvantageous situation and to ensure compensation for the injury of the trade of a highly developed country would perpetuate the disparity between the two groups of countries.

The representatives of LEBANON, PERU and INDIA strongly supported the remarks of the representative of Chile.

Mr. HOLMES (United Kingdom) considered that some provision along the lines of either Alternative A or B was needed. In connection with the remarks of the Chilean representative, he drew attention to the fact that the reference to compensation with respect to negotiated commitments referred to anti-forstalling measures only. It should be easy to accept Alternative B to the effect that the applicant Member would apply protective measures in such a way as to avoid injuring the economic interests of other Members.
The CHAIRMAN, speaking as a representative of BELGIUM, pointed out that the process of economic development would begin with the establishment of iron and steel, glass and textile industries, all of which represented the major exports of his country. Nevertheless, he recognized that economic development would contribute to the welfare of the world as a whole and thus also to Belgium.

He drew the Chilian representative's attention to the fact that the question of compensation had been accepted in connection with Article 15. What was suggested in connection with Article 13 was infinitely less strong. His delegation was prepared to accept Alternative B because it would allow for the possibility of adjustment which might be contained in the Charter.

Mr. LLERAS RESTREPO (Colombia) was unable to accept Alternative A but supported Alternative B as he believed that any protective measure which was applied should avoid causing unnecessary injury.

Mr. PHILIP (France) could not accept the principle of the application of exceptional measures without the idea of compensation. The under-developed countries were asking for specific rights and the more industrialized countries were demanding that the same safeguards be applied to them as were contained in Article 21.
Mr. NOVOA (Mexico) recalled that the Chapter on Economic Development had only been inserted in the Charter at Geneva. It had been felt that the provisions of Chapter IV would affect countries differently depending on their economic development. That disparity having been recognized, Article 13, was offered to the underdeveloped countries as an aid to their economic development. The protective measures referred to in the proviso pre-supposed a certain amount of damage to other countries which was to be tolerated as benefiting the underdeveloped countries.

Mr. MÜLLER (Chile) said that the underdeveloped countries wanted the right, within the framework of the Charter, to take certain of the steps which had been taken by other countries when they had industrialized themselves in an unrestricted age. The idea of compensation contained in Article 15 referred to preferential systems which were opposed to the fundamental principles of the Charter. In Articles 20 and 21, the underdeveloped countries had accepted wide limitations. In Article 13 they would not be prepared to accept the principle that they would have to pay for their future development when other countries had not done so.

Mr. PHILIP (France) pointed out that Alternative B made no mention of automatic compensation but set forth the idea that countries should choose the measure which would be best for their own purposes and which would cause the least amount of harm to other countries.

Mr. MALIK (India) drew attention to the fact that the damage caused by the economic development of underdeveloped countries would be temporary and that in the interest of the economic welfare of the world as a whole, the highly industrialized countries should be prepared to suffer a certain amount of temporary damage. He could accept Alternative B on the understanding that there would be no compensation in respect of the certain amount of damage which would obviously result from the application of the protective measures.
Mr. WILCOX (United States of America) did not see how the meeting could accept the first proviso which had been introduced solely for producers of primary commodities, without also accepting the very much milder Alternative B. The representatives of India, Lebanon, Colombia and France already had indicated their willingness to accept Alternative B and he, therefore, proposed that it be approved without further discussion.

Mr. WUÉ-KING (China) agreed that Alternative B represented a reasonable compromise, but in case there was no general acceptance of it, he suggested that the following words be added to Article 13 (1):

Mr. HAKIM (Lebanon) did not object to the idea of Alternative B but felt that its adoption was to a certain extent unnecessary in view of the second sentence of Article 13 (1). The language of the proposal would also have to be changed, as it only would be possible to know what damage had been caused after the particular measures had been applied.

Mr. MULLER (Chile) supported the remarks of the Lebanese representative. Alternative B as it now read would allow a subjective judgement of how much damage had been caused by a particular measure, did not agree with that Mr. WILCOX (United States of America) represented not agree with that Article 13 (1) covered the principle contained in Alternative B because it was only a recognition paragraph and made no reference to a commitment.

In reply to the representative of Chile, Mr. PHILIP (France) pointed out that Alternative B was an obligation on the part of Members to apply the measures which had been authorized by the Organization in such a way as to avoid injuring other Members.

Mr. WILCOX (United States of America) also pointed out that Alternative B could not be regarded as a criterion and to make that point clear suggested that the word "provided" should be deleted.
To meet the views of the Chilean representative, Mr. WUN|KING (China) suggested that Alternative B read as follows: "Provided that the applicant Member in administering any measure under this sub-paragraph shall take into consideration the desirability that such measures shall be administered in such a way as to avoid unnecessary damage......"

The meeting adopted Alternative B with the deletion of the word "provided".

INTERPRETATIVE NOTE CONCERNING THE WORD "PROCESSING"

At the suggestion of the representative of Peru, it was agreed that the Executive Secretary would redraft the note along the lines suggested by the United States representative at yesterday's meeting.

Mr. NOVOA (Mexico) requested time to consider paragraph (i) of Alternative B.

ARTICLE 13 (4) (c)

MR. WILCOX (United States of America) drew attention to the United States redraft of the Brazilian proposal concerning this paragraph.

After a short discussion, it was adopted by the meeting.

ARTICLE 13 (4) (d)

With the deletion of the word "relative" the paragraph was adopted by the meeting.

ARTICLE 13 (5)

With the deletion of the brackets enclosing the words "all branches of agriculture", paragraph 5 was adopted by the meeting.

ARTICLE 13 (6)

On the suggestion of the representative of Australia, the word "secrecy" was substituted for "confidence" in this paragraph.
Mr. MULLER (Chile) said that the purpose of his amendment was to state that there could be a time-limit with respect to the intervention of the Organization.

It was agreed that that was purely a question of drafting.

It was agreed that the United States amendment consequential upon the amendment to paragraphs 4 (c) (i) and (ii) was also a question of drafting.
Article 13 - Paragraph 7

United Kingdom amendment.

Mr. HOLMES (United Kingdom) proposed the deletion of the words "and agreement" in the penultimate sentence. The Geneva text did not provide for the over-all time limit for the Organization. There was doubt as to the wisdom of introducing a time limit as it might defeat the objectives for which it was set. In certain cases it would be found, and it was recognized in the text that the time limit might be unduly short, and might have to be exceeded. There was provision in the document under discussion if unforeseen difficulties arose, for an extension of the period after consultation and agreement with the applicant member. The addition of the words "and agreement" were nonsensical. It was true that it provided the applicant with the means of vetoing an extension of the time limit, but the wording did not represent the intention. What could be done in circumstances in which the applicant Member was in a position to veto an extension which the Organization might need in order to do its work fairly and accurately?

It was agreed that the words "and agreement" in the penultimate sentence of paragraph 7 should be deleted.

Mr. WILCOX (United States) drew attention to a consequential change arising out of the approval of the Brazilian proposal. The fact that the words "or application" were to be inserted after "such statement" in the fifth line from the bottom of paragraph 7, Article 13, should be referred to the Central Drafting Committee.

Mr. NOVOA (Mexico) withdrew his reservation concerning proviso (i) under Alternative B, at the top of page 5 of document 5350.
Mr. WILCOX (United States) stated that his acceptance of the new draft of Article 13 was dependent upon a satisfactory settlement of the other related issues which were pending before the Co-ordinating Committee.

Mr. WUNSZ-KING (China) drew attention to the footnote on page 6 of document 5350 which stated that the text proposed by the Chinese delegation should appear in the Report. In the Report made by the Chairman of Sub-Committee C of Committee II, on Articles 13 and 14, there was a note "B" which embodied exactly the same wording as was set forth in the footnote under reference. It had been unanimously agreed that the text should be included in Article 13 as an interpretative note, and he would like the Co-ordinating Committee's assurance that this would be done.

Mr. NOVOA (Mexico) as a Member of the Sub-Committee and working groups which had considered Articles 13 and 14, confirmed the remarks of Mr. Wunsz-King (China).

Mr. HOLMES (United Kingdom) presumed that in considering the results of the deliberations of the working groups, footnotes reservations, etc., would be included in the Reports to the Committee. The United Kingdom had a note which referred to the words "materially affected" in paragraph 3(b) of Article 13 which should be included in the report of the working group to Committee II.

Mr. WILCOX (United States) referred to the original document of Sub-Committee C of Committee II which indicated that the Chinese note would be included as a section of the Draft Report of the Committee and not as an interpretative note. Although the Heads of Delegations were against encumbering the text with interpretative notes, he would not object if Mr. Wunsz-King was intent on its inclusion in the text of the Chinese note.

Mr. WUNSZ-KING (China) pointed out that he had written
to Mr. Wilcox on February 26 asking that the note should be inserted in Article 13 as an interpretative note.

Mr. COOMBS (Australia) said that if Mr. Wunsz-King's request were complied with, his delegation and others would have to reconsider a number of cases where they had set interpretations of the text in matters of great interest to them, but in the light of the point raised by the General Committee, had agreed that they should appear only in reports of the Sub-Committee. It had been understood that if questions were raised in the future, reference could be made to the records which would be accepted as significant in the interpretation of the text. Therefore an interpretative note should be added to the text itself only in the most exceptional circumstances.

Mr. HOLMES (United Kingdom) assured Mr. Wunsz-King that a paper on the subject of interpretative notes had been circulated by the Executive Secretary and he had asked for it to be put on the agenda of the General Committee.

The CHAIRMAN pointed out that, as it was not a question of principle the Co-ordinating Committee could not deal with it.

Mr. MULLER (Chile) brought up the question of prior approval. The Latin American countries generally believed that it was unnecessary. Approval was "automatic" when it was clear that the Organization gave the approval as a matter of fact, and automatically. Accepting that that was the case, the argument could be used exactly with the same weight to words applying the method without the prior approval of the Organization, but communicating the action to the Organization, and having the statement of the Organization, only, of course, in the case where the measure did not fall within the objective criteria. He proposed that (i) and (ii) prior approval would not be necessary, but in criteria (iii) and (iv) which were not entirely objective
and which had to be judged by the Organization, prior approval was essential.

Mr. COOMBS (Australia) said there had been misunderstanding of his previous remarks regarding the approach to the problems of Article 13. There were two questions: (1) Whether prior approval should be required, or whether the countries concerned should be permitted to take independent action; (2) Whether prior approval should be automatic when certain criteria were fulfilled, or whether approval should be given after a pro and con consideration. As to the first, the important consideration was whether the decision could be based on matters of fact and not of judgement. He had said that if the decision were to be based on a question of fact, then it did not matter whether the prior approval of the Organization were called for or not, because Members should be trusted not to misrepresent the facts. If the decision were based solely on the question of fact - determinably and validly - the only chance for wrong action being taken would be through misrepresentation of those facts. Therefore decision as to whether prior approval should be required was merely technical, and not a question of policy. Where judgement was involved it was desirable to require prior approval; it would be in the interests of everybody. A decision taken on the judgement of a member might be contrary to that of the Organization, and it might cause the Member embarrassemence and hardship to retrogress.

As to the question of whether prior approval should be automatic or based on the "pros" and "cons", the criteria should be capable of being answered "yes" or "no". There should be considerations which might tend towards a favourable decision, but they did not need to be the only ones.

None of the criteria in the text was completely free from any element of judgement. There were criteria which could be answered "yes" or "no", but there could be dispute
about questions arising in connection even with the last part of paragraph 4(b)(i). Criteria(ii) and (iii) while capable of being answered, involved some judgement upon the economic circumstances underlying the industry. In the interests of Members it would be well to include a provision in Article 13 for obtaining the approval of the Organization before action were taken in accordance with the Article.
Mr. MULLER (Chile) considered criteria (i) and (ii) to be perfectly objective. The second part of (i) reading "...which was protected during that period of its development by abnormal conditions arising out of the war" had always been considered to be a fact, and was not a question of judgement. (ii) was also a question of fact. There could be no discussion about "the external sales of such commodity have been materially reduced as a result of new or increased restrictions imposed abroad". It was true that no Member would apply criteria (i) or (ii) running the risk of making investments or starting production if there were a chance of the Organization objecting. Prior approval should not be either necessary in cases (i) or (ii).

Mr. WILCOX (United States of America) supported by Mr. HOLMES (United Kingdom) said it had been understood that in redrafting Article 13 the Article would be based upon the principle of prior approval and that prior approval should be automatic. The proposal introduced by Mr. MULLER (Chile) was completely unacceptable, and if adopted the United States would withdraw its support from the entire article, and from the group of suggestions that had been submitted for the settlement of outstanding issues.

Mr. MULLER (Chile) believed that from the political angle, in practice there was no difference between prior and subsequent approval of the Organization, but countries should be afforded the opportunity to defend their point of view and explain their opposition to prior approval in cases where protective measures were involved.

Mr. FERRERA (Peru) proposed that the meeting should be adjourned to give the Latin American countries time to discuss the matter further.

Mr. NOVOA (Mexico) said it was considered that free action of the Member nations *vis a vis* the provisions which were called automatic criteria,
in cases where there was no prior approval of the Organization, could give rise to countless abuses. What, therefore, would be the right of Members which, having accepted the prior approval and made application in accordance with paragraph 4 of Article 13, and within the criteria if which were called automatic, the Organization failed to give its approval?

If a Member were not given freedom to take measures arising under Criteria (i) and (ii), then the Member would be placed in an unfair situation. What would be the position of a Member, which having asked for authorization, did not receive an answer from the Organization?

Mr. HAKIM (Lebanon) and Mr. FERRERA (Colombia) and Mr. WUNSZ-KING (China) accepted the compromise of automatic prior approval. The difference between the two procedures would simply be a delay of 90 days.

The CHAIRMAN pointed out that it was a question of form rather than substance, and that since the objective criteria existed, there was nothing to fear from resort to the Organization before application of the measures.

Mr. COOMBS (Australia) said that paragraph 7 gave a precise answer to Mr. NOVOA (Mexico) in requiring that the Organization should set a date by which it would inform the Member - ninety days after presentation of the case. A Member not receiving a reply within that time, or within the requested single extension of that time, could assume that the approval had been given.

Mr. PHILIP (France) pointed out that Article 15 referred to all cases. The same period of time was required whether reference was made to automatic approval or where a decision was necessary.

Mr. NOVOA (Mexico) said that at least in Spanish the meaning of the word "automatic" did not suggest a delay of ninety days.
The CHAIRMAN pointed out that there was nothing in paragraph 7 to suggest that the Organization should wait for ninety days before giving its approval where criteria (i) and (ii) were applied. It would feel a moral obligation to answer immediately in order to make it automatic.

Mr. WILCOX (United States of America) and Mr. HOLMES (United Kingdom) supported the retention of nine-day limit.

Mr. COOMBS (Australia) suggested that the obligation should be placed upon the Organization to set a date as early as possible, and that the text should be amended to read: "This date shall be the earliest practicable, but not more than ninety days..."

It was agreed that the Australian amendment to paragraph 7 should be accepted.

ARTICLE 15.

Mr. MULLER (Chile) made an informal statement regarding the proposed amendments by the Latin American countries to the United States compromise text of Article 15, with the understanding that the full text should be circulated in ample time for discussion before the meeting of the Co-ordinating Committee on the following day.

The meeting rose at 7:50 p.m.
SECRET

SUMMARY RECORD OF COORDINATING COMMITTEE MEETING

Held on Saturday, 28 February 1948, 9:30 p.m.

ARTICLE 15 — CONTINUATION OF CONSIDERATION:

Paragraph 3 (d)

Mr. MULLER (Chile) said that the present draft of paragraph 3 (d) was subject to the criteria of 3 (b); his amendment proposed that, until a country had developed products, compensation be given on products which might not fall within the scope of 3 (b). However, it was also provided that such advantages should be progressively eliminated and replaced as soon as possible by preferences conforming to the terms of 3 (b).

The balance of trade was against Chile in her relations between Argentina and Peru. Some new industries should be developed to restore equilibrium; in the meantime larger countries were hurt because the balance was paid in dollars which otherwise might be used for other imports. If the compensation could be made only within the definition of 3 (b), it would be impossible to obtain preferences from those neighbouring countries.

Mr. COOMBS (Australia) asked whether Chile would be able to compensate by tariff reductions on an m-f-n basis or by preferences alone. If, for instance, Chile bought wheat from Argentina, in order to restore a balance of trade disequilibrium, Argentina should give preference, say, for Chile's boot and shoe industry. In terms of the draft, that should be compensated by a preference in an Argentine newly established industry; but if Argentina had no newly established industry, the compensation might be accomplished by a reduction in tariff on an m-f-n basis. On the other hand, it would be much more difficult to justify a preference on an established industry, i.e., wheat. If the phrase "tariff advantage" were on an m-f-n basis, the proposal was worthy of support.

Mr. ROYER (France) said the phrase should read "preferential tariff advantage."
Mr. EVANS (United States) replied that if Mr. Royer was correct, if in fact the concession did apply to reciprocal preference advantage, the attitude of the under-developed countries still was puzzling. If an under-developed country wished to enter into a preferential arrangement for the advantage of a new industry, it had a choice under Article 15; reciprocal preference advantages which complied with the criteria. It was difficult to imagine any under-developed country not having a good many industries or agricultures not complying with 3 (b). But if an exception were necessary, an m-f-n concession was always permissible; and if neither were applicable, the Organization under Article 15 could approve by a two-thirds vote a concession not complying with the criteria.

The amendment was a distinct disadvantage in that larger countries could use its provisions to their disadvantage. The present draft of Article 15 would make it difficult for a larger country to exert economic pressure on others, but the proposal of Mr. Muller would not prevent such action. From the United States point of view, if semi-automatic procedure were to be adopted, there should be no wide open escape from the basic principle of Article 15. There was no objective assurance in the amendment as to the length of time that the preference which did not conform would remain in force, there was no responsibility placed upon the Organization to terminate it, the only responsibility being for a Member to interest "as soon as possible".

Mr. MULLER said that Mr. Evans remarks and the doubts expressed by Mr. Coombs were to be considered. In accordance
with the present draft of Article 15, would it be possible for Chile to obtain a preference from a neighbour in order to develop an export without having to give compensation in other products, which would cause the imbalance to continue.

Mr. COOMBS (Australia) replied there was nothing to prevent such an agreement. The Article did not require compensation and there was nothing to prevent compensation in the form of an m-f-n tariff reduction, even though the benefit might go entirely to the neighbour concerned.

Mr. OLDINI (Chile) stated that Mr. Muller had mentioned one of the various aspects of the problem; the effort to solve the problem of balance of payments difficulties and the application of adequate technical measures which would be in conformity with procedures of preferential arrangements.

It was not realistic to maintain, even though the Charter permitted, that one-sided preference arrangements could be accomplished. The problem could not be solved by compensation on an m-f-n basis because a country would not feel it had granted special privilege if it were granted also to third parties.
In most instances products on which Chile could grant preferences under (b) were competitive with her own industry. Economic coordination on an international level required a long period of transition and during that time some exception to 3(b) was necessary.

Any re-draft of the amendment to meet Mr. Evan's objections would be satisfactory, as to limit of time or intervention of the Organization.

Mr. COOMBS (Australia) said that experience with m-f-n preferences since the negotiations at Geneva gave reason to believe that Chile and Argentina could work out a reasonable arrangement for m-f-n tariff reductions. It would be worthwhile for the Latin American countries to consider in concrete form the type of preferences they wished to obtain and the compensatory m-f-n reductions required. If compensation were not on an m-f-n basis and the criteria were not governed by sub-paragraph (b), the industry which did not fall within that criteria was almost inevitably an established primary commodity, which would be dangerous and detrimental to the interests of all other under-developed countries.

Mr. PHILIP (France) agreed and added that the solution might be in Article 42.

Mr. OLDINI (Chile) replied that in his opinion Article 42 did not cover the case. There was a great difference between established preferential arrangements and his case.

The CHAIRMAN said that in the absence of support of the amendment by other delegations, the majority favoured the Australian text.

Mr. FERRERÓ (Peru) agreed with Mr. Oldini and added that because of the limited exports of under-developed countries, Mr. Coombs' solution was difficult to put into practice. He would abstain from a decision.

Mr. MULLER (Chile) although aware of the majority decision,
could not accept it.

Mr. ADARKAR (India) felt that Mr. Coombs was right and that the Latin American amendment would be detrimental to underdeveloped countries. He was therefore opposed to it.

Mr. HAKIM (Lebanon) abstained and Mr. (China) was indifferent since China had very little opportunity to arrange preferential agreements.

The CHAIRMAN pointed out that it was rather difficult to abstain in the decisions of this type of committee, but even with abstentions there was a majority in favour of Dr. Coombs' proposal. He would recommend that Mr. Muller consider the alternative formula.

Paragraph 3 (e)(i)

Mr. MULLER (Chile) explained that his amendment was proposed so as not to void the benefits of automatic approval.

Mr. Evans (United States) said that Article 13 provided for departure from negotiation obligations, and he was opposed to any change in either direction. If the paragraph were amended in one direction there was danger that Article 15 would be used as a method of obtaining release from contractual obligations without the protection of Article 13. If the reverse were true, an amendment would be of no interest to underdeveloped countries.

Mr. COOMBS (Australia) said that considering the preamble of paragraph 3, he doubted that sub-paragraph (e) was drafted so as to make it a requirement; sub-paragraph (e)(i) should be re-drafted: "(i) In the case of a duty already bound as a result of negotiations under Article 17 in accordance with the provisions of Article 13 paragraph 2(a)."

Mr. ROYER (France) said the Chilean proposal departed substantially from the procedure of Article 13 and it would be difficult to reach agreement on its addition to the text.
Mr. IVANS (United States) and Mr. ADARKAR (India) favoured Mr. Coombs' proposal.

Mr. COOMBS (Australia) felt sub-paragraphs (i) to (v) inclusive might be re-drafted since the procedures of Article 13 were to be relied upon.

Mr. EVANS (United States) agreed. The text was a basis for discussing the several points but after the substance had been agreed upon, the drafting could be improved.

Mr. OLDINI (Chile) could not agree. If the amendment were not accepted, Chile would reserve its position, but he asked that the present text be maintained. In any event the sub-paragraphs should be discussed individually.
CO-ORDINATING COMMITTEE MEETING HELD on 28th FEBRUARY, 1948, at 9:30 P.M.

Mr. LEBU (China) pointed out that in Article 13 the reference to compensation applied only to anti-forestalling measures.

Mr. WILCOX (United States) warmly supported the Australian proposal.

Mr. ROYER (France) said that the original text did make clear that only in exceptional cases would a bound tariff on which a preference had been granted be increased.

Mr. GARCIA OLDINI (Chile) said that the same treatment should not be applied to bound tariffs as to those which were not bound and that an implication to this effect was contained in the Australian proposal.

Mr. EVANS (United States) said that if the Australian proposal replaced the whole of paragraph (e) it would not apply to bound tariffs, for they would be covered in Article 13.

Mr. ADARKAR (India) wondered if Article 13 (2) (a) could be applied if bound rates were covered in that Article.

Mr. HAKIM (Lebanon) expressed the view that Article 13 (2) (a) could not be used with respect to the increase of a bound duty because that paragraph referred to "in the interest of its development".

Mr. EVANS (United States) agreed with the representative of Lebanon that some cross reference to Article 13 would be needed.

It was agreed to postpone final consideration of the Australian proposal until the following meeting.

Latin American Amendment to paragraph 3 (g)

Mr. MULLER (CHILE) felt that a time-limit was necessary in connection with preferences granted for reconstruction.

Mr. ROYER (France) said that he could accept the amendment if it applied both to reconstruction and development.

Mr. COOMBS (Australia) accepted the substance of the Chilean amendment to the effect that the duration of a preferential agreement should
be related to the need for it. Ten years was not an unreasonable length of time for a preferential agreement for purposes of reconstruction, but the renewal of that agreement should be subject to the approval of the
Organization.

Mr. PHILIP (France) preferred the original wording of paragraph (g).

Mr. HOLMES (United Kingdom) agreed that ten years was a reasonable period of time for a preferential agreement for the purposes of reconstruction, provided that that agreement could be renewed with the approval of the Organization. His delegation had submitted an amendment to paragraph (g) which would make clear that with respect to the renewal of a preferential agreement, the Organization might require negotiations under the terms of Article 17.

Mr. GARCIA OLDINI (Chile) could not accept the implication that ten years would be sufficient time to achieve the economic development of a country. To make for justice, new preferences should be given the same treatment as existing preferences.

Mr. HOLMES (United Kingdom) drew the Chilean representative's attention to the fact that his country and others had contributed greatly to the Charter by agreeing to the gradual elimination of existing preferences.

The representatives of France, Lebanon and India supported paragraph (g) as it now read.

Mr. NOVOA (Mexico) proposed the following re-wording of the paragraph:

"3 (g). The agreement contains provisions for its termination according to its nature and within a period necessary for its purposes but in any case not more than ten years, subject to renewal for periods not greater than five years each with the approval of the Organization."

The first part of the proposal referred to whether the preferential agreement was for the purpose of economic development or reconstruction. The second idea contained in the proposal referred to the time-limit which would apply in connection with reconstruction.
Mr. WILCOX (United States) suggested that the Mexican proposal should read as follows:

"...... according to its purposes and in a period necessary for carrying out those purposes but in any case......"

Mr. COOMBS (Australia) suggested that the words "with the approval of the Organization" should be inserted after the word "renewal.

The meeting accepted the Mexican proposal subject to drafting changes.

Latin American amendment to paragraph 4 (a)

Mr. COOMBS (Australia) preferred the wording of the proviso in Article 13 (5) (b) of the Geneva text.

The meeting agreed that this question was a drafting matter.

Latin American amendment to paragraph 4 (b)

Mr. EVANS (United States) said his delegation had gone a long way to meet the views of the Latin American representatives in this matter. There would be cases where the only feasible solution would be the modification of the preferential agreement.

Mr. HAKIM (Lebanon) felt that the last part of the Latin American amendment needed clarification. Could the provisions of Chapter VIII be applied in this connection or not?

Mr. GARCIA OLDINI (Chile) said that the intention of the amendment was that fair compensation would be the general rule, but that in rare cases the agreement would have to be modified.

Mr. COOMBS (Australia) suggested the deletion of the word "would" in the underlined passage.

Mr. EVANS (United States) did not object to the presumption that compensation would be the appropriate solution but felt that the Organization decision should be left to the Organization. He suggested the substitution of "desirable" for "possible" in the underlined passage.

Mr. MULLER (Chile) expressed the view that if the modification of a preferential agreement was given equal weight with the idea of
compensation, preferences would cease to have any useful effect.

Mr. COOMBS (Australia) suggested adding "or reasonable" after "possible".

Mr. PHILIP (France) suggested the phrase "just compensation or failing this modify the agreement".

To meet the views of the Lebanon representative, Mr. ROYER (France) suggested that a phrase be added to make clear that the provisions of Chapter VIII would only apply a posteriori.

The meeting agreed that paragraph 4 (b) was purely a question of drafting.

Latin American Amendment to paragraph 5

Mr. GARCIA OLDINI (Chile) drew attention to the fact that the inclusion of a reference to sub-paragraph (a) was a typographical error.

Mr. EVANS (United States) asked if the proposal for a simple majority vote was a Latin American or simply a Chilean proposal?

Mr. PHILIP (France) opposed the proposal for a two-thirds simple majority vote.

Mr. MULLER (Chile) said that the voting question was subject to the final terms of Article 15. Should permission to apply preferences be very limited, the Latin American delegations would attempt to achieve this under the terms of paragraph 5 without a two-thirds majority vote.

Mr. HOLMES (United Kingdom) was not sure that conformity to the conditions set forth in paragraph 3 was necessary. Any acceptance on his part of the first part of paragraph 5 would be subject to the decision taken on the United Kingdom amendment to the first of the automatic criteria.

Proposal by the United States Delegation concerning procedure

After an exchange of views the meeting agreed that the Executive Secretary would prepare the documentation for the Heads of Delegations which then would be discussed by the Co-Ordinating Committee at its meetings at 9:00 A.M. and 2:30 P.M. on Monday, March 1st.
In connection with paragraph 3 (5) Mr. MULLER (Chile) said that even the reservations there referred to might not be able to be withdrawn until Articles 13 and 15 had been definitely decided.

Mr. WILCOX (United States) pointed out that if the Heads of Delegations were to give their consent to the results of the work of the Co-Ordinating Committee, they would have to know on what basis they were doing it.

The meeting rose at 12:45 A.M.
SECRET 28 February 1948

SUMMARY RECORD OF MEETING OF CO-ORDINATING COMMITTEE

Held on Saturday, 28 February 1948, at 4:00 p.m.

ARTICLE 13 AS REDRAFTED ON 27 FEBRUARY 1948 (White Paper 5390)

Mr. FERRERO (Peru) and Mr. ADARKAR (India) commented on the footnote on page 3, and Mr. HOLMES (United Kingdom) mentioned the footnote on page 5. The EXECUTIVE SECRETARY said the notes would not be part of the text, but together with other relevant material, would be submitted to the Working Party for their final drafting.

Article 13 was accepted.

ARTICLE 15 (White Papers 5215 and 5413)

Mr. WILCOX (United States) reviewed his proposal for an agreement for settlement of outstanding issues relating to economic development, presented to the Co-Ordinating Committee on Tuesday, 24 February: (1) the Committee should accept the re-drafted Article 15, as worked out in conference with the Committee and Delegations and subject to certain revisions noted in square brackets; (2) the Committee should accept the substance of Article 15 as presented; it was impossible for the United States to go beyond the substance in the draft; (3) the Committee should choose one of the three Alternatives regarding the Tariff Committee and the Economic Development Committee; (4) it should accept the Sub-Committee's draft of Article 75; and (5) the consequential amendments and reservations should be withdrawn.

Mr. Wilcox stated he had consulted widely with other Delegations and a formula had been worked out which would command the support of a large majority. In so doing, he had surrendered the fundamental position that the United States had maintained for months, and had gone as far as possible in making the maximum concession, with the desire of reaching a middle ground.

However, the paper presented by Mr. Muller proposing amendments to the new Article 15, represented the extreme position that the Delegation of Chile had taken for the last several months; there seemed to be no desire to achieve a compromise, and discussion of it would place the Conference back...
several weeks. The redrafted Article 15 represented the final position of the United States in substance and Mr. Wilcox said he was not prepared to discuss or consider in detail any of the amendments presented by Mr. Muller.

Mr. MULLER (Chile) replied that the amendments were not proposed by the Delegation of Chile, but by seventeen Latin American countries. The redrafted Article 15 was more or less based on discussions in the Working Party and the compromises were not reached by a cross-section of the Conference, representing the majority. He could not accept the ultimatum of Mr. Wilcox.

Mr. WILCOX (United States) said that if the Committee wanted to reach a general compromise, there was no point in receding to the extreme position taken weeks ago by one or two Delegations. If a general compromise was not desired, the Committee should refer the matter to the Heads of Delegations, where the opinion of the majority would be acceptable to his Delegation.

Mr. HOLMES (United Kingdom) stated that the new Article 15 contained one feature unacceptable to his Delegation; paragraphs 3 and 4 (a) provided for the approval of the Organization for preferential arrangements upon the fulfillment of certain stated conditions and paragraph 5 required special prior approval of a two-thirds majority. The question of the two-thirds majority was under consideration, but the point was that the procedure under paragraph 5 was more difficult than under paragraphs 3 and 4 (a) and the criteria of the latter, not alternative, required that the territory of each party should be contiguous or of the same economic region. That was in direct contrast to the Geneva draft which made no condition regarding geographic location for preferential development arrangements.

The United Kingdom did not believe there was special merit in geographic proximity and the condition would make it impossible for the United Kingdom to take advantage of the so-called automatic approval under paragraphs 3 and 4 (a). The conditions of paragraph 5 could lead
to a waiver in favour of a particular member under Article 74, or to a change in the text under Article 95.

The provision should be redrafted to include special traditional ties of an economic character which were far more important and relevant to the purposes of the Charter than contiguity.

Against the background of willingness to accept the obligations of Articles 16 and 17 as well as the concessions granted at Geneva (GATT), it might be politically impossible for his Government to accept an Article which gave other countries preferential privileges it could not itself use. While the United Kingdom could not restore or increase its preferential system, countries having recourse to Article 15 were free from the obligations to negotiate for the elimination of new preferences; his Delegation had submitted an amendment to counter-act that disparity. After the initial period of ten years, and unless the Organization directed otherwise, such preferences should be negotiable.

In view of the obligations the United Kingdom was expected to take elsewhere in the Charter, Article 15 would be carefully examined by his Government and if the particular inequity of potential application was not corrected, the ability of his Government to make common cause with others might well be jeopardized.

Mr. MULLER (Chile) said the amendments to Article 15 presented through him by the Latin American countries were justified because the United States had not consulted that group regarding the proposed draft. If the objective of the Co-Ordinating Committee to bring together the divergent points of view could not be realized, it would be necessary to refer the question back to the normal Conference procedure.

Mr. WILCOX (United States) emphasized that the draft of Article 15 was in no way a United States Draft. The United States position on the subject was expressed at the beginning of the conference; there should be no new preferences anywhere under any circumstance. The draft was an indication of the extent to which the United States could go to meet the views of others. He had not said that the Latin American countries were consulted regarding Article 15, but they were on Article 13. However, members of his Delegation had discussed the problems with many all during the
The Conference and they knew the majority view. The United States had capitulated on many important points it had been defending for some months in an effort to reach an agreement, but the amendments presented by Mr. Muller and the statement by Mr. Holmes seemed to indicate that there was little disposition to reach a general compromise.

Mr. PHILIP (France) said that Article 15 was far from the text the United States wanted and only by constantly keeping the views of others before it had she been able to reach the present compromise text. His delegation had thought the Latin American group would make a similar effort and that their amendments would be more of minor details, but it appeared that the basic position had been maintained and further discussion would be neither useful nor fruitful. Mr. Philip proposed that the Committee discuss the subject of the Tariff and Economic Development Committees at this stage and allow the Latin American group to reconsider their position.

Mr. FERRERO (Peru) thought it premature to say that discussion would not be useful. The Committee had the obligation to have at least one discussion to see whether the differences were in fact as great as some believed.

As to the statement of Mr. Holmes, it should be remembered that existing preferences were created freely with no limit of time and with little consideration for the harmful effects they might have on other countries. If Article 17 provided for their elimination, it also exacted a price that the elimination should be mutually advantageous. Even though the new preferences were not subject to Article 17, Article 15 provided for prior negotiation in paragraph 3 (e) and 4 (b) and (c) implied most-favoured-nation treatment. Moreover, new preferences were not to be established freely and without limitations, as old ones had been, and they were limited in time.

The Conference had had to choose between three courses: (1) to put an end to all existing preference, leaving to Article 16 the
universal application of most-favoured-nation treatment, and
fixed time of termination; (2) to apply the same criteria to all
preferences, old and new; and (3) to establish new preferences —
the latter was the one chosen in creating Article 15. The Latin
American group had made many concessions and even now Article 15
limited freedom of action to such an extent it was difficult to
envision its applicability in many cases.

Mr. HAKIM (Lebanon) and Mr. ADARKAR (India) supported
the procedure proposed by Mr. Philip.

Mr. COOMBS (Australia) agreed there were fundamental
issues which required further study, and felt that further con­
sideration of Article 15 would not be useless. Whatever, the
outcome, both points of view would have been clearly expressed.
After such discussion, time should be given to both extremes to
consider their proposals in the light of the discussion.
Mr. NOVOA (Mexico) supported Mr. Coomb's statement. An adamant stand at this point would be lamentable. The result of the examination of Article 15 and the amendments might fulfill the task before the Committee.

The CHAIRMAN quoted from the Summary Record of the meeting held on Tuesday, 24 February, indicating that Mr. Wilcox's attitude had not changed. However, without having tried to effect reconciliation, it would not be wise to say there was no meeting ground. Agreement had been reached on Article 13 because it was found that the Latin American difficulties were not so real as had been thought. Perhaps the same thing would be found true with Article 15.

Mr. PHILIP (France) said he had not suggested not dealing with Article 15; he had thought postponing discussion would have been results.

The CHAIRMAN stated that the Economic Development Committee question had still to be considered by the Latin American group.

Mr. WILCOX (United States) said that in an effort to reach a satisfactory compromise agreement, the United States had submitted a draft, which did not represent its interests or desires in any way. The draft had been rejected and he had failed completely. If the arguments were to be presented from the original basis, the United States would not start its discussions from the extreme position of the compromise draft. He would, therefore, withdraw the paper 5215 and present a paper which actually represented the United States view.

Mr. FERRERA (Peru) replied that with all respect for Mr. Wilcox and the reasons he set forth, he wondered actually whether he was correct. Article 13 had been agreed upon despite difficulties, and the same could apply to Article 15. The Latin American group was not consulted regarding the draft of Article 15, and it was only natural that they should present some amendments. The possibility of reaching agreement could not be known without knowing which amendments were unacceptable and what the differences were between the two points of view.
Mr. MULLER (Chile) agreed with Mr. Ferrera and expressed surprise that opportunity to explain the amendments might not be given and that the proposals were considered radical. A great deal of the United States draft had been accepted and more might be. Moreover, the position was not so extreme as at the beginning of the Conference.

Mr. WILCOX (United States) reiterated that the draft was not a United States paper but a sub-committee draft which indicated the concessions the United States was prepared to make although it had previously said it could not go so far. His delegation had consulted widely with the Latin American countries and knew that the interests of many would not be served and that they would be deeply offended if the United States went beyond the draft.

Mr. MULLER (Chile) said he could not judge of the reaction if he reported to the Latin American group that Article 15 could not be discussed and that the text was the last word of one country. An ultimatum was certainly the worst way to deal with such a problem and would only make it necessary to refer the whole matter again to the General Committee.

Mr. COOMBS (Australia) supported Mr. Wunss-King (China) in his request for a brief recess. The basis of the discussion should be the re-draft of Article 15. Should Mr. Wilcox feel it should be withdrawn, the Australian delegation would be willing to submit it in its name.

Mr. WILCOX (United States) replied he would be glad to relinquish all commitment to the paper.

The meeting rose at 5:35 p.m.
SECRET

MEETING OF CO-ORDINATING COMMITTEE HELD ON FEBRUARY 28th, at 4:00 P.M.

Consideration of the Latin American Amendments to the draft of Article 15 submitted on 24 February 1948.

Amendment to Paragraph 1

Mr. MULLER (Chile) said that the amendment was designed to ensure that preferences would be granted to the countries which had the greatest need of them.

Mr. EVANS (United States) pointed out that paragraph 1 was a recommendation of principle while the proposed amendment concerned the consideration by the Organization of the justification of new preferential agreements. In those circumstances, it might be preferable to return to the Working Party draft which read as follows: "Members recognize that in special circumstances.....reconstruction", though it/introduce an undesirable differentiation between economic development and reconstruction.

Mr. COOMBS (Australia) recalled that the Chilean representative wished economic development to be included as one of the justifying circumstances; that idea could be conveyed without the United States suggest ion by inserting the words "including the need for economic development and reconstruction" after "special circumstances".

Mr. PHILIP (France) said that the Australian suggestion would make the paragraph ununderstandable and suggested the following alternative form of words: "having particular regard to...........country".

Mr. MULLER (Chile) could accept either the Australian or French proposal while Mr. EVANS (United States) was prepared to accept the former.

The meeting agreed that this was a question of drafting.

Amendment to paragraph 2

After a short discussion in which several representatives expressed the view that the amendment was unnecessary, Mr. MULLER (Chile) withdrew it.
Amendment to paragraph 3 (a)

Mr. ROYER (France) said that a definition of "economic region" had been put forward in the Working Party but that it had seemed preferable to decide that question in connection with each specific case.

Mr. MULLER (Chile) said that certain negative definitions had been put forward and that therefore an explanatory note or a definition was needed.

Mr. HOLMES (United Kingdom) pointed out that a criterion such as that contained in paragraph 3 (a) would exclude from possible benefits a combination like the British Commonwealth which did not form any economic region but which, through its long development, had close economic ties. He suggested that to the provision that the countries belong to the same economic or geographic region should be added "or to a group of territories which have special traditional ties of an economic character."

Mr. COOMBS (Australia) said that the real point at issue was whether the definition should be limiting or whether it should make possible the approval, subject to the criteria, of countries not actually contiguous or even close geographically. It would be difficult to define "economic region" without leaving to the Organization some measure of discretion. An agreement between two European countries might be less justifiable than one between Australia and New Zealand. A note might be drafted to make clear the elastic character of the phrase and the necessity of discretion on the part of the Organization.

Mr. PHILIP (France) did not believe that an internationally agreed definition of "economic region" could be found.

Mr. ROYER (France) pointed out that the idea could not be infinitely flexible as elsewhere it was stated that countries of the same economic region must become part of any preferential agreement. A middle-of-the-road view was the only one which could be taken.

Mr. GARCIA OLDINI (Chile) felt that it would perhaps be enough to say that the intention of the Working Party had been to have "economic region" interpreted in the limited rather than in the wide sense. The meeting agreed to postpone consideration of this point.
Amendment to Paragraph 3 (b)

Mr. EVANS (United States) said that as the automatic criteria placed little limit on the establishment of new preferences, his delegation would have to abandon that approach if the word "necessary" were to be changed.

Mr. MULLER (Chile) felt that the Organization should make its decision on the basis of the rest of the paragraph without obliging countries to prove that the agreement was necessary.

Mr. COOMBS (Australia) felt that it was not unreasonable to include the word "necessary" as it applied to a particular type of protection and not the particular industry. The measure was generally proscribed by the Charter and therefore the Member should be able to show that no other protective measure or assistance from the Government would be sufficient.

Mr. PHILIP (France) suggested the following redraft of the paragraph:

"(b) Any preferential customs duty provided for in the agreement is necessary in order to ensure a sound and adequate market substantially for a branch of industry or agriculture which is to be developed within the framework of a Member’s general programme of economic development or reconstruction/"

The meeting accepted the French proposal.

After a short discussion the words "to be" were changed to read "is being".

Mr. EVANS (United States) opposed the amendment to delete the word "substantially" because the whole idea of the Article was that an unusual release should be granted when by so doing something worthwhile could be accomplished.

Mr. MULLER (Chile) said that the underdeveloped countries objected to the word "substantial" because a decision on that point would be a subjective one.
A discussion took place as to whether the word "substantially" applied both to "developed" and "modernised". It was also wondered whether the word had the same importance with respect to the French amendment. As the French and English texts were not the same, it was agreed to consider them again at the following meeting.

The meeting rose at 7:15 P.M.
PROPOSALS REGARDING THE INTERIM TARIFF COMMITTEE ETC.

Mr. FERRERO (Peru) was prepared to support Alternative 2 with certain modifications. In Article 17 (4) the words "two years" should be substituted for "a reasonable period of time". Also in paragraph 5, the reference to the Organization should be changed to a reference to the Conference. The explanation for these changes is contained in the paper circulated by the representative of Peru.

A consequential change to the above amendments would be to eliminate the requirement of agreement of the parties of the GATT. GATT was only a multilateral agreement which preceded the Organization and which put the terms of Article 17 into practice. The rights of the GATT contracting parties were respected in Article 17 and he suggested no alterations in that respect. The authority concerning disputes between any two contracting parties, however, should be the Conference of ITO.

Mr. LEDDY (United States) regarded the Peruvian proposal as a fourth Alternative rather than as an amendment to the second Alternative. It would retain the penalty clause in Article 17 and would eliminate any reference to the Tariff Committee. Such a procedure would not safeguard the interests of countries who had gone far to put the provisions of Article 17 into effect, for the enforcement procedure set forth in that Article has been completely changed. It was impossible to ensure the successful conclusion of negotiations and, therefore, the enforcement procedure had to be affected. The Peruvian proposal would put the penalty clause into the hands of countries, not contracting parties to GATT, and with that idea he was unable to agree.
Mr. FERRERO (Peru) denied that his proposal was a radical one. The only new idea which was suggested was that the Conference instead of the Tariff Committee should have the authority in connection with GATT disputes.

Mr. LEDDY (United States) pointed out that the question was what group should have the power in connection with disputes. The United States proposals had been designed to meet the criticism that the power of the Tariff Committee could be abused.

Mr. FERRERO (Peru) reiterated that a non-ITO body should have no power to take decisions concerning the Charter.

Mr. COOMBS (Australia) drew attention to the fact that the final authority would rest with the Organization, either originally as suggested by the representative of Peru or by appeal as proposed by the representative of the United States. The meeting had to decide whether the circumstances warranted the position held by the United States delegation. Alternative 2 protected the position of the contracting parties of GATT by placing the onus of proof on the non-contracting countries. Alternative 3 achieved the same end by requiring a two-thirds majority vote.

He assumed that it was generally agreed that the contracting parties of GATT could not be expected to continue unilateral concessions indefinitely. The problem, therefore, was one of machinery.

Mr. SAENZ (Mexico) said that his delegation also supported Alternative 2 with modifications. The problem for it was a political one, that is, of striking a balance between the importance of reducing trade barriers and that of promoting production. The original Mexican proposal had been the establishment of an Economic Development Committee.
To make clear that the concessions would only be tariff concessions, he proposed the insertion of the word "tariff" in the third line of Article 17 (4) of Alternative 2. He also suggested the substitution of the words "the Schedules" for "Part I", in the same paragraph, and the replacement of the proviso by that contained in the Mexican paper, so that countries which had not been called upon to negotiate would be permitted the advantages of the mfn clause in Article 16.

Although it could be taken for granted, he suggested the insertion of the words "by a simple majority vote" after the word "Organisation" at the top of page 2 of document 5374. He suggested the addition of a new sentence to the effect that a request for the extension of mfn treatment during the transitional period between the decision by GATT and the decision of the (organisation) would not be withheld.

Article XXV (5) of GATT should be incorporated in the Charter and a record of the GATT discussions now taking place attached as an annex to the Charter. It had to be remembered that the Charter was the basic document concerning trade policy and that GATT occupied a subordinate position. In paragraph 5(a) of Article XXV, he suggested the insertion of the following words after "CONTRACTING PARTIES": "Upon complaint and after investigation, and taking into account the criteria contained in paragraph (b)". He also suggested the insertion of the word "complaining" before "contracting" in the next line of the same paragraph.

The attitude of the Mexican delegation to Alternative 2 would also be subject to the adoption of the present proposal for the composition of the Executive Board. It would also be subject to the inclusion of a statement to the effect that the decisions of the Executive Board would be subject to appeal to the Conference.

Mr. COOMBS (Australia) agreed that the M.F.N. benefits of a Member which had not been requested to negotiate with a view to becoming a contracting party of GATT, should not be withdrawn. He also accepted
the reference to a simple majority and to the fact that mfn benefits should not be withdrawn in the transitional period before a decision by the Organization. The proviso suggested by the Mexican representative was unnecessarily detailed and to cover the points contained therein, he proposed the deletion of the words "either has not been requested to the proposed become, or" in Article 17 (4) and the insertion of a further proviso to read as follows; "provided also that the Member has not been requested to become a contracting party to the General Agreement".

Mr. Coombs said that he would not speak at this time on the proposed amendments to GATT.
Mr. LEDDY (United States of America) said that he accepted the three points made by the delegate of Mexico: (i) that tariff concessions should not be withheld pending a decision of the Organization (ii) that decisions of the Organization should be by a majority vote; and (iii) that benefits should not be withheld from a country after the period of two years if that country had not been called upon to negotiate. He also accepted the proposition that the same treatment should be accorded to all countries no matter when they were called upon to negotiate.

Mr. ROYER (France) preferred Alternative 2 in the United States draft together with the Mexican amendments thereto, but doubted if a mention should be made of the majority vote when no similar specific mention was made elsewhere in the Charter. He also pointed out that the provisions of the General Agreement covered only a case where a country achieved successful negotiations with a large majority of the Contracting Parties but disputed with one or a small number of contracting parties.

Mr. FERRERO (Peru) said that all the three points mentioned by Mr. Coombs were covered by the proposal of Peru.

Mr. LLERAS-RESTREPO (Colombia) said that the change in the text would be undesirable if the Peruvian proposal were not accepted. He could accept either the Geneva text or Alternative 2 together with the amendments of Mexico and Peru. But there was a distinct difference in the position of a country if on the one hand it would not lose benefits until a complaint was directly against it and if on the other hand it could not get back benefits
withheld from it except by itself complaining to the Organization.

Mr. FERRERO (Peru) said that the Geneva text was equitable in that benefits remained in force until a complaint was made against a country. The Mexican amendments were already covered by Article 16 and by the Peruvian amendment. He did not agree with Mr. Coombs that the Contracting Parties needed any protection beyond that given by the Organization.

Mr. SAENZ (Mexico) said that the changes proposed by the Australian delegate would not fully meet his case. Under paragraph 4 of Article 17 a country would continue to receive benefits if it was not called upon to negotiate; under Alternative 2 and the Mexican amendment the extension of benefits after two years was not automatic.

Mr. LEDDY (United States of America) asked whether it was wise to make a distinction between the two cases by shifting the onus of proof and whether the Mexican amendments might not have the effect of speeding up the negotiations.

Mr. LLERAS-RESTREPO (Colombia) agreed that no distinction should be drawn because otherwise a country would be more or less compelled to negotiate within two years. He would be prepared to accept the amendment as redrafted by the Australian delegate.

Mr. FERRERO (Peru) asked whether all the Contracting Parties could withhold benefits if a country had a dispute with one of the Members and also felt to become a Contracting Party itself.

Mr. LEDDY (United States of America) pointed out that if a country had benefits withheld from it it was free to approach the Organization and complain. No benefit should be withdrawn while the case was under consideration by the Organization. Moreover, bilateral agreements were
not forbidden by the Charter. There was no provision in
the text which allowed for the withholding of concessions
under such bilateral agreements but only of concessions
the Contracting Parties
made under the General Agreement. It was true that
might withhold benefits from a country with which they had
no dispute but this would seem to be a pointless proceeding.

The CHAIRMAN, summarizing the arguments, said that
there was substantial agreement on three points: (i) that
as long as a country was not required to
negotiate it was entitled to benefits under the General
Agreement (ii) that any decision of the Organization must
be made by simple majority and (iii) that a country would
only lose benefits after two years if the Organization
after complaint ruled against such a country. The point
raised by the representatives of Colombia and Peru seemed
to be a matter of verbal difficulties.

On the suggestion of Mr. PHILIPS (France) the Committee
agreed to set up a small Working Party to prepare a draft
which took into account the four points mentioned by the
Chairman and to adjourn until five o'clock.

The meeting rose at 4:20 p.m.
CONSIDERATION OF THE TEXT OF ARTICLE 15 (White Paper No. 5490)

Paragraph 1 approved.
Paragraph 2 approved.

Paragraph 3

On the proposal of Mr. COOMBS (Australia) it was agreed that this paragraph should be amended to read:

"The Organization shall examine the proposal and, subject to such conditions as it may impose, may by a two-thirds majority of the Members present and voting grant an exception to the provisions of Article 16 to permit the proposed arrangements to be made."

The paragraph was approved.

Preamble to Paragraph 4 approved

Sub-paragraph 4(a)

On the suggestion of Mr. HOLMES (United Kingdom) and Mr. WILCOX (United States of America) it was agreed that this sub-paragraph should be amended to read:

"(a) The territories of the parties to the agreement shall be contiguous one with another........."

This sub-paragraph was approved.

Sub-paragraph 4(b) was approved with the change of the phrase "preferential customs duty" to "tariff preference".

Sub-paragraphs 4(c), 4(d), 4(e) were approved.

Sub-paragraph 4(f) was approved with the insertion of the word "and" after the word "Organization".

Paragraph 5

Mr. ALDINI (Chile) said that he had understood that it was the Member country which determined the margin of preference, with the Organization giving its approval as an exception to Article 16. The present text laid down that the Organization determined the margin of preference; this was a violation of a country's unchallenged right.
Mr. COOMBS (Australia) said he thought that the initiative in this matter would be with the countries concerned and that the Organization would then consider the case in the light of the submissions of those countries.

Mr. FERRERO (Peru) said that the previous text had not given the Organization the right to fix the amount of the margin of preference.

Mr. EVANS (United States of America) suggested that the paragraph be amended to read as follows: "When the Organization, upon the application of a Member, approves a margin of preference in accordance with paragraph 6 as an exception to Article 16 in respect of the products covered by the proposed agreements it may as a condition of its approving such a margin of preference require a reduction in an unbound most-favoured-nation.

This proposal was approved.
Sub-paragraph 6(a) approved.

Sub-paragraph 6(b)

Mr. HAKIM (Lebanon) said that the redraft of the sub-paragraph which he had circulated contained two major changes. The clause beginning, "through no fault......." had been omitted because it was too vague. The last sentence had been altered because in his opinion only the injured party could invoke the provisions of Chapter VIII.

Mr. EVANS (United States of America), while accepting the latter change, found the former worth retention in some form or other.

Mr. HOLMES (United Kingdom) found the two uses of the word "agreement" in this sub-paragraph ambiguous.

Sub-paragraph 6(c) was approved

Sub-paragraph 6(d)

Several delegates thought that the mention of sub-paragraph (a)
was doubtful. Other delegates wished a mention to be made of paragraph 5 after the reference to paragraph 4. It was agreed that the symbol "(e)" should be inserted before the word symbol "and (f)" in line 8.

Interpretative Note to Sub-paragraph 4(a) approved.
Interpretative Note to Sub-paragraph 6(d) approved.
Consequential Amendment of Article 11

Mr. OLDINI (Chile) thought that preferential arrangements might be seriously impaired were this amendment to be adopted.

Mr. EVANS (United States) disagreed.
SECRET

CO-ORDINATING COMMITTEE MEETING HELD ON 1st MARCH, 1948 - 5:00 P.M. continuation

Interpretative Note to Paragraph 4 (a)

This Note was adopted without comment.

Interpretative Note to Paragraph 6 (d)

This Note was approved without comment.

Consequential Amendment to Article 13.

Mr. GARCIA OLUNI (Chile) wondered if it would not be appropriate to include an interpretative statement to the effect that there would be a grave risk that attempts to establish preferences under the terms of Article 13 might be continuously blocked. In reply to Mr. Evans (United States), he said that he was not re-opening the issue but hoped that some formula could be found which would take note of that possibility.

In reply to the representative of Peru, Mr. Evans pointed out that Article 15 covered the case of preferences while Article 13 would have to be applied in connection with an increase of a bound tariff, regardless of the most-favoured-nation clause.

Mr. HEWITT (Australia) expressed the view that the only way in which a Member could seek the unbinding of a bound tariff would be through the provisions of Article 13.

On the suggestion of Mr. Evans (United States), it was agreed that the Report of the Second Committee could contain a Note to the effect that while it would be possible for a preferential agreement to be blocked for non-economic reasons, the Committee considered that the terms of Article 13 were sufficient to prevent that danger.

Mr. HOLMES (United Kingdom) pointed out that Article 15 could not be considered adopted until the meeting had considered the redraft of paragraph 6 (d).

Mr. MULLER (Chile) said that he would have to reserve his position on the question of prior approval until he knew the attitude of his Government.

Mr. LLERAS-RESTREPO (Colombia) withdrew from his statement the criticism of paragraph 7 of the United States draft of Article 13, but was unable to accept the suggestion that the reference to that statement be deleted from the Report.

Mr. HOLMES (United Kingdom) asked to what extent he would be committing his Government by accepting the Report of the Committee.

A discussion ensued in which several representatives expressed the view that the members of the Committee were acting in a personal capacity and that therefore their Governments would not be committed in any way.

Mr. HOLMES (United Kingdom) reserved his position on this question until later.

Mr. COOMBS (Australia) proposed the insertion of the words "submits as a basis for a general" before the words "settlement" and the deletion of the word "on the basis of" in the first paragraph of the Report. In the fourth paragraph, he proposed that the second sentence should read as follows: "If agreement on this lines is reached it...." In the final sentence of that paragraph, he proposed that the word "included" be substituted for "accepted".

Mr. MULLER (Chile) proposed the substitution of the words "recommends" for the words "should be accompanied by" in the second sentence of the fourth paragraph.

The Report as amended by Mr. Coombs and Mr. Muller was adopted by the Committee, subject to the United Kingdom reservation.

Mr. MULLER (Chile) raised the question of a Chilean amendment to Article 21. On the suggestion of Mr. Wilcox, it was agreed that the amendment be introduced in the Third Committee with the understanding that it would be accepted.
Article 15 (6) (d)

Mr. ROYER (France) drew attention to certain changes which had been made in this paragraph and in the Interpretative Note to it.

Paragraph 6 (d) as amended was approved by the Committee.

Mr. EVANS (United States) proposed the insertion of the words "between Members" after the word "agreement" in the preamble to paragraph 4, to make clear what was already stated somewhat ambiguously in the paragraph.

Mr. FERRERO (Peru) raised the question of an agreement between a Member and a non-Member.

After a short discussion in which it was pointed out that it would be very difficult from a practical point of view to permit a preferential agreement with a non-member under the terms of the automatic criteria, the Committee agreed that the matter should be given further study by the Interim Committee or by some other appropriate group.

Article 15 as amended was adopted by the Committee.


Mr. HOLMES (United Kingdom) suggested that the third paragraph should read as follows:

"Attached drafts relating to Article 13, Article 15 and amendments concerning the Tariff Committee and the proposed Economic Development Committee represent the result of the Committee's consideration of these matters."

He also proposed that the word "suggests" should be substituted for "recommends" in the following paragraph:

"After a short discussion, Mr. HOLMES agreed to withdraw his second suggestion so that at least one recommendation would be made to the Heads of Delegations."

The meeting rose at 9:25 P.M.
ARTICLE 17. (Redraft suggested by Messrs. Coombs, Leddy and Saenz)

Mr. FERRERO (Peru) read the text of a new draft of certain parts of Article 17 which he had prepared.

Mr. LEDDY (United States of America) said in answer to this that the point was that only the complaining number could withhold concessions. If a country agreed with only one contracting party, a bilateral arrangement would be the solution.

Mr. BURGESS (United Kingdom) asked whether from whom benefits were taken should not, in addition to complaining to the Organization, also show that it had tried to become a party to the General Agreement.

Mr. LEDDY (United States of America) said that this was already implicit in the draft.

Mr. COOMBS (Australia) proposed to add after the word "Organization" in fifth line of paragraph 4 (b) the words "in terms of paragraph 4 (a)".

Mr. SAENZ (Mexico) stated that paragraph 4 (a) referred (1) to the case of a Member who had not been requested to negotiate, (2) to the extension of MFN after decision by the Organization. The text would be incomplete if only one of these was referred to in paragraph 4 (b).

Mr. PERAS RESTREPO (Colombia) thought that the whole mechanism was illogical and inconsistent. The old draft of Article 17 had on the other hand laid down definite commitments; a country could refuse to negotiate on certain products and the Organization could base its judgment as to whether the country had fulfilled its obligation by studying the concessions offered on other products.

Mr. FERRERO (Peru) also found the provisions of paragraph 4 (a) obscure. He suggested that the words "without reaching agreement" should be inserted.
after the words "Tariffs and Trade" in the eleventh line of paragraph 4 (a).

Mr. BURGESS (United Kingdom) thought that the word "Tariff" in line 8 of paragraph 4 (a) was superfluous and should be deleted.

This was agreed.

Mr. SAENZ (Mexico) wished it to be put on record, however, that no other type of MFN benefit would be withheld.

Paragraph 4 (b) was approved.

Paragraph 4 (c).

Mr. COOMBS (Australia) in answer to a question of Mr. FERRERO (Peru) said that the word Organization in the fifth line would refer to the Conference unless the Conference were to delegate this particular function to the Executive Board, in which case, a country would, of course, have the right of appeal to the Conference from the Executive Board's decision.

Paragraph 4 (c) was approved.

Mr. WILCOX (United States) suggested that the report contained also a mention of the consequential changes in Article 70, of the deletion of Article 81, of the changes in paragraph 5 of Article XXV of the General Agreement and a short explanation of all these various alterations.

Mr. SAENZ (Mexico) suggested that the report also state that there was no intention to prejudice the formation of a Tariff Committee and an Economic Development Committee in the future.

These proposals were approved.

It was agreed on the proposal of Mr. Burgess (United Kingdom) that the new provisions of Article XXV, paragraph 5, of the General Agreement should only come into force when the Charter itself came into force.
REDRAFT OF ARTICLE 15

Paragraph 6 (b)

Mr. ROYER (France) stated that this paragraph had been revised on the basis of the text submitted by Mr. Hakim (Lebanon). The paragraph as quoted by Mr. Royer was approved.