REPORT BY CHAIRMAN OF SUB-COMMITTEE C OF COMMITTEE II ON ARTICLES 13 AND 14 TO CO-ORDINATING COMMITTEE

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

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

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

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

5. It was decided that the suggestions raised by the representatives of Colombia, China and Mexico should be examined first. If no agreement could be reached either on the basis of the procedure already worked out and set out in Annex B or on the basis of the Colombian, Chinese or Mexican suggestions, then further suggestions listed in Annex E might be considered. These suggestions are to give an applicant Member three alternative possibilities of action - (a), (b) and (c) - of which (c) is the procedure already worked out and set out in Annex B.
ANNEX A
(See Pages 2 and 3)
SECOND COMMITTEE: ECONOMIC DEVELOPMENT
SUB-COMMITTEE C ON ARTICLES 13 AND 14
NOTES ON THE TENTH MEETING
Held at the Capitol, Havana, Cuba, on Wednesday,
28 January 1948 at 3.00 p.m.
Chairman: Mr. GUTIERREZ (Cuba)


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

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

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

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

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

The Sub-Committee also agreed with the conclusion reached by the Working Party that the decision of the Sub-Committee established by the Sixth Committee to consider Chapter VIII of the Charter, as set out in document E/CONF.2/C.6/49, met the purpose of the Cuban proposed amendment to paragraph 2 (a) (ii).

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

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

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

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

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

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

(c) If as a result of action initiated under this paragraph, there should be an increase in the importations of the product or products concerned, including products which can be directly substituted therefor, which if continued would be so great as to jeopardize /substantially
substantially the plans of the applicant Member for the establishment, development or reconstruction of the industry, industries or branches of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with the Organization, adopt such other measures as the situation may require provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this sub-paragraph. Except in unusual circumstances such measures shall not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member initiated action under sub-paragraph (a) of this paragraph. The Organization shall determine, as soon as practicable, whether such measures should be continued, discontinued or modified. Such measures shall in any case be terminated as soon as the Organization determines that the re-negotiations are completed or discontinued. It is recognized that the contractual relationships referred to in sub-paragraph (a) of this paragraph involve reciprocal advantages, and therefore any other Member with whose contractual rights such action conflicts and whose trade is materially affected by the action, may suspend the application to the trade of such Member of such substantially equivalent obligations or concessions under Chapter IV, the suspension of which the Organization does not disapprove. Any Member intending to suspend such application shall consult the Organization before doing so."
ANNEX B
ARTICLE 13
PROCEDURE FOR MEASURES INCONSISTENT WITH NON-NEGOTIATED COMMITMENTS

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

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

(b) The Organization shall promptly transmit such statement to the Member or Members which are determined by the Organization to be materially affected by the proposed measure. Such Member or Members shall, within the time limit prescribed by the Organization, inform the Organization whether, in the light of the anticipated effects of the proposed measure on the economy of such Member or Members, there is any objection to the proposed measure. If there should be no objection on the part of the affected Members to the proposed measure, the Organization shall immediately free the applicant Member to apply it.

(c) If there be any objections, the Organization shall promptly examine the proposed measure having regard to the provisions of this Charter, to the consideration presented by the applicant Member and its stage of economic development or reconstruction, to the views of the Member or Members determined to be materially affected, and to the effect which the proposed measure, with or without modifications, is likely to have immediately and in the long run on international trade and in the long run on the standard of living within the territory of the applicant Member.

If, as a result of such examination, the Organization concurs in the proposed measure, with or without modification, it may release the applicant Member from its obligations under the relevant provision of Chapter IV, subject to such limitations as it may impose.

4. (a) If, having regard to the provisions of sub-paragraph (c) of paragraph 3 it is established in the course of such examination that the proposed measure is unlikely to be more restrictive of international trade than any other practicable and reasonable measure permitted under this Charter which could be imposed without undue difficulty and that it is the one most suitable for the purpose having regard to the economics of the industry or branch of agriculture concerned and to the current economic condition.
economic condition of the applicant Member, the Organization shall concur in such measure, and grant such release as may be required to make such measure effective.

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

5. In the case of measures referred to in paragraph 3 of this Article, the Organization shall, at the earliest opportunity but ordinarily within fifteen days after receipt of the statement referred to in paragraph 3 (a) of this Article advise the applicant Member of the date by which it will be notified whether or not it is released from such obligation or obligations as may be relevant. This date shall be not more than ninety days subsequent to the receipt of such statement; provided that, if before the date set, unforeseen difficulties arise, the period may be extended after consultation and agreement with the applicant Member. If the applicant Member does not receive such decision by the date set, it may after informing the Organization, institute the proposed measure.

Notes:

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

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

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

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

(c) The representative of the United Kingdom reserved his position as regards the words "and agreement" in the eighth and ninth lines of paragraph 5.
6. Notwithstanding the provisions in paragraphs 3 and 5, a Member may, under the following circumstances, adopt any non-discriminatory measure which would conflict with any provision of Chapter IV and obtain subsequent approval of the Organization:

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

(b) When foreign competitors to domestic producers suddenly lower the prices of their products for the purpose of destroying the infant industry or industries of the applicant Member, which lowering of prices does not come within the scope of dumping, or if it does, against which the anti-dumping measures permitted under Article 33 have proved to be ineffective.
5. (a) The Organization shall concur in any proposed measure and grant such release as may be required to make such measure effective whenever the applicant Member can prove any one of the following circumstances:

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

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

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

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

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

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

(c) Nothing in this paragraph shall prevent that the Organization may authorize protective measures in cases other than those contemplated in this provision.
ANNEX E

ARTICLE 13

PROCEDURE FOR MEASURES INCONSISTENT WITH NON-NEGOTIATED COMMITMENTS

SUGGESTIONS AS TO ALTERNATIVE PROCEDURES

3. If a Member in the interest of its programme of economic development or reconstruction considers it desirable to adopt any non-discriminatory measure which would conflict with any provision of Chapter IV, such Member

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

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

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

(i) The Organization shall promptly transmit, etc.

(ii) The Organization shall promptly examine, etc.
REPORT BY THE CHAIRMAN OF SUB-COMMITTEE E OF COMMITTEE III TO THE CO-ORDINATION COMMITTEE ON THE "ECONOMIC DEVELOPMENT" ISSUE IN ARTICLE 20

The delegations of Argentina and Chile submitted amendments to Article 20 which would give Members the right to impose quantitative restrictions without prior approval for purposes of promoting economic development. Sub-Committee E of Committee III to which these amendments were referred decided that a solution might be most easily reached through informal discussions on the meaning and application of Article 21. The group which was appointed held numerous meetings and reached a tentative agreement on an amendment and interpretation of paragraph 3 (b) of Article 21. The amendment and interpretation have been referred by the Chilean delegation to its Government. When a reply is received the group will report to Sub-Committee E.
REPORT BY THE CHAIRMAN OF THE JOINT SUB-COMMITTEE OF COMMITTEES II AND III TO THE CO-ORDINATING COMMITTEE ON THE "ECONOMIC DEVELOPMENT" ISSUE IN ARTICLE 15.

The Joint Sub-Committee set up by Committees II and III to consider the proposals on Tariff Preferences and Customs Unions (Articles 15, 16 and 42) has examined, among the items on its agenda, the suggestion of several delegations that greater freedom should be allowed in the establishment of new preferences to promote economic development. Some of these proposals would involve the removal of the "prior approval" provisions of Article 15.

The Sub-Committee, composed of sixteen members, held ten meetings and then appointed a Working Party of seven to examine the proposals in detail; the Working Party has held sixteen meetings. The purposes and the scope of Article 15 have been carefully examined, and the Chairman of the Working Party, M. Royer, has now submitted for consideration a revised text of the Article (see copy attached). It is hoped that the Members of the Working Party will reach agreement on a revised draft, and that the amendments proposed will be acceptable to the delegations which have submitted amendments. In that event a revised version of Article 15 can be referred with approval to the Sub-Committee.

It should be possible to inform the Co-ordinating Committee by Monday next, 9 February, whether substantial agreement can be reached in the Sub-Committee.
1. Members recognize that in special circumstances the conclusion of preferential agreements may facilitate the carrying out of programmes of economic development and reconstruction by enlarging the market available for new industries or industries in process of reconstruction.

2. Any Member or Members contemplating the conclusion of such an agreement shall communicate their intention to the Organization and provide it with the relevant information to enable it to consider the contemplated agreement. The Organization shall promptly communicate such information to all Members.

3. The Organization shall consider whether the contemplated agreement fulfills the following conditions and requirements:

   (a) the territory of each party to the agreement shall be contiguous with that of one of the other parties, or all parties shall belong to the same economic region;

   (b) the agreement is necessary to the accomplishment of a Member's general programme of economic development or reconstruction, and the preferential customs duty in such agreement is necessary for the creation of a sound and adequate market for a branch of industry or agriculture, to be newly created, substantially modernized or

   (c) the parties to the agreement undertake to grant free entry to the party concerned for the product of the industry in question or a sufficient reduction of duties to achieve the objects referred to in sub-paragraph (b);

   (d) any compensation granted to the other parties by the party receiving preferential treatment shall, if it is a preferential concession, conform with the provisions of this paragraph, Provided that if such compensation is not practicable when the agreement is arrived at, tariff advantages may be temporarily conceded on products not conforming to the requirements of sub-paragraph (b) to the extent necessary to afford due compensation;

   (e) the parties to the agreement undertake to bind against increase the import duties which they applied to the products in question at the M.F.N. rates in force before the notification referred to in paragraph 2, in the country in which the industry concerned is located, Provided that the parties to the agreement may apply to the Organization for an increase of these duties in accordance with /Article 13
Article 13 such bindings of duties to be governed by the provisions of Article 17 (I d).

4. (a) If the Organization finds that the contemplated agreement fulfils the conditions set forth in paragraph 3 and that the conclusion of the agreement is not likely to injure substantially the interests of Members not parties to the agreement, it shall authorize the parties to the agreement to depart to the necessary extent from the provisions of Article 16 as regards the products covered by the agreement.

(b) If the Organization finds that the contemplated agreement while fulfilling the conditions set forth in paragraph 3, is likely substantially to injure Members not parties to the agreement, the Members contemplating the conclusion of such agreement may enter into negotiations with the affected Members with a view to reaching substantial agreement within a reasonable time. If and when an agreement is arrived at, the Organization shall authorize the parties to the agreement to depart to the necessary extent from the provisions of Article 16 as regards the products covered by the agreement.

5. Members may, subject to such conditions as the Organization may impose, enter into preferential agreements which do not conform in all respects to the provisions of paragraph (3), provided that such agreements have received the approval of the Organization by a two-thirds majority of the Members present and voting. In its examination of any proposal falling under the provisions of this paragraph, the Organization shall give due consideration to the extent to which an exception from most-favoured-nation clauses, such as would permit the establishment of the proposed preferential arrangement, may already have received general recognition in treaties to which the Members of the Organization are parties.
1. The Tripartite Working Party was established by the joint meeting of Sub-Committee A of Committee III, Sub-Committee D of Committee VI and the Joint Sub-Committee of Committees II and VI at its first meeting held on 3 February, in order to examine proposals for incorporating in the Charter provisions concerning a Tariff Committee and a Committee for Economic Development and Reconstruction.

2. The Tripartite Working Party consisted of representatives from Australia, Mexico, Pakistan, the United Kingdom and the United States and held meetings under the Chairmanship of Dr. H. C. COOMBS (Australia). It examined
   (a) the joint proposal by Australia, Mexico and the United States (E/CONF.2/W.15) and the amendment to this proposal submitted by the delegation of Pakistan (E/CONF.2/W.15/Add.1);
   (b) the proposals submitted to the Working Party by the delegations of Belgium and Pakistan;
   (c) the amendments relating to the Tariff Committee suggested by the delegation of China (E/CONF.2/C.6/12/Add.7); and
   (d) the amendment submitted by the delegation of Cuba to Article 17, paragraph k (E/CONF.2/C.3/A/W.48).

3. As a result of its examination the Working Party has proposed for consideration by the Sub-Committees:
   (i) an amendment to Article 70 of the Draft Charter dealing with the structure of the Organization and set out in Annex A;
   (ii) a new Article 81A providing for a Committee for Economic Development and Reconstruction as set out in Annex B;
   (iii) a revised text of Article 81 of the Draft Charter on the Tariff Committee as set out in Annex C;
   (iv) a change in the structure of paragraph 4 of Article 17 as contained in E/CONF.2/C.3/A/37 and set out in Annex D;
   (v) an amendment to Article II of the G.A.T.T.
4. In relation to the functions of the Committee for Economic Development and Reconstruction, the Working Party drew attention to the fact that the proposals would have the effect of giving the Committee almost exclusive initial responsibility in relation to Articles, such as Articles 9, 10, and 11, in which economic development considerations would be dominant. In other cases before the Organization, such as those under Articles 13, 14 and 15, the Committee would have initial responsibility for those aspects of the cases concerned with economic development, but since other considerations would be involved, this responsibility would of necessity be partial. In such cases of partial responsibility decisions would be made by the Executive Board which before reaching a decision would be required to obtain the views of the Committee for Economic Development on such aspects of the question as fall within the competence of the Committee.

5. The Working Party agreed to put forward for consideration the proposal in paragraph 2 of Annex B relating to the composition of the Committee for Economic Development and Reconstruction. It was recognized that there was a variety of possible views both as to

(a) the number of members of the Executive Board who would also be members of the Committee; and

(b) the method of selecting the members of the Committee so as to ensure adequate representation and balance.

The delegate of Pakistan, for example, submitted a proposal by which the members of the Committee would be elected by the Conference: six from the Executive Board and twelve from members who were not members of the Executive Board.

Another possibility is that the composition of the Committee as selected by the Board should be subject to confirmation or review by the Conference.

As it seemed probable that the Sub-Committees concerned would be called upon to consider other variations of this paragraph put forward by delegations not represented on the Working Party it was decided to put forward the proposal as embodied in the text of Annex B but to draw the attention of the Sub-Committees to possible variations to which the Working Party had given consideration.

6. The Working Party also examined a set of proposals submitted by the delegation of Belgium relating to the functions of the Committee for Economic Development but concluded that as they were based upon a conception of the relationship between the Committee for Economic Development and Reconstruction
and the Executive Board essentially different from the compromise conception upon which the Working Party's draft text had been based that it would be more appropriate for this issue to be raised by the delegate of Belgium when the question of this relationship is being examined by the Sub-Committees.

7. The Working Party thought it necessary to draw attention to the fact that paragraph 1 of Article 81 as set out in Annex C made it clear that the functions of the Interim Tariff Committee did not extend to Article 13.

8. Since the provisions of the present paragraph 4 of Article 17 would not be applicable to negotiations subsequent to the first set of negotiations and it would therefore be necessary for any complaint arising under this Article to be dealt with in accordance with Chapter VIII, the Working Party has thought it advisable to suggest the division of paragraph 4 of Article 17 as set out in E/CONF.2/C.3/A/W.37 into two separate paragraphs in order to make clear the fact that, in considering complaints in relation to the obligation of paragraph 1 of Article 17 in accordance with the provisions of Chapter VIII, as well as with the provisions of paragraph 5 of Article 17, the Organization shall have to take into account all the relevant circumstances, including developmental and other needs; the fiscal structures of the Members concerned and the provisions of the Charter as a whole.

9. Concerning paragraph 5 of Article 81 the Tripartite Working Party considered three situations in which an appeal might be required from a decision of the Tariff Committee authorizing a withdrawal of concessions from a Member:

(a) where the Member alleges that it has been unreasonably prevented from becoming a contracting party to G.A.T.T.;
(b) where a Member, having become a contracting party to the G.A.T.T. but not having concluded negotiations with all the other contracting parties, alleges that it is being required to make unreasonable concessions in negotiations with such other contracting parties;
(c) where a Member has concluded the first set of negotiations contemplated in paragraph 1 of Article 17 has been called upon to carry out subsequent negotiations and alleges that it is being required to make unreasonable concessions.

As a result of this examination the Working Party agreed that the present text of Article 17 which reads "...the Organization may waive the requirements of Article 16 to the extent necessary to permit the complaining Member or Members to withhold .... benefits" does not permit the Committee to authorize a Member which is also a contracting party to withhold from another contracting party...
party benefits embodied in the G.A.T.T. since this would involve not merely a waiver of Article 16 but also of Article II of the G.A.T.T. As the texts of Article 17 and Article II of the G.A.T.T. at present stand, therefore, the second and third cases cannot arise.

10. However, the Cuban delegation has proposed an amendment to Article 17 which consists in inserting the words "and/or the provision of the general agreement of tariffs and trade" in the thirteenth line of paragraph 4 of Article 17 as contained in C.3/A/W.37. This amendment would enable the Organization to waive also the requirements of Article II of the G.A.T.T.

Judged solely in the light of the issues before the Working Party and without prejudice to the work of other Sub-Committees and working parties on this matter, it was the view of the Working Party that it was desirable that it should be possible to authorize contracting parties to withhold benefits embodied in the G.A.T.T. from another contracting party with whom they had not completed negotiations if it were judged that contracting party had failed to fulfill its obligations under paragraph 1 of Article 17. It was considered that technically this could best be achieved by an amendment to Article II of the G.A.T.T.

It is therefore advisable that the contracting parties to the G.A.T.T. should meet sufficiently early before the end of this Conference in order to deal with the Cuban proposal.

Without prejudice to the ultimate disposition of the Cuban amendment it was agreed however, that it was undesirable that it should be possible to authorize a contracting party to withhold from another contracting party a benefit which was directly negotiated. Accordingly, it was agreed:

(1) that in a dispute between two contracting parties both of whom would also be members of the Interim Tariff Committee, there was no reason to anticipate any uniformity of interest among the remaining members of the Tariff Committee and that consequently there would be no need, on the grounds of equity, for an appeal from a decision of the Interim Tariff Committee in such a dispute;

(2) that the text of paragraph 5 of Article 17 makes it clear that the Tariff Committee would have no jurisdiction in relation with complaints arising out of second and subsequent rounds of negotiations.

11. The Working Party considered the amendment submitted by the delegation of China consisting of the deletion of the words "subject to the provisions of Article 81"
Article 81 from paragraph 1 of Article 74. This amendment was suggested because the Chinese delegation thought that the inclusion of those words might preclude the Conference from dealing with appeals against the decisions of the Interim Tariff Committee. As the Working Party proposes that the right to appeal from the decisions of the Tariff Committee should be provided for in paragraph 5 of Article 81 it was not considered necessary to delete these words.

The Working Party considered that the amendment submitted by the Chinese delegation to Article 74 had been dealt with.

12. The Working Party suggests that in order to avoid duplication the Report initially be considered by the joint meeting of the three Sub-Committees concerned.

/ANNEX A
ANNEX A

ARTICLE 70

"The Organization shall have a Conference, an Executive Board, an Interim Tariff Committee, a Committee for Economic Development and Reconstruction, Commissions as established under Article 79, and such other organs as may be required. There shall also be a Director-General and staff."
ANNEX B

SECTION F*, ARTICLE 81A - THE COMMITTEE FOR ECONOMIC DEVELOPMENT AND RECONSTRUCTION

1. The Committee for Economic Development and Reconstruction shall be initially responsible for the economic development and reconstruction aspects of the functions of the Organization which have been assigned or may be delegated to the Executive Board including:

(a) the supervision in the field of economic development and reconstruction of the work of:

(i) any commission to deal with any aspect of economic development or reconstruction established under Article 79;

(ii) the Director-General and staff;

(b) the co-ordination of the work of the Organization with other inter-governmental organizations in the field of economic development and reconstruction.

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

(b) Any non-member of the Committee having a direct interest in any issue before the Committee may, at the request of the non-member, be coopted as a member of the Committee for consideration of that issue.

3. Activities of the Committee for Economic Development and Reconstruction shall be subject to the supervision of the Executive Board and all decisions of the Committee for Economic Development and Reconstruction shall be subject to:

* Insert a new section between Section E and Section F of Chapter VIII of the Draft Charter with consequent changes in lettering of sections.
(a) appeal to the Board, and
(b) review by the Board on its own initiative where it considers
such a review justified.

Such appeal or review shall be initiated not later than thirty days from
the date on which the decision is conveyed to the Members.

4. (a) The selection of Members to serve on the Committee for Economic
Development and Reconstruction shall be made at the first meeting of
the Executive Board following each election of the Board.
(b) The term of a Member of the Committee for Economic Development
shall be three years except that at the first constitution of the
Committee six Members shall be selected to serve for three years,
five for two years and five for one year.
ANNEX C

SECTION B, ARTICLE 81 - INTERIM TARIFF COMMITTEE

1. During the first year after the entry into force of this Charter and for so long thereafter as contracting parties to the G.A.T.T. form less than 4/5 of the Members of the Organization, there shall be an Interim Tariff Committee which shall act on behalf of the Organization in initiating and establishing the procedural arrangements for negotiations provided for under paragraph 1 of Article 17 and in the making of recommendations and determinations pursuant to paragraphs 4 and 5 of Article 17.

2. The Interim Tariff Committee shall consist of those contracting parties to the G.A.T.T. referred to in paragraph 1 (d) of Article 17 which are Members of the Organization, Members of the Organizations which are contracting parties to the G.A.T.T.

3. Any Member which is the subject of a complaint before the Interim Tariff Committee shall be entitled to participate in the deliberations and shall have the right to vote on decisions of that Committee in relation to the complaint.

4. The Interim Tariff Committee, before making any recommendation or decision pursuant to paragraph 5 of Article 17, shall confer with the Committee on Economic Development and Reconstruction on any aspect of the matter with which the Committee on Economic Development and Reconstruction is directly concerned.

5. If the Interim Tariff Committee pursuant to paragraph 5 of Article 17 authorizes a Member to withhold benefits from another Member and that Member alleges that it has unreasonably been prevented from becoming a contracting party to the G.A.T.T. the affected member may in the first instance appeal to the Executive Board against such an authorization of the Interim Tariff Committee and the Board may by a majority of two-thirds of the vote cast reverse a decision of the Interim Tariff Committee. Either the affected Member or the complaining Member may appeal to the Conference against a decision of the Executive Board and the Conference may (by a majority of two-thirds of the votes cast) reverse a decision of the Executive Board.

6. If after the Interim Tariff Committee has ceased to exist, the Conference or the Executive Board establishes a Committee to which the functions of the Interim Tariff Committee are delegated or assigned, that Committee shall
be subject to the supervision and review of the Executive Board.

7. Each member of the Interim Tariff Committee shall have one vote. All decisions of the Interim Tariff Committee shall be made by a majority of the votes cast.

8. The Committee shall adopt its own rules of procedure, including provision for the election of its officers.
4. If any Member considers that any other Member has failed to fulfil its obligations under paragraph 1 of this Article, such Member may refer the matter to the Organization, which, after investigation, shall make appropriate recommendations to the Members concerned. [If the Organization finds that] In any judgment as to whether a Member has failed [without sufficient justification] to fulfil his obligations under this Article whether the complaint which requires this judgment to be made has been submitted under the complaint procedure of this Article or under that of Chapter VIII, the Organization [having] shall have regard to all relevant circumstances, including the developmental and other needs and the general fiscal structures of the Member countries concerned and to the provisions of the Charter as a whole.

5. If the Organization finds that a Member has failed to carry out negotiations within a reasonable period of time in accordance with the provisions of paragraphs 1 and 2 of this Article, the Organization may waive the requirements of Article 16 to the extent necessary to permit the complaining Member or Members to withhold from the trade of the other Member any of the tariff benefits which may have been negotiated pursuant to paragraph 1 of this Article, and embodied in Part I of the General Agreement on Tariffs and Trade. If such benefits are in fact withheld, so as to result in the application to the trade of the other Member of tariffs higher than would otherwise have been applicable, such other Member shall then be free, within sixty days after such action becomes effective, to give written notice of withdrawal from the Organization. The withdrawal shall take effect upon the expiration of sixty days from the day on which such notice is received by the Organization.

* Underlinings indicate additions, square brackets deletions from the text of Article 17, paragraph 4, as contained in E/CONF.2/C.3/A/W.37 page 3.
1. The Members recognize that special circumstances may justify new preferential arrangements between two or more countries in the interest of the programmes of economic development or reconstruction of one or more such countries. Consequently, the Members undertake not to exercise their rights deriving from trade agreements in such a manner as to prevent preferential agreements from being concluded, provided that they are concluded in accordance with paragraphs 3 or 4 (d).

2. Any Member or Members which have concluded such an agreement or are contemplating the conclusion of such an agreement shall communicate their intention to the Organization and provide it with the relevant information to enable it to consider the contemplated agreement. The Organization shall promptly communicate such information to all interested Members.

3. The Organization shall consider whether the agreement fulfils the following conditions and requirements:
   
   (a) The territory of each party to the agreement shall be contiguous with that of one of the other parties, or at least all parties shall belong to the same economic region, or the region shall have been generally recognized in international treaties, to which Members are parties, as one within which preferences might be extended;
   
   (b) The purpose of any preferential customs duty provided for in the agreement is necessary for the accomplishment of a Member's general programme of economic development or reconstruction by ensuring a sound and adequate market for a branch of industry or agriculture to be newly created, developed, substantially modernized or reconstructed;
   
   (c) The parties to the agreement undertake to grant free entry for the product or products of the branch of industry or agriculture referred to in sub-paragraph (b) or to apply to such products duties sufficiently
duties sufficiently low to ensure that the objects provided for in sub-paragraph (b) shall be achieved;

(d) Any compensation granted to the other parties by the party receiving preferential treatment shall, if it is a preferential concession, conform with the provisions of this paragraph, provided that if such compensation is not practicable when the agreement is arrived at, preferential tariff advantages may be temporarily conceded on products not conforming to the requirements of sub-paragraph (b) to the extent necessary to afford due compensation; provided that such advantages shall be progressively eliminated and replaced as soon as possible by compensation granted within the framework of sub-paragraph (b);

(e) The Member granting the preference undertakes not to raise, either on the occasion of or following the conclusion of the preferential agreement, the import duties applied in respect of States enjoying most-favoured-nation treatment, on the products of which the preference is granted, except under the following conditions:

(i) in the case of duties previously bound through negotiations pursuant to Chapter IV, the Member concerned may raise the duty on the product concerned, provided that such Member is released from its obligations in accordance with the procedure of paragraph 2 of Article 12.

(ii) Duties which have not been bound under commercial agreements in force, may be raised to an adequate protective level. Any Member enjoying most-favoured-nation treatment may make representations
representations to the Organization if it considers that such duty is excessive for the attainment of the purpose indicated. The Organization, on the basis of all the relevant information, shall determine whether the representation is justified, and in such case shall ask the Member raising the duties to make such modifications as the Organization deems necessary to give satisfaction to the Member making the representation. The duties shall remain bound at the level in force at the time of the conclusion of the agreement or at the level resulting from the increase provided for above or resulting from representations for a period of three years. After three years the binding will end automatically and Members parties to the arrangement shall be free to readjust the duties, provided that after such readjustment and subject to the provisions set forth in the first part of this sub-paragraph such duties are bound again for a further period of three years and so on until the preferential arrangement is terminated for the duration of the preferential arrangement provided that any time during such period Members parties to the arrangement may apply to the Organization in conformity with the procedure set forth in Article 13 for non-negotiated commitments in view to readjust that duty.

Nevertheless, the parties to the agreement shall have the right, during the period for which the preferential agreement is in force, to raise customs duties provided that such increase does not increase the incidence of the preference.

Amendment to Sub-Paragraph (e)(ii) proposed by the United States

Duties which have not been bound under commercial agreements in force, may be raised at the time of the entry into force of the agreement, Provided that information concerning the proposed increase is included in the notification referred to in paragraph 2 and provided that, if any Member enjoying most-favoured-nation treatment should make representation to the Organization, that it considers that such duty is excessive, the Organization, on the basis of all the relevant information, shall before the agreement comes into force.
comes into force determine whether the representation is justified, and shall indicate what modification, if any, it will require before authorizing the agreement.

Sub-Paragraphs 3 (f) and (p) - (as contained in document 4892)

3. (f) the agreement contains provisions permitting the adherence of other Members, which are able to qualify as parties to the agreement under the provisions of this paragraph, in the interest of their programmes of economic development or reconstruction, on [reasonable] terms to be agreed between such Members and the parties to the agreement.

(g) The agreement contains [reasonable] provisions for termination, review or renewal.

Paragraph 4

I. Draft by Chile and Venezuela. (Document 4473).

4. If the Organization finds that the agreement, while fulfilling the conditions set forth in paragraph 3, is likely to injure substantially Members not parties to it, the Members which have concluded the agreement may enter into negotiations with the affected Members with a view to reaching substantial agreement within a reasonable time. If they do not succeed in reaching agreement, the Organization shall examine if the injury that threatens the complaining Member is such as to substantially jeopardize its economic position in world trade; in which case the parties to the preferential agreement shall modify it so as to satisfy the complaining Member.

II. Chairman's draft, revised. (Document 4471).

4. (a) If the Organization finds that the contemplated agreement fulfills the conditions set forth in paragraph 3 and that the conclusion of the agreement is not likely to injure substantially the interests of Members not parties to the agreement, it shall authorize the parties to the agreement to depart to the necessary extent from the provisions of Article 16 as regards the products covered by the agreement.

(b) If the Organization finds that the contemplated agreement while fulfilling the conditions set forth in paragraph 3, is likely to cause [substantial] [considerable] injury to the [external trade] of a Member not party to the agreement, the Members contemplating the conclusion of such agreement
such agreement may enter into negotiations with that Member with a view to reaching substantial agreement. If and when an agreement is arrived at, the Organization shall authorize the parties to the agreement to depart to the necessary extent from the provisions of Article 16 as regards the products covered by the agreement. If, within two months, the negotiations fail through no fault of the parties to the agreement, the Organization may nevertheless permit the necessary departure from the provisions of Article 16 provided that the parties to the agreement grant to the injured party fair compensation or so modify the agreement as to give such party fair compensation treatment.

(c) If the Organization finds that the draft agreement is likely to jeopardize seriously the economic position of a Member in world trade, it shall not agree to the necessary exceptions to the provisions of Article 16 unless the parties to the agreement have reached a mutually satisfactory understanding with that Member.

(d) If the Organization finds that the parties to the agreement have, before 21 November 1947, obtained from countries representing at least two-thirds of their import trade, the right to depart from m.f.n. treatment in the cases envisaged in the agreement, the Organization shall, without prejudice to the conditions governing such recognition, grant the authorization provided for in sub-paragraph (a), provided that the conditions set out in sub-paragraphs (a), (c), (f) and (g) of paragraph 3 are fulfilled. Nevertheless, if the Organization finds that one or more Members, which have not recognized this right to depart from m.f.n. treatment, are threatened with substantial injury, it shall invite the parties to the agreement to enter into negotiations with the injured Member, and the procedure of sub-paragraph (b) above shall apply.

III. Text of Paragraph 4 proposed by Chile, Poland and Syria. (Document 5099)

4. (a) If the Organization finds that the contemplated agreement fulfils the conditions set forth in paragraph 3, it shall, within a maximum period of two months, authorize the parties to the agreement to depart from the provisions of Article 16 as regards the products covered by the agreement. If the Organization does not give a ruling within the specified period, it shall automatically be considered to have concurred

(b) If the
(b) If the Organization finds that the agreement, while fulfilling the conditions set forth in paragraph 3, is likely to cause considerable injury to the external trade of a Member not party to the agreement, the Members concluding the agreement may enter into negotiations with that Member with a view to reaching substantial agreement. If and when an agreement is arrived at, the Organization shall authorize the parties to the agreement to depart from the provisions of Article 16 as regards the products covered by the agreement. If, within two months, the negotiations fail, the Organization shall nevertheless permit departure from the provisions of Article 16 while fixing fair compensation for the injured Member.

The provisions of Chapter VIII of the Charter shall only apply to compensation when one of the parties does not accept the Organization's decision regarding such compensation.

(c) If the Organization finds that the agreement, while fulfilling the conditions set forth in paragraph 3, is likely to jeopardize seriously the economic position of a Member in world trade, it shall not agree to the necessary exceptions to the provisions of Article 16 unless the parties to the agreement have reached a mutually satisfactory understanding with that Member;

(d) If the Organization finds that the parties to the agreement have, before 21 November 1947, obtained from countries representing at least two-thirds of their import trade, the right to depart from most-favoured-nation treatment in the cases envisaged in the agreement, the Organization shall grant the authorization provided for in sub-paragraph (a) provided that the conditions set forth in sub-paragraphs (a), (c) and (g) of paragraph 3 are fulfilled. Nevertheless, if the Organization finds that the external trade of one or more Members, which have not recognized this right to depart from most-favoured-nation treatment, is threatened with substantial injury, it shall invite the parties to the agreement to enter into negotiations with the injured Members and the procedure of sub-paragraph (b) above shall apply.

I. **Paragraph 5.** (Document 4471).

5. Members may, subject to such conditions as the Organization may impose, enter into preferential agreements which do not conform to the provisions of paragraph (3),
paragraph (3), provided that such agreements have received the approval of the Organization by a two-thirds majority of the Members present and voting. In its examination of any proposal falling under the provisions of this paragraph, the Organization shall give due consideration to the extent to which an exception from the most-favoured-nation clause, such as would permit the establishment of the proposed preferential arrangement, may already have received general recognition in treaties to which the Members of the Organization are parties.

II. Text of Paragraph 5 proposed by Chile, Poland and Syria.

5. Members may, subject to such conditions as the Organization may impose, enter into preferential agreements which, while in conformity with the objectives stated in paragraph 1 and with the provisions of sub-paragraph (a) of paragraph 3, do not conform to the other conditions stated in paragraph 3, provided that such agreements have received the approval of the majority of the Members present and voting/the approval of the Organization by a two-thirds majority of the Members present and voting.
CO-ORDINATING COMMITTEE

DRAFT OF ARTICLE 13 SUBMITTED BY MR. WILCOX AT THE REQUEST OF THE CHAIRMAN

Article 13

Governmental Assistance to Economic Development

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

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

(1) shall initially or may in the event of failure to reach agreement under sub-paragraph (1) above apply to the Organization. The Organization shall determine, from among Members which have contractual rights, the Member or Members materially affected by the proposed measure and shall sponsor negotiations between the applicant Member and these Members with a view to obtaining expeditious and substantial agreement.

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

(b) If as a result of action initiated under this paragraph, there should be an increase in the importations of the product or products concerned, including products which can be directly substituted therefor which if continued would be so great as to jeopardize substantially the plans of the applicant Member for the establishment, development or reconstruction of the industry, industries or branches of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with the Organization, adopt such other measures as the situation may require; provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this sub-paragraph. Except in unusual circumstances, such measures shall not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member initiated action under sub-paragraph (a) of this paragraph. The Organization shall determine, as soon as practicable, whether such measures should be continued, discontinued or modified. Such measures shall in any case be terminated as soon as the Organization determines that the re-negotiations are completed or discontinued. It is recognized that the contractual relationships referred to in sub-paragraph (a) of this paragraph involve reciprocal advantages, and therefore any other Member which has a contractual right in respect of the product to which such action relates, and whose trade is materially affected by the action, may /suspend the
suspend the application to the trade of such Member of such substantially equivalent obligations or concessions under Chapter IV, the suspension of which the Organization does not disapprove. Any Member intending to suspend such application shall consult the Organization before doing so.

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

4. (a) If a Member in the interest of its programme of economic development or reconstruction considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with any provision of Chapter IV, but would not conflict with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, such applicant Member shall so notify the Organization and shall transmit to the Organization a written statement of the considerations in support of the adoption, for a specified period, of the proposed measure. (b) The Organization shall concur in the proposed measure and grant release from such provision for a specified period if, having particular regard to the applicant Member's need for economic development or reconstruction, it is established that the measure relates to a branch of industry or agriculture which is an integral part of the applicant Member's programme of economic development or reconstruction and that the measure

(i) is designed to protect a branch of industry, established between 1 January 1940 and the date of signature of the Final Act of the present Charter, which was protected during the first period of its development by abnormal conditions arising out of the war; or

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

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

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

Alternative A

Provided that, if it is established that the measure causes material injury to the trade of another Member or Members, the Organization may authorize the affected Member or Members to suspend the application to the trade of the Member applying the measure of such substantially equivalent obligations or concessions under Chapter IV, the suspension of which the Organization does not disapprove. Any Member intending to suspend such application shall consult the Organization before doing so; and

Alternative B

Provided that the applicant Member shall apply any measure under this sub-paragraph in such a way as to avoid unnecessary damage to the commercial or economic interests of any other
of any other Member including interests under Articles 3 and 9; and Provided further that any proposal by the applicant Member to apply any such measure, with or without modifications after the end of the initial period, shall not be subject to the provisions of this sub-paragraph.

(c) If the proposed measure does not fall within the provisions of sub-paragraph (b), the Organization shall promptly transmit the statement submitted by the applicant Member to the Member or Members which are determined by the Organization to be materially affected by the proposed measure. Such Member or Members shall, within the time limits prescribed by the Organization, inform the Organization whether, in the light of the anticipated effects of the proposed measure on the economy of such Member or Members, there is any objection to the proposed measure. If there should be no objection on the part of the affected Member or Members to the proposed measure, the Organization shall immediately free the applicant Member to apply it.

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

5. If, in anticipation of the concurrence of the Organization in the adoption of a measure referred to in paragraph 4 of this Article, there should be an increase or threatened increase in the importations of the product or products concerned, including products which can be directly substituted therefor, so substantial as to jeopardize the plans of the applicant Member for the establishment, development or reconstruction of the industry, industries or branches of agriculture concerned, and if no preventive measures consistent with this Charter can be
Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with, the Organization, adopt such other measures as the situation may require pending a decision by the Organization on the Member's application; Provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made.

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

7. In the case of measures referred to in paragraph 4 of this Article, the Organization shall, at the earliest opportunity but ordinarily within fifteen days after receipt of the statement referred to in paragraph 4(a) of this Article advise the applicant Member of the date by which it will be notified whether or not it is released from such obligation or obligations as may be relevant. This date shall be not more than ninety days subsequent to the receipt of such statement; Provided that, if before the date set, unforeseen difficulties arise, the period may be extended after consultation and agreement with the applicant Member. If the applicant Member does not receive such decision by the date set, it may after informing the Organization, institute the proposed measure.
CO-ORDINATING COMMITTEE

POSSIBLE ALTERNATIVE PROPOSALS WITH RESPECT TO THE PROPOSED INTERIM TARIFF COMMITTEE AND THE PROPOSED ECONOMIC DEVELOPMENT COMMITTEE AND A POSSIBLE COMMERCIAL POLICY COMMITTEE

SUGGESTION BY THE DELEGATION OF THE UNITED STATES OF AMERICA

The work which has been going forward in the Tripartite Working Party of Sub-Committees A of III and D of VI and Joint Sub-Committee of II and VI, has thus far resulted in the preparation of a draft report and annexes which, though nearly completed for submission to the appropriate Sub-Committees, is in various features unsatisfactory, for differing reasons, to some or most of the members of the Working Party. Also, the Delegation of the United States of America has given further consideration to the problems before the Working Party and believes that the questions raised would be advanced more rapidly toward a solution in the Conference as a whole if the problems were to be laid before the Co-ordinating Committee with a view to obtaining such a measure of agreement as might be useful in guiding the further labours on these questions. To this end, the United States Delegation wishes to propose three alternative solutions to the problems before the Working Party, as set forth below:

**Alternative 1**

(a) The proposed Interim Tariff Committee would be created (composed of contracting parties to the GATT) with provision for a right of appeal to the Conference (subject to approval of two-thirds of the votes cast in the Conference) on those cases in which a Member has been authorized to withhold tariff benefits from another Member and that Member alleges that it has unreasonably been prevented from becoming a contracting party to the GATT.

(b) There would be created an Economic Development and Reconstruction Committee, consisting of sixteen Members selected by the Executive Board, of whom ten would be selected from the Membership of the Board and six from the
members who are not Members of the Board; and in selecting the
members of this Committee, the Executive Board should try to
ensure that for the Committee as a whole, members at various
stages of economic development and reconstruction would be
adequately represented to achieve a reasonable balance between
them. The Committee would be subject to the supervision of the
Executive Board and the powers of the Committee would be
recommendatory.

(c) There would be created a Committee on Commercial Policy
which, with respect to its authority, would follow the lines
suggested for the Committee on Development and Reconstruction,
and the functions of which would be that of being generally
responsible, (except for questions regarding releases from
MFN obligations), for making recommendations to the Executive
Board on the commercial policy aspects of functions of the
ITO assigned or delegated to the Board.

Alternative 2

(a) The proposal for a Tariff Committee would be withdrawn.
(b) The proposal for a Committee on Economic Development
and Reconstruction would be withdrawn.
(c) No proposal would be made for the creation of a Committee
on Commercial Policy.
(d) The proposed paragraph 4 of Article 17 (penalty clause)
would be withdrawn.
(e) There would be added at an appropriate place in Article 16
a provision which would in effect cease to require the extension
of the concessions provided for in the GATT to any Member which
had failed to become a party to the Agreement within two years
after the entry into force for that Member of the Charter. This
would be subject to a proviso that the Organization (that is to
say the Conference acting by majority vote) could require the
extension of such concessions to any Member which either had not
been invited to become a party to the GATT or had been unreasonably
prevented from becoming a party.

/Alternative 3
Alternative 3

(a) The proposal for an Interim Tariff Committee would be withdrawn.

(b) The proposal for a Committee on Economic Development and Reconstruction would be withdrawn.

(c) No proposal would be made for the creation of a Committee on Commercial Policy.

(d) The Conference would delegate to the Board its powers under the proposed Paragraph 4 of Article 17, with the right of appeal to the Conference against a decision of the Board, subject to approval by a two-thirds majority of the votes cast by the Conference. With respect to other questions, the powers of decision would rest in the Conference which could, however, delegate such powers to the Board.

The adoption of any of the alternatives suggested above would, of course, require certain consequential changes in related Sections of the Draft Charter.
COORDINATING COMMITTEE

DRAFT OF ARTICLE 15 SUBMITTED BY THE DELEGATION OF THE UNITED STATES TO THE COORDINATING COMMITTEE AT ITS MEETING OF FEBRUARY 24

1. The Members recognize that special circumstances may justify new preferential agreements between two or more countries in the interest of the programmes of economic development or reconstruction of one or more of them.

2. Any Member or Members contemplating the conclusion of such an agreement shall communicate their intention to the Organization and provide it with the relevant information to enable it to consider the contemplated agreement. The Organization shall promptly communicate such information to all Members.

3. The Organization shall consider whether the agreement fulfils the following conditions and requirements:

(a) The territory of each party to the agreement shall be contiguous with that of one of the other parties, or all parties shall belong to the same economic region;

(b) Any preferential customs duty provided for in the agreement is necessary for the accomplishment of a Member's general programme of economic development or reconstruction by ensuring a sound and adequate market for a branch of industry or agriculture to be newly created or reconstructed or substantially developed or modernized;

(c) The parties to the agreement undertake to grant free entry for the product or products of the branch of industry or agriculture referred to in sub-paragraph (b) or to apply to such products customs duties sufficiently low to ensure that the objectives provided for in sub-paragraph (b) shall be achieved;

(d) Any compensation granted to the other parties by the party receiving preferential treatment shall, if it is a preferential concession, conform with the provisions of this paragraph;

(e) The Member granting the preference shall not increase the most-favoured-nation rate of duty on any product on which a preference is granted except under the following conditions:

(i) In the case of a duty already bound as a result of negotiations under Article 17, the Member concerned may raise the duty on the product concerned, provided that the Members in whose favour the duty has been bound receive due compensation in accordance with the provisions of this paragraph.
accordance with the procedures of Article 13.

(ii) Any increase in a rate of duty not previously bound and made either in anticipation of the agreement or to be made at the time of the agreement shall be specified in the notification to the Organization provided for in paragraph 2.

(iii) If any Member complains to the Organization that such an increase represents an excessive restriction on international trade as compared with the benefits to be derived in furthering the purposes of the proposed agreement, the Organization, if it determines that the complaint is justified, may require that the proposed increase be modified, as a condition to granting its authorization for the agreement.

(iv) The most-favoured-nation rate of duty established at the time of the agreement on any such product may, if not bound under any existing agreement, be subsequently increased, provided that the margin of preference is not thereby increased.

(v) The preferential rate of duty established at the time of the agreement on any such product may be subsequently reduced provided that the margin of preference is not thereby increased.

(f) The agreement contains provisions permitting the adherence of other Members which are able to qualify as parties to the agreement under the provisions of this paragraph in the interest of their programmes of economic development or reconstruction on terms and conditions to be determined by negotiation with the parties to the agreement. The provisions of Chapter VIII may be invoked by such a Member, under this sub-paragraph, only on the ground that it has been unjustifiably excluded from participation in such an agreement.

(g) The agreement contains provisions for its termination, within a period of not more than ten years, subject to renewal for periods not greater than five years each.

(a) If the Organization finds that the contemplated agreement fulfills the conditions set forth in paragraph 3 and that the conclusion of the agreement is not likely to injure substantially the interests of Members not parties to the agreement, it shall within two months authorize the parties to the agreement to depart to the necessary extent from the provisions of Article 16 as regards the products covered by the agreement. If the Organization does not give a ruling within the specified period, the Members may proceed as if such authorization had been received.

(b) If the
If the organization finds that the agreement, while fulfilling the conditions set forth on paragraph 3, is likely to cause substantial injury to the external trade of a Member not party to the agreement, the Members contemplating the agreement may enter into negotiations with that Member with a view to reaching agreement. If and when an agreement is reached, the Organization shall authorize the Members contemplating the preferential agreement to depart to the extent necessary from the provisions of Article 16 as regards the products covered by the preferential agreement. If, within two months from the date on which the Organization suggested such negotiations the negotiations, through no fault of the parties to the proposed agreement, have failed, the Organization shall nevertheless permit the necessary departure from the provisions of Article 16 provided that those parties grant the injured Member fair compensation or so modify the agreement as to give such Member fair treatment. The provisions of Chapter VIII of this Charter shall apply to compensation under this sub-paragraph only when one of the parties to the negotiation does not accept the Organization's decision regarding such compensation.

If the Organization finds that the agreement while fulfilling the conditions set forth in paragraph 3 is likely to jeopardize seriously the economic position of a Member in world trade, it shall not agree to any departure from the provisions of Article 16 unless the parties to the agreement have reached a mutually satisfactory understanding with that Member.

If the Organization finds that the parties to the agreement have, before 21 November 1947, obtained from countries representing at least two-thirds of their import trade, the right to depart from m.f.n. treatment in the cases envisaged in the agreement, the Organization shall, without prejudice to the conditions governing such recognition, grant the authorization provided for in sub-paragraph (a), provided that the conditions set out in sub-paragraphs (a), (e), (f) and (g) of paragraph 3 are fulfilled. Nevertheless, if the Organization finds that one or more Members, which have not recognized this right to depart from m.f.n. treatment, are threatened with substantial injury, it shall invite the parties to the agreement to enter into negotiations with the injured Member, and the procedure of sub-paragraph (b) above shall apply.

Members may, subject to such conditions as the Organization may impose, enter into preferential agreements which do not conform to the provisions of paragraphs (3), provided that such agreements have received the approval of the Organization by a two-thirds majority of the Members present and voting.
CO-ORDINATING COMMITTEE

There are circulated herewith the following documents:

(a) Summary Record of today's meeting of the Co-ordinating Committee;
(b) Draft of Article 13 submitted by Mr. Wilcox at the request of the Chairman;
(Miscellaneous document No. 5200 (English) No. 5209 (French) No. 5201 (Spanish).)
(c) Possible Alternative Proposals with Respect to the Proposed Interim Tariff Committee and the Proposed Economic Development Committee and a Possible Commercial Policy Committee - Suggestion by the Delegation of the United States of America;
(Miscellaneous document No. 5203 (English) No. 5210 (French) No. 5204 (Spanish).)
(d) Draft of Article 15 submitted by the Delegation of the United States to the Co-ordinating Committee at its Meeting of 24 February.
(Miscellaneous document No. 5215 (English) No. 5216 (French) No. 5217 (Spanish).)

These documents are of a highly confidential character and delegates are, therefore, responsible for taking appropriate measures for their security.
SECRET

SUMMARY RECORD OF MEETING OF CO-ORDINATING COMMITTEE

Held on Tuesday, 24 February 1948

Mr. WILCOX (United States of America) introduced his draft of Article 13 (Miscellaneous document No. 5200 (English), No. 5209 (French), No. 5201 (Spanish) of 24 February). He stated that those parts of the text not contained in square brackets represented the limit to which his delegation could go. As regards those parts of the text within square brackets, his delegation was ready to abide by the views of the majority of the Committee.

Mr. Wilcox then submitted a draft of Article 15 (Miscellaneous document No. 5215 (English), No. 5216 (French), No. 5217 (Spanish) of 24 February). Although he was ready to consider any question that might be raised regarding the presentation and form of the draft, he stressed the fact that the delegation of the United States of America could go no further on substance than it did in the proposed text.

Mr. Wilcox then presented three possible alternative proposals with respect to the proposed Interim Tariff Committee, the proposed Economic Development Committee and a possible Commercial Policy Committee (Miscellaneous document No. 5203 (English), No. 5210 (French), No. 5204 (Spanish) of 24 February). Mr. Wilcox stated that he was ready to discuss an arrangement based on any one of the three alternatives contained in his draft but that he could not consider any other possibilities.

Finally, Mr. Wilcox said that his delegation were making the proposals contained in these three texts in a spirit of compromise and as a contribution to bringing the Conference to a successful conclusion. They were, therefore, intended to form part of an overall compromise on outstanding issues and in particular were dependent upon the willingness on the part of other delegations to withdraw related reservations and amendments to other Articles of the Charter, in particular, Articles 16, 17, 20 and 81. He also felt that the so-called Cuban proposal on Article 75 on the composition of the Executive Board (E/CONF.2/C.6/W.51), which formed the basis of the report of the relevant sub-committee, should be accepted. His delegation had no particular interest in this compromise solution and recognized its shortcomings, but some other delegations had a substantial interest in it, and he thought it should, therefore, form part of the overall agreement which it was now sought to reach.

As regards procedure, he considered that the Co-ordinating Committee should endeavour to reach agreement on the whole field he had indicated and then present the agreement for consideration and vote by the Heads of /delegations
delegations in order to avoid the time-consuming process of discussion in working parties, sub-committees and committees.

The discussion will be resumed at the next meeting of the Co-ordinating Committee.
AMENDMENT SUGGESTED ON BEHALF OF THE LATIN AMERICAN COUNTRIES

Submitted by Mr. Walter Muller

Article 13

Paragraph 1
The words now shown in square brackets are to be retained.

Paragraph 2 (a)
Delete: [programme of]

Paragraph 2 (b)
Retain: [or branches of agriculture]

Paragraph 4 (a)
Delete: [programme of]

Paragraph 4 (b)
Retain: [relative]
Delete: [or agriculture which is an integral part of the applicant Member's programme of economic development or reconstruction]; and retain: "and that the measure".
Clarify the meaning of "relative".

Paragraph 4 (b) (i)
Replace by the following:
"is designed to protect a branch of industry established between 1 January 1940 and the date of signature of the Final Act of the present Charter, or the production of which was not on a commercial scale before 1 January 1940, and which was protected during that period of its development by abnormal conditions arising out of the war, or"

Paragraph 4 (b) (ii)
Delete: "as a result of new or increased restrictions imposed by some other government or governments;"

Paragraph 4 (b) (iii)
Change the words "is necessary" to "is designed".
Retain: [or for the processing of a by-product of such a branch of industry which would otherwise be wasted].
Delete: [on exports of a primary commodity on which the economy of another Member is largely dependent or].
Add at the end: "on international trade in general".

/Paragraph 4 (b) (iv)
Paragraph 4 (b) (iv).
Retain: [for agriculture].
Retain: [relative].

Proviso for Paragraphs 4 (b) (i), (ii), (iii) and (iv)

"Provided that the Organization shall not concur in or grant release of any measure which has the purpose of promoting the establishment or development of any industry engaged in the manufacture of primary commodities which would have a harmful effect on exports on which the economy of another Member is largely dependent."

Delete Alternatives A and B.

Paragraph 5
Retain: [or branches of agriculture].

Paragraph 7
Change the first phrase of the first sentence to: "In the case of measures referred to in this Article", instead of "In the case of measures referred to in paragraph 4 of this Article".

Paragraph 8
Suggest the following draft to be accepted as an alternative procedure for that contemplated under 4 (c) and 4 (d) and to be worded as follows:

"(c) If the proposed measure does not fall within the provisions of sub-paragraph (b)

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

(ii) Shall initially or may in the event of failure to reach complete or substantial agreement under sub-paragraph (i) above apply to the Organization. The Organization shall promptly, etc."  

/If desired,
If desired, alternative (i) can be redrafted so as to provide for communication to the Organization at the same time that the Member interested in the measure enters into direct consultations with the affected Members. This might have the advantage of giving the Organization an early opportunity to verify if all the Members materially affected are being considered.

The Latin American Republics insist that on objective criteria in Article 13 prior approval of the Organization should not be necessary.
Dr. LIERAS RESTREPO (Colombia) proposes the addition of the following new point after point (iii) of sub-paragraph 4 (b) of Article 13 as proposed by Mr. Wilcox:

(iv) is designed to the protection of a branch of agriculture producing raw material for a manufacturing industry already established in the country, provided that the product concerned has been traditionally produced in the country and that the measure is intended to increase directly the income of important groups of population characterized by a low standard of living.
CO-ORDINATING COMMITTEE

DRAFT OF ARTICLE 13 SUBMITTED BY MR. WILCOX
AS REDRAF TED TO 27 FEBRUARY 1948

Article 13

Governmental Assistance to
Economic Development

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

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

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

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

(b) If as a result of action initiated under this paragraph, there should be an increase in the importations of the product or products concerned, including products which can be directly substituted therefor, which if continued would be so great as to jeopardize substantially the plans of the applicant Member for the establishment, development or reconstruction of the industry, industries or branches of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with the Organization, adopt such other measures as the situation may require; provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this sub-paragraph. Except in unusual circumstances, such measures shall not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member initiated action under sub-paragraph (a) of this paragraph. The Organization shall determine, as soon as practicable, whether such measures should be continued, discontinued or modified. Such measures shall in any case be terminated as soon as the Organization determines that the re-negotiations are completed or discontinued. It is recognized that the contractual relationships referred to in sub-paragraph (a) of this paragraph involve reciprocal advantages, and therefore any other Member which has a contractual right in respect of the product to which such action relates, and whose trade is materially affected by the action, may /suspend the
suspend the application to the trade of such Member of such substantially equivalent obligations or concessions under Chapter IV, the suspension of which the Organization does not disapprove. Any Member intending to suspend such application shall consult the Organization before doing so.

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

4. (a) If a Member in the interest of its economic development or reconstruction considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with any provision of Chapter IV, but would not conflict with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, such applicant Member shall so notify the Organization and shall transmit to the Organization a written statement of the considerations in support of the adoption, for a specified period, of the proposed measure.

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

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

(ii) is designed to promote the establishment or development of a branch of industry for the processing* of an indigenous

*Texts to appear in Report: The Chinese delegation has expressed some doubt about the meaning of the word "processing" which appears in (ii) and (iii) of sub-paragraph 4 (b). It was agreed that the word "processing" meant the treatment of a primary commodity in its early and intermediate stages; it would not refer to advanced manufacturing processes such as the manufacture of precision instruments.
primary commodity, when the external sales of such commodity have been materially reduced as a result of new or increased restrictions imposed abroad; or

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

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

Alternative A

Provided that, if it is established that the measure causes material injury to the trade of another Member or Members, the Organization may authorize the affected Member or Members to suspend the application to the trade of the Member applying the measure of such substantially equivalent obligations or concessions under Chapter IV, the suspension of which the Organization does not disapprove. Any Member intending to suspend such application shall consult the Organization before doing so; and

Alternative B

Provided that the applicant Member shall apply any measure under this sub-paragraph in such a way as to avoid unnecessary damage to the commercial or economic interests of any other Member including

Text to appear in Report: It was agreed that "international trade" as cited in (iii) of sub-paragraph 4 (b) meant international trade in general and not trade in the specific product to which the measure related.
interests under Articles 3 and 9; and

Provided further that

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

(ii) the Organization shall not concur in any measure under the provisions of this sub-paragraph (i), (ii) or (iii), which is likely to have a harmful effect on exports of a primary commodity on which the economy of another Member is largely dependent.

(c) If the proposed measure does not fall within the provisions of sub-paragraph (b), the Organization shall promptly transmit the statement submitted by the applicant Member to the Member or Members which are determined by the Organization to be materially affected by the proposed measure. Such Member or Members shall, within the time limits prescribed by the Organization, inform the Organization whether, in the light of the anticipated effects of the proposed measure on the economy of such Member or Members, there is any objection to the proposed measure. If there should be no objection on the part of the affected Member or Members to the proposed measure, the Organization shall immediately free the applicant Member to apply it.

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

* Alternatives proposed by Mr. Philip of French delegation.

/5. If, in anticipation
5. If, in anticipation of the concurrence of the Organization in the adoption of a measure referred to in paragraph 4 of this Article, there should be an increase or threatened increase in the importations of the product or products concerned, including products which can be directly substituted therefor, so substantial as to jeopardize the plans of the applicant Member for the establishment, development or reconstruction of the industry, industries or branches of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with, the Organization, adopt such other measures as the situation may require pending a decision by the Organization on the Member's application; Provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made.*

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

7. In the case of measures referred to in paragraph 4 of this Article, the Organization shall, at the earliest opportunity but ordinarily within fifteen days after receipt of the statement referred to in paragraph 4 (a) of this Article advise the applicant Member of the date by which it will be notified whether or not it is released from such obligation or obligations as may be relevant. This date shall be not more than ninety days subsequent to the receipt of such statement; Provided that, if before the date set, unforeseen difficulties arise, the period may be extended after consultation and agreement with the applicant Member. If the applicant Member does not receive such decision by the date set, it may after informing the Organization, institute the proposed measure.

NOTE: A statement by Dr. Lleras Restrepo (Colombia), clarifying the position of his delegation in respect of this Article, is being circulated separately.

* Text proposed by the Chinese delegation to appear in Report: It was agreed that paragraph 5 would permit a Member to prohibit entirely or reduce the imports of a product to the extent needed to ensure that, over the whole period following the date of notification of the Member's application, that product was not imported at a rate greater than in the most recent representative period preceding the date of notification.
ARTICLE 13

(Unless otherwise indicated, references are to the draft of Article 13 submitted by Mr. Wilcox at the request of The Chairman of the Co-ordinating Committee, White Paper 5200 of 24 February 1948)

1. After 4 (b) (iv) insert the amendment suggested by Mr. Muller (White Paper 5306), worded as follows:

"Provided that the Organization shall not concur in any measure, under the provisions of this sub-paragraph, which is likely to have a harmful effect on exports of a primary commodity on which the economy of another Member is largely dependent;"

2. Immediately after the foregoing proviso, insert Alternative B (White Paper 5200), worded as follows:

"Provided further that the applicant Member shall apply any measure under this sub-paragraph in such a way as to avoid unnecessary damage to the commercial or economic interests of any other Member; and"

3. Immediately after the foregoing proviso, insert the following, which is worded as in White Paper 5200:

"Provided further that any proposal by the applicant Member to apply any such measure, with or without modifications, after the end of the initial period, shall not be subject to the provisions of this sub-paragraph."

4. In sub-paragraph 4 (c), insert after the words "(c) If the proposed measure does not fall within the provisions of sub-paragraph (b)," the Brazilian proposal, redrafted as suggested in the penultimate paragraph of White Paper 5306, as follows:

"(i) the Member may enter into direct consultations with the Member or Members which, in its judgment, will be materially affected by the measure, with a view to obtaining agreement. At the same time, the Member shall inform the Organization of the proposed measure and of the consultations relative thereto in order to afford the Organization an opportunity to determine whether all materially affected Members are included within such consultations."

Upon complete
Upon complete or substantial agreement being reached, the Member interested in taking the measure shall apply to the Organization for release. The Organization shall promptly examine the application to ascertain whether the interests of all the materially affected Members were duly taken into account. If the Organization reaches this conclusion, with or without further consultations between the Members concerned, it shall release the applicant Member from its obligations under the relevant provision of Chapter IV, subject to such limitations as it may impose; or

(ii) shall initially or may in the event of failure to reach complete or substantial agreement under sub-paragraph (i) above apply to the Organization. The Organization shall promptly, etc."

(Changes from the text contained in White Paper 5306 are indicated by underlining and brackets)

5. If the foregoing Brazilian proposal is adopted, two consequential amendments to paragraph 7 appear to be necessary, as follows:

(1) In the third and fourth lines, the text should be altered to read as follows:

"within fifteen days after receipt of the statement referred to in sub-paragraph 4 (a) of this Article or, in the case of measures dealt with in accordance with the provisions of sub-paragraph 4 (c) (i), of the application referred to in that sub-paragraph of this Article...."

(2) In the fifth line from the bottom, insert the words "or application" after "such statement".
1. Article 17 would be amended as follows:

If any Member considers that any other Member has failed to
fulfill its obligations under paragraph 1 of this Article, such Member
may refer the matter to the Organization, which, after investigation,
shall make appropriate recommendations to the Members concerned. If
the Organization finds that a Member has failed without sufficient
justification, having regard to all relevant circumstances, including
the developmental and other needs and the general fiscal structures
of the Member countries concerned, and to the provisions of the Charter
as a whole, to carry out negotiations within a reasonable period of
time in accordance with the provisions of paragraphs 1 and 2 of this
Article, the Organization may waive the requirements of Article 16
to the extent necessary to permit the complaining Member or Members
to withhold from the trade of the other Member any of the tariff
benefits which may have been negotiated pursuant to paragraph 1 of
this Article, and embodied in Part I of the General Agreement on
Tariffs and Trade. If such benefits are in fact withheld, so as to
result in the application to the trade of the other Member of tariffs
higher than would otherwise have been applicable, such other Member
shall then be free, within sixty days after such action becomes
effective, to give written notice of withdrawal from the Organization.
The withdrawal shall take effect upon the expiration of sixty days
from the day on which such notice is received by the Organization.

5. The provisions of this Article shall operate in accordance with
the provisions of Article 81.7

4. The provisions of Article 16 shall not prevent the operation of
paragraph 5 (b) of Article XXV of the General Agreement on Tariffs
and Trade, and shall cease to require the application of the concessions
provided for in Part I of the General Agreement to the trade of any
Member which has failed to become a party to the General Agreement
within two years from the entry into force of this Charter for that

/Member/
Member, Provided that the Organization may require such extension to any Member which either has not been requested to become, or has been unreasonably prevented from becoming, a party to the General Agreement pursuant to negotiations in accordance with the provisions of this Article. In any judgment as to whether a Member has been unreasonably prevented from becoming a party to the General Agreement, and in any judgment under Chapter VIII as to whether a Member has failed to fulfill its obligations under this Article, the Organization shall have regard to all relevant circumstances, including the developmental, reconstruction and other needs and the general fiscal structures of the Member countries concerned and to the provisions of the Charter as a whole. If in fact such concessions are withheld, so as to result in the application to the trade of the other Member of tariffs higher than would otherwise have been applicable, such other Member shall then be free, within sixty days after such action becomes effective, to give written notice of withdrawal from the Organization. The withdrawal shall take effect upon the expiration of sixty days from the day on which such notice is received by the Organization.

2. Article 70 would be amended as follows:

ARTICLE 70

"The Organization shall have a Conference, an Executive Board, a Tariff Committee, Commissions as established under Article 79, and such other organs as may be required. There shall also be a Director-General and staff."

3. Paragraphs 1 and 2 of Article 74 would be amended as follows:

"1. The powers and duties attributed to the Organization by this Charter and the final authority to determine the policies of the Organization shall, subject to the provisions of Article 81, be vested in the Conference."

2. The Conference may by an affirmative vote of a majority of the Members of the Organization, assign to the Executive Board the exercise of any power or the performance of any duty of the Organization, except such specific powers and duties as are expressly conferred or imposed upon the Conference or the Tariff Committee by this Charter."

4. Article 81 would be deleted.

/5. Paragraph 5
5. Paragraph 5 of Article XXV of the General Agreement on Tariffs and Trade would be amended as follows:

5. (a) In exceptional circumstances not elsewhere provided for in this Agreement, the CONTRACTING PARTIES may waive an obligation imposed upon a contracting party by this Agreement; provided that any such decision shall be approved by a two-thirds majority of the votes cast and that such majority shall comprise more than half of the contracting parties. The CONTRACTING PARTIES may also by such a vote define certain categories of exceptional circumstances to which other voting requirements shall apply for the waiver of obligations, and

(b) If any contracting party has failed without sufficient justification to carry out negotiations with another contracting party, of the kind described in Article 17 of the Charter for an International Trade Organization, the CONTRACTING PARTIES may, upon complaint and after investigation, authorize the complaining contracting party to withhold from the other the concessions incorporated in the relevant Schedule to this Agreement. In any judgment as to whether a contracting party has so failed, the CONTRACTING PARTIES shall have regard to all relevant circumstances, including the developmental, reconstruction and other needs and the general fiscal structures of the contracting parties concerned and to the provisions of the Charter as a whole. If in fact the concessions referred to are so withheld, so as to result in the application to the trade of the other contracting party of tariffs higher than would otherwise have been applicable, such other contracting party shall then be free, within sixty days after such action becomes effective, to give written notice of withdrawal from the Agreement. The withdrawal shall take effect upon the expiration of sixty days from the day on which such notice
notice is received by the CONTRACTING PARTIES.

(c) The provisions of sub-paragraph (b) shall not apply as between any two contracting parties the Schedules of which contain concessions initially negotiated between such contracting parties.

NOTE: This paper is a corrected version of a paper distributed at the meeting of the Co-ordinating Committee on 27 February 1948.
I have been instructed by my Government to set before the Co-ordinating Committee the position of my country towards the new draft of Article 13, submitted by the United States delegation as the best way to reach an agreement between the supporters of the original Geneva Charter and the countries which have raised objections to the general application of some of the dispositions of that project.

Without doubt we have arrived to the crucial point of our discussions, and it is essential to analyze fully all the factors implied. However, I need to explain again, the reasons which motivate, and, in our opinion, justify, the attitude my country must adopt towards the proposed formula. I dare to think that this is not unuseful, even in the present stage of the Conference, and ask for your careful consideration of the very serious points I am going to present and explain in this session.

I should like this committee to remember what the attitude of Colombia has been since the time of the earliest proposals for a Charter on Trade and Employment. In the first session of the Economic and Social Council, where the United States originally presented plans for the Organization we are establishing now, Colombia asked for and obtained a reform of the proposition concerning the creation of the preparatory commission, ordering this commission to take into account the special conditions prevailing in countries in an early stage of development. Later, we communicated both to the meetings of London and Geneva that we considered it absolutely necessary to create in the body of the Charter special regulations directed to the defense and promotion of economic development. Nevertheless, on all these occasions my country expressed great sympathy towards the constitution of a system of international co-operation in the field of trade and employment. This sympathy was only the natural sequence of our traditional policy, as we have always supported the idea of a judicial organization able to direct international relations in the light of equity and general convenience. We certainly did not wish to break this tradition, and we always hoped that a way could be found to permit us to participate in the new plan without sacrificing the essential interests of our people.
The inclusion of Article 13 in the Draft Charter permitted our government to accept the invitation to attend this conference, against the fact that a very strong opposition exists to some other dispositions of the Charter. We did not consider the provisions of this Article fully satisfactory, but we expected that some reforms, strictly just and logical, could be accepted. We have not even considered accepting the Charter without the provisions of this Article. The Geneva text opened new possibilities, but we always thought that more definite rules would be necessary to guarantee our country at least a minimum of security for its economic future. A country handicapped by all the factors proper to tropical zones, the most mountainous in America, subject to very irregular climatic conditions, with tremendous problems in transportation, is clearly in an inferior position to compete with other countries more favoured by nature. We cannot think of employing agricultural machinery to the same extent as other countries; equipment and products must be transported across three tremendous mountain ranges; apart from certain specialized zones the agricultural soil is of very poor quality; neither in the industrial nor the agricultural field have we enough skilled technicians, and capital available is not sufficient for our requirements. In these conditions, the renunciation of the possibility of applying special protective measures, could hardly be contemplated. In studying Article 13, we saw that this possibility was clearly admitted, but the Geneva Draft left an almost unrestricted power in the hands of the Organization to grant or refuse permission to establish such measures. From the beginning we considered it necessary to limit this power, and a Colombian amendment to Article 13, presented as early as last November, was directed towards the enumeration of cases in which the Organization may not withhold consent.

The Colombian delegation did not present any amendment which could be considered as being radically opposed to the general structure of the Charter, and its position during all the discussions has been fully co-operative and conciliatory. I want you to remember this fact because we do not wish our attitude to the problem we are now discussing to appear as a demonstration of undue obstinacy, but we cannot give our consent to any solution which does not guarantee the minimum of security we consider necessary to our essential interests. For this reason, I cannot take any responsibility as a member of this committee to recommend an incomplete and inadequate formula. I think that this formula can and should be reformed.
reformed if we wish to obtain a general and sincere agreement. Let me tell you what our objections are, and what reforms we should like to see accepted.

If we examine Article 13 as it appears in the Geneva Draft Charter, we find in the first place that paragraph 1 recognizes that in appropriate circumstances, the grant of special governmental assistance in the form of protective measures is justified. At the same time, the Draft Charter recognizes three different kinds of harmful effects that these measures may have, if they are unwisely used: undue burdens on the own economy of the country concerned, unwarranted restrictions on international trade, and difficulties of adjusting for the economies of other countries. In the presence of these two recognitions, the Draft Charter resolves to give the Organization the power of decision in any particular case. Consequently, it seems that the function of the Organization is to avoid the unwise use of protective measures; but what is the real meaning of the words "unwise use"?, and, as the decision will be adopted by representatives of countries that could be directly or indirectly interested in the matter, what guarantee can we have that "unwise" will not cover anything against the interests of those countries?

The authors of the Draft Charter believed it necessary to complement that vague phrase and in paragraph 2 c enumerated a list of circumstances to which the Organization shall have regard. These circumstances are as follows:

1. The provisions of the Charter.
2. The considerations presented by the applicant member.
3. The stage of economic development or reconstruction of the applicant member.
4. The views presented by members which may be substantially affected.
5. The effect which the proposed measure is likely to have on international trade.

We must take note that this enumeration does not exclude the consideration of any other factor concerning the proposed measure, so that the Organization could for instance refuse its permission if it considered that the proposed measure imposed an undue burden on the economy of the applicant member, or that the measure is not necessary because the same result could be reached by the imposition of a customs tariff and inasmuch as the Organization is not limited to these circumstances the enumeration has not a decisive importance.

/In paragraph 4 b
In paragraph 4 b the Draft Charter presents the only effort to attain what is now usually called "automatic approval": this paragraph states that the Organization shall concur in the proposed measure if it is established that such measure:

1. Is unlikely to be more restrictive of international trade than any other practicable and reasonable measure permitted under the Charter which could be imposed without undue difficulty; and

2. That it is the one most suitable for the purpose having regard to the economics of the industry or the branch of agriculture concerned, and to the current economic condition of the applicant member.

I said that this paragraph is only an effort to include in the Charter the so called automatic approval, because the two points mentioned above do not refer to facts which can be proved objectively. They leave the Organization a great freedom of judgment, and it is easy to understand that, in any particular case, great differences of opinion may arise between the applicant member and the Organization in the appreciation of factors as to whether a measure is the most suitable to apply to a given industry in a given stage of economic development. Then I think no automatic system is contemplated in the Geneva Draft, and that this draft only gives the Organization certain directions of a very general character, but leaves the Organization a very broad field for the exercise of its own judgment. Moreover, it is necessary to take into account that paragraph 4 b in giving these directions orders the Organization to have regard also to the provisions of paragraph 2 c, that is, to consider the five circumstances I have already enumerated. In such conditions no one can say that a real automatic approval is contemplated in the Geneva Draft.

Faced by these regulations, what has the attitude of undeveloped countries been? Some of them chose the way of proposing exceptions to the different articles of the Charter which prohibit special protective measures. The draft agenda of Committee III is full of this kind of amendment, particularly in relation to Article 20 on quantitative restrictions. There are also amendments contemplating a system of exceptions to the articles concerning internal taxation, mixture regulation, etc. The Colombian delegation preferred to present an amendment to Article 13, as I have already explained. It was our intention not to break the general structure of the Charter.
of the Charter, and we always thought that through certain reforms in Article 13, it would be possible to guarantee to some extent the interests of undeveloped countries. The amendments presented to other articles of the Charter have been rejected one after another, and finally the hopes for a solution of all the claims embodied in these amendments are concentrated in a new draft of Article 13.

Most of the undeveloped countries asked for a general exception permitting them to establish protective measures without any limitation whatsoever. Others asked for liberty to apply protective measures in certain special cases but without prior approval by the Organization. Others, more modest or less audacious and courageous chose the way of accepting prior approval, asking only for an automatic system in certain special cases. This last request was the way adopted by the Colombian delegation and I have the feeling that the moderation of our attitude aroused certain criticism on the part of more aggressive champions of radical solutions. Apart from these differences in degree, what is the main demand of undeveloped countries? To limit the powers of the Organization, leaving a certain freedom of action to these countries, or at least imposing on the Organization the obligation of granting its consent when certain concrete facts shall have been demonstrated. It is interesting to compare the solution offered in the terms of a true ultimatum by the American delegate with the claim of the undeveloped countries.

It is obvious that the amendments contemplating complete freedom for the imposition of restrictive measures have been rejected and are at present dead and buried. I regret this end but it is not a surprise to me. Before continuing, let us pay our respects to their tomb.

The United States proposal rejects equally the thesis of no prior approval. It is another petition from the undeveloped countries that Mr. Wilcox is preparing to kill in cold blood. I do not know whether the intended victim has sufficient strength to resist or whether its shade will disturb the sleep of its killer, but the fact remains: the prior approval is always requested in the proposal of the United States.

In a previous session of this committee I declared that the Colombian delegation was prepared to accept the requisite of prior approval. I explained then what our position was, but I should like to describe it more fully. We considered this prerequisite convenient and acceptable because it gives the Organization the opportunity to establish that no
country acts beyond the limits the Charter may fix. Nevertheless we want these limits to be sufficiently precise and clear; we wanted the enumeration of certain cases whose existence once proved would make it obligatory for the Organization to grant release, without discussing the suitability of the proposed measure, the effects of this measure on the economy of the applicant member, or any other factor. We proposed an enumeration of such characteristics because we think that the role of the Organization as a defender of the interests of international trade should have a limitation. There are in fact some vital interests whose defense is so legitimate that it seems impossible to place in the hands of other countries the power to decide by what measure such interests may be safeguarded.

Take, for instance, the case of undeveloped countries whose agriculture has not reached a satisfactory stage of technical improvement, and whose territory offers peculiar difficulties to the use of modern equipment. They are not in a position to modify such conditions in a short period. The government cannot say to the peasants "You are producing at a cost higher than the international price; therefore you must suffer the harmful consequences of foreign competition without any defense other than a customs tariff which is always difficult to increase and is subject to negotiation for its reduction; you must suffer the instability of international prices and allow your standard of life, already too low, to be exposed to further reductions." The government cannot face the problems of famine, tropical diseases, clothing and shelter by singing the praises of the international distribution of work and free trade. Our duty is to guarantee these people stable and remunerative prices, and a safe market for their products. We do not wish to cause any prejudice to other countries but it seems absurd that we must pay for the wellbeing of people of other countries with the misery of our own peasants.

I want to present here the enumeration of certain circumstances which taken as a whole must justify the adoption of protective measures without any discussion. If a country has important groups of population who have traditionally produced a certain agricultural product, and this country has also factories for the processing of that product; if the producers are unable at present to produce at a low cost due to the peculiar conditions of the territory and the lack of technical improvements; if as a consequence of the high cost of production and the international competition the standard of living of these people is abnormally low; if the fiscal position of the State does not permit any direct aid, have we,
or have we not a case for the application of protective measures even for the application of the hated quantitative restriction?

I have been told that it is possible to face such situations simply by customs tariffs, or by a tariff quota, or by any of the other ingenious means which everyone is learning here to evade the positive effects of the Charter. I have received many of these lessons. I have also been told that such cases are so clear that the Organization will surely grant release. I beg the members of this committee to believe that I am not presenting my claims with respect to Article 13 due to ignorance on my part. I am not a member of the Geneva brotherhood, but twenty years of constant contact with the economic problems of my country and a decade of the teaching of economics permit me to understand a document of this nature, even if it has as many secrets as the Geneva Charter. I affirm that agricultural activities, particularly in a country like Colombia present peculiar problems and difficulties which may make the use of special protective measures necessary. The Charter accepts this principle not only in the first part of Article 13 but also in the entire chapter on subsidies, and mainly in Article 20 where special exceptions have been included for the use and benefit of some countries. I should also like to ask how many monopolies on agricultural products have been created in anticipation of the Charter by most of the European countries. If all these steps were thought necessary, how is it possible to say that the way is open and easy for the countries not covered by the above-mentioned exceptions, not rich enough for employing subsidies, and who do not want to change their system of free enterprise for the system of State trading?

All this is true and Article 13 was intended to cover agricultural products and must continue to cover these products. Then we arrive to the question of automatic approval. I repeat what I have already said here, namely, that this automatic approval has its only justification in the recognition of the fact that there are some cases so clear, so vital to the interests of a country, that the Organization may not withhold consent to the application of such protective measures as the country concerned may find necessary. This is the point for which we have fought here during three months, but when we arrive to the final stage we do not find this vital interest of our people covered by the procedure of automatic approval.

What is offered to us in exchange? Only the points covered by
sub-paragraphs i and ii of paragraph 4 b of the United States proposal. These sub-paragraphs are the only ones of which it is possible to speak as cases of automatic approval, as I shall demonstrate later. Well, we have said that the Charter was not equitable from the point of view of undeveloped countries; we have said that substantial reforms were necessary. After suffering the defeat of many amendments, the undeveloped countries have concentrated their efforts on Article 13 and now we find that the position of hundreds of thousands of our peasants is not covered by the long awaited reform. Instead we can go and say to our countries that sub-paragraph i of 4 b of the new Article 13 applies the procedure of automatic approval only for a limited period to the manufactured industries created during the war. Instead of that, we can say to our people that another case of automatic approval is contemplated in sub-paragraph ii. It is true that no one knows what to do with this sub-paragraph and that many of the delegations have tried in vain to imagine a concrete situation to which this sub-paragraph could be applied. It does not matter: some new words were incorporated in the text of the new Bible and that must be sufficient, perhaps excessive. In the opinion of my government and my delegation what is offered in the field of automatic approval is completely inadequate and totally unjust. We have asked repeatedly for the inclusion of some sentence covering special agricultural situations and we have been disposed to study whatever precautions were suggested to avoid an undue use of the provision or to avoid unnecessary harm to other countries. It seems that we have not been lucky; but we are feeling deeply the necessities and hopes of our people and we cannot leave them to the unlimited decisions of other countries, when we have already felt to what extremes the blind fight of selfish interests can go. Therefore we are obliged to present again our petition before this committee and ask it to study the problem whether it is or is not enclosed within the square brackets of the United States proposal.

I have said already that the other points of paragraph 4 b cannot come under the name of automatic approval; point iv is the same provision contemplated in the Geneva Charter with the only difference that it changes the words "current economic condition of the applicant member" for the words "the applicant member's relative need for economic development or reconstruction". I don't think this change is in the least important and from some aspects is not likely to be specially beneficial for undeveloped countries.

/This leaves
This leaves sub-paragraph iii. This paragraph begins with the words "Is necessary to promote the establishment etc." That means that the Organization will have a great field for the application of its own judgment, and consequently there is not automatic approval. To judge whether a measure is necessary or not implies the power of affirming that the industry could be protected sufficiently by customs tariffs alone. It is impossible to imagine a broader concept, and those friends of conciseness are now in a position to know how many phrases of the original Article 13 can be changed by a single word without in the least diminishing the power of the Organization. This remark makes it unnecessary to comment on the other sentences of this sub-paragraph.

I should like to call the attention of this committee to the draft of paragraph 7 of the United States proposal. This paragraph establishes a rule referring to the time within which the Organization must give a decision, but applies this rule only to the case of measures referred to in paragraph 4. In all the other cases the Organization has not any time limit and from this aspect the United States proposal is less convenient not only in relation to the draft that the working group of Committee has already accepted in principle, but also in relation to the present text of the Charter, paragraph 5 of Article 13.

It is my hope that this committee may be able to make a new effort to find a formula more complete and equitable, to cover particularly the case of agricultural products in certain peculiar circumstances. If, unfortunately, such a solution is not possible, I must declare that I cannot assume any responsibility as a member of this committee for recommending as a conciliatory formula the proposal presented by the United States delegate, and I beg the chairman to transmit to the Conference, together with the decision of this committee, a copy of the statement I have just read, as an explanation of my refusal to recommend the so called conciliatory formula.
CO-ORDINATING COMMITTEE

CONSEQUENTIAL CHANGES IN DRAFT CHARTER REQUIRED BY THE ADOPTION OF ALTERNATIVE 3 OF THE UNITED STATES PROPOSALS REGARDING THE INTERIM TARIFF COMMITTEE, ETC.

1. Article 81 - Eliminate.

2. Amend Article 70 to read as follows: "The Organization shall have a Conference, an Executive Board, /a Tariff Committee/ Commissions as established under Article 79, and such other organs as may be required. There shall also be a Director-General and Staff."

3. Amend paragraph 1 of Article 74 to read as follows: "1. The powers and duties attributed to the Organization by this Charter and the final authority to determine the policies of the Organization shall /subject to the provisions of Article 81/ be vested in the Conference."

4. Amend paragraph 2 of Article 74 to read as follows: "2. The Conference, by an affirmative vote of a majority of the Members of the Organization, may assign to the Executive Board the exercise of any power or the performance of any duty of the Organization, except such specific powers and duties as are expressly conferred or imposed upon the Conference /or the Tariff Committee/ by this Charter."

5. Insert new paragraph 2 between paragraphs 1 and 2 of Article 78. "2. Notwithstanding the provisions of paragraph 1 of Article 74 the Executive Board shall perform the functions attributed to the Organization under paragraph 4 of Article 17, provided that if the Board shall have authorized the withholding of any tariff benefit from any Member pursuant to such paragraph, the said Member may appeal to the Conference, which may, by the affirmative vote of two-thirds of the Members, modify or reverse the action of the Board."

Comment

This provision is inserted in Article 78, (Powers and Duties of the Board) rather than in Article 74 (Powers and Duties of the Conference) since it seems more appropriate to give the power direct to the Board in the Charter rather than to provide that the Conference "shall assign" the power to the Board.

6. Paragraph 5 of Article 17 - Eliminate.
AMENDMENT TO ARTICLE 15
SUGGESTED ON BEHALF OF THE LATIN AMERICAN GROUP BY W. MULLER
TO THE CO-ORDINATING COMMITTEE

(See Draft of Article 15Submitted by the Delegation of the United States to the Co-ordinating Committee at its Meeting of 24 February)

1. Add at the end "having particular regard to the applicant Member's need for economic development or reconstruction".

2. Last line changed by "such information to all interested Members".

3. (a) Include in the Report of the Committee a definition of "economic region" in the sense it was interpreted in the working group studying Article 15.
(b) Change "necessary" by "designed to".
   Delete between "agricultural" and "newly created" the words "to be".
   Delete "substantially".
(d) Replace by "Any compensation granted to the other parties by the party receiving preferential treatment shall, if it is a preferential concession, conform with the provisions of this paragraph, provided that if such compensation is not practicable when the agreement is arrived at, tariff advantages may be in relation to products not conforming to the requirements of sub-paragraph (b) to the extent necessary, as far as possible, to afford due compensation, provided that such advantages shall be progressively eliminated and replaced as soon as possible by preferences conforming to the terms of sub-paragraph (b).
(e) (i) Add at the end "If in the term of two months the negotiations have not lead to a substantial agreement, the Organization shall fix an equitable and sufficient compensation."
   (iii) Changed by "Any Member State which enjoys most-favoured-nation treatment might lodge a claim with the Organization if it considers that the raise in the tariff rate is excessive in the light of the objective which it desires /to obtain."
to obtain. The Organization, after consideration of the relevant aspects of the question, will determine if the claim is justified, and eventually will ask from the Member which has increased the tariff rates, to effect the modifications that the Organization may consider necessary to satisfy the Member state which has made the claim.

(g) Provisions for termination of preferentials in the case they are granted for reconstruction, have to have a time limit in relation to the necessity of reconstruction, instead of a ten year period.

4. (a) Change the last phrase by "If the Organization does not give a ruling within the specified period, the authorization of the Organization will be considered automatically received."

(b) Second last phrase to read as follows: "If, within two months from the date on which the Organization suggested such negotiations, the negotiations, through no fault of the parties to the proposed agreement, have failed, the Organization shall nevertheless permit the necessary departure from the provisions of Article 16 provided that those parties grant the injured Member fair compensation or, if this would not be possible, so modify the agreement as to give such Member fair treatment.

5. Change by "Members may, subject to such conditions as the Organization may impose, enter into preferential agreements which, while in conformity with the objectives stated in paragraph 1 and with the provisions of sub-paragraphs (a) and (b) of paragraph 3, do not conform to the other conditions stated in paragraph 3, provided that such agreements have received the approval of the majority of the Members present and voting of the Organization by a two-thirds majority of the Members present and voting."

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28 February 1948

CO-ORDINATING COMMITTEE

PROPOSAL BY THE DELEGATION OF THE UNITED STATES

1. It is proposed that the report of the Co-ordinating Committee be distributed to Heads of Delegations on Monday, 1 March, and that the meeting of Heads of Delegations be called for Tuesday, 2 March.

2. It is proposed that the Report of the Committee should recommend that the Heads of Delegations make a single decision, i.e., whether or not to settle all outstanding issues regarding economic development by accepting or rejecting the substance of five attached papers as a whole.

3. It is proposed that the following five documents be attached to the Report:

   (2) Draft of Article 15.
   (3) Draft of amendments relating to the Tariff Committee and the Economic Development Committee.
   (5) List of consequential amendments and reservations to be withdrawn.

4. It is proposed that the documents contained in the programme approved by the Heads of Delegations then be referred back to the appropriate Committees of the Conference, with instructions to complete the drafts and the accompanying reports and enact the resulting Articles and amendments with the utmost speed.

5. It is proposed that the Co-ordinating Committee, having thus completed the work for which it was established, be dissolved.
ARTICLE 16

Chile - Provisional reservation pending final decision on the text of Article 15.

Argentina - Reservation on paragraph 1 pending a decision on the final text of Article 16 and other Articles relating to preferences.

Iraq and Turkey - Reservation on paragraph 1 pending the report of the Joint Sub-Committee of the Second and Third Committees, particularly regarding the Ottoman Empire clause.

El Salvador - Reservation on paragraph 1 pending the report of the Joint Sub-Committee of the Second and Third Committees.

Peru - Reservation on paragraphs 2, 3 and 4 and the interpretative note pending a decision on the text of Article 15.

Bolivia - Reservation on the whole Article pending report of the Joint Sub-Committee of the Second and Third Committees.

INTERPRETATIVE NOTE TO ARTICLE 16

Peru - Reservation pending a final decision on the text of Article 15.

ARTICLE 17

Mexico - Pro forma reservation on paragraph 3 pending agreement on supercession of the provisions of the General Agreement on Tariffs and Trade by the relevant provisions of the Charter.

/ Cuba
Cuba - Reservation on paragraph 4 of Article 17 pending the outcome of the consideration of Cuba's amendment to insert the words "and/or the provisions of the General Agreement on Tariffs and Trade" and pending the final decision of the contracting parties in respect of the amendment to Article II of the General Agreement suggested by the Tripartite Working Party of Sub-Committee A of Committee III, Sub-Committee D of Committee VI and the Joint Sub-Committee of Committees II and VI.

Mexico and Peru - Provisional reservation on paragraph 5 pending the report of the Tripartite Working Party.

Brazil - Reservation on the whole Article, particularly on the procedure with respect to the elimination of preferences pending the report of the Joint Sub-Committee of the Second and Third Committees relating to new preferences.

ARTICLE 18

Guatemala - Reservation pending final text of Articles 13 and 15.

Cuba - Provisional reservation on paragraph 2.

Brazil and Chile - Provisional reservation on paragraphs 1, 2 and 3.

Ceylon - Reservation on paragraph 6.

Brazil - Provisional reservation on paragraph 6 pending instructions.

ARTICLE 20

Argentina, Bolivia, Chile, Ireland and Uruguay have reserved their positions on Article 20 pending final texts of Articles 13 and 21.

Ceylon, Colombia, Mexico and Peru have reserved their positions on Article 20 pending the final text of Article 13.

China has reserved its position on Article 20 until the general situation becomes clear.

Mexico and Peru have reserved their positions on sub-paragraph 2 (c) of Article 20 pending the final text of Article 13.

Cuba has reserved its position on Article 20 in connection with its proposal to add a new sub-paragraph permitting restrictions on imports by a country that was unfavourably affected in the production and export of an important product through restrictions imposed by another Member under the provisions of the Charter.

The Chilean delegation maintains its reservation on Article 21. The maintenance of this reservation was based on an understanding by the delegate for Chile that a further amendment to Article 21 might be introduced at a later stage in Committee III (see S.R. 38). This situation is related to
CO-ORDINATING COMMITTEE

NOTE BY AUSTRALIAN DELEGATION FOR INSERTION
IN THE REPORT REGARDING THE INTERPRETATION
OF THE EXPRESSION "ECONOMIC REGION"

The Organization may interpret the term "economic region" to include groups of countries not necessarily contiguous or geographically close to one another but which were in practice economically integrated to an extent which made it probable that the establishment of a preferential arrangement would promote a more advantageous specialization in the use of economic resources.
CO-ORDINATING COMMITTEE

ARTICLE 15

REDAFT PROPOSED BY THE UNITED KINGDOM DELEGATION

1. The Members recognize that special circumstances may justify new preferential agreements between two or more countries in the interests of the programmes of economic development or reconstruction of one or more of them.

2. Any Member or Members contemplating the conclusion of such an agreement shall communicate their intention to the Organization and provide it with the relevant information to enable it to consider the contemplated agreement. The Organization shall promptly communicate such information to all Members.

The Organization shall then examine the proposal and give a decision concerning it as if the proposal had been submitted for its concurrence under paragraphs 4 (c) and (d) of Article 13. Any country which would be accorded preferential treatment by another country under the proposed arrangement shall be regarded as an applicant Member for the purpose of the Organization's examination. Following its examination, the Organization may, subject to such limitations as it may impose, grant by a two-thirds majority of the Members present and voting, an exception to the provisions of Chapter IV to permit the proposed arrangements to be made.

3. The Organization shall consider whether the agreement fulfills the following conditions and requirements:

I. (a) The territory of each party to the agreement shall be contiguous with that of one of the other parties, or all parties shall belong to the same economic region; all parties to the agreement shall belong (i) to the same geographical or economic region, or (ii) to a group of territories which has special traditional ties of an economic character;

(b) Any preferential customs duty provided for in the agreement is necessary for the accomplishment of a Member's general programme of economic development or reconstruction by ensuring

* Interpretative Note - A group of territories under I (a) (ii) might comprise, for example, a metropolitan territory and its Colonial Dependencies.
a sound and adequate market for a branch of industry or agriculture to be newly created or reconstructed or substantially developed or modernized.

(c) The parties to the agreement undertake to grant free entry for the product or products of the branch of industry or agriculture referred to in sub-paragraph (b) or to apply to such products customs duties sufficiently low to ensure that the objectives provided for in sub-paragraph (b) shall be achieved.

(d) Any compensation granted to the other parties by the party receiving preferential treatment shall, if it is a preferential concession, conform with the provisions of this paragraph.

(e) The Member granting the preference shall not increase the most-favoured-nation rate of duty on any product on which a preference is granted except under the following conditions:

(i) In the case of a duty already bound as a result of negotiations under Article 17, the Member concerned may raise the duty on the product concerned, provided that the Members in whose favour the duty has been bound receive due compensation in accordance with the procedures of Article 13.

(ii) Any increase in a rate of duty not previously bound and made either in anticipation of the agreement or to be made at the time of the agreement shall be specified in the notification to the Organization provided for in paragraph 2.

(iii) If any Member complains to the Organization that such an increase represents an excessive restriction on international trade as compared with the benefits to be derived in furthering the purposes of the proposed agreement, the Organization, if it determines that the complaint is justified, may require that the proposed increase be modified, as a condition to granting its authorization for the agreement.

(iv) The most-favoured-nation rate of duty established at the time of the agreement on any such product may, if not bound under any existing agreement, be subsequently increased, provided that the margin of preference
preference is not thereby increased.

(v) The preferential rate of duty established at the time of the agreement on any such product may be subsequently reduced provided that the margin of preference is not thereby increased.

(f) The agreement contains provisions permitting the adherence of other Members which are able to qualify as parties to the agreement under the provisions of this paragraph in the interest of their programmes of economic development or reconstruction on terms and conditions to be determined by negotiation with the parties to the agreement. The provisions of Chapter VIII may be invoked by such a Member, under this sub-paragraph, only on the ground that it has been unjustifiably excluded from participation in such an agreement.

(g) The agreement contains provisions for its termination within a period of not more than ten years, subject to renewal for periods of not more than five years each in conformity with the provisions of sub-paragraphs (a) to (f). If the agreement is so renewed, the Organization may require that the preferences should be subject to negotiation in accordance with the provisions of Article 17.

II. (a) If the Organization finds that the contemplated agreement fulfils the conditions set forth in paragraph 3/ Part I of this paragraph and that the conclusion of the agreement is not likely to injure substantially the interests of Members not parties to the agreement, it shall within two months authorize the parties to the agreement to depart to the necessary extent from the provisions of Article 16 as regards the products covered by the agreement. If the Organization does not give a ruling within the specified period, the Members may proceed as if such authorization had been received.

(b) If the Organization finds that the agreement, while fulfilling the conditions set forth in paragraph 3/ Part I of this paragraph is likely to cause substantial injury to the external trade of a Member not party to the agreement, the Members contemplating the agreement may enter into negotiations with that Member with a view to reaching agreement. If and when an agreement is reached, the Organization shall authorize the Members contemplating the preferential agreement to depart to the extent necessary from the
provisions of Article 16 as regards the products covered by the preferential agreement. If, within two months from the date on which the Organization suggested such negotiations, the negotiations, through no fault of the parties to the proposed agreement, have failed, the Organization shall nevertheless permit the necessary departure from the provisions of Article 16 provided that those parties grant the injured Member fair compensation or so modify the agreement as to give such Member fair treatment. The provisions of Chapter VIII of this Charter shall apply to compensation under this sub-paragraph only when one of the parties to the negotiation does not accept the Organization's decision regarding such compensation.

(c) If the Organization finds that the agreement while fulfilling the conditions set forth in paragraph 3/ Part I of this paragraph is likely to jeopardize seriously the economic position of a Member in world trade, it shall not agree to any departure from the provisions of Article 16 unless the parties to the agreement have reached a mutually satisfactory understanding with that Member.

(d) If the Organization finds that the parties to the agreement have, before 21 November 1947, obtained from countries representing at least two-thirds of their import trade, the right to depart from m.f.n. treatment in the cases envisaged in the agreement, the Organization shall, without prejudice to the conditions governing such recognition, grant the authorization provided for in sub-paragraph (a), provided that the conditions set out in sub-paragraphs (a), (e), (f) and (g) of paragraph 3/ Part I of this paragraph are fulfilled and provided, further, that in the case of a group of territories complying both with the requirements of this sub-paragraph and with those of sub-paragraph (a) (ii) of Part I of this paragraph all the conditions set out in sub-paragraphs (b) to (f) of Part I of this paragraph are fulfilled. Nevertheless, if the Organization finds that one or more Members, which have not recognized this right to depart from m.f.n. treatment, are threatened with substantial injury, it shall invite the parties to the agreement to enter into negotiations with the injured Member, and the procedure of

/sub-paragraph (b)
sub-paragraph (b) above shall apply.

5. Members may, subject to such conditions as the Organization may impose, enter into preferential agreements which do not conform to the provisions of paragraph (3), provided that such agreements have received the approval of the Organization by a two-thirds majority of the Members present and voting.
1. The Members recognize that special circumstances including the need for economic development or reconstruction may justify new preferential agreements between two or more countries in the interest of the programmes of economic development or reconstruction of one or more of them.

2. Any Member or Members contemplating the conclusion of such an agreement shall communicate their intention to the Organization and provide it with the relevant information to enable it to consider the contemplated agreement. The Organization shall promptly communicate such information to all Members.

3. The Organization shall consider whether the agreement fulfills the following conditions and requirements:

   (a) The territory of each party to the agreement shall be contiguous with that of one of the other parties, or all parties shall belong to the same economic region;

   (b) Any preferential customs duty provided for in the agreement is necessary to ensure a sound and adequate market for a branch of industry or agriculture which is being newly created or reconstructed or substantially developed or substantially modernized within a Member's general programme of economic development or reconstruction;

   (c) The parties to the agreement undertake to grant free entry for the product or products of the branch of industry or agriculture referred to in sub-paragraph (b) or to apply to such products customs duties sufficiently low to ensure that the objectives provided for in sub-paragraph (b) shall be achieved;

   (d) Any compensation granted to the other parties by the party receiving preferential treatment shall, if it is a preferential concession, conform with the provisions of this paragraph;

   (e) The Member granting the preference shall not increase the most-favoured-nation rate of duty on any product on which a preference is granted except under the following conditions:

      (1) In the case of a duty already bound as a result of negotiations under Article 17, the Member concerned may raise the duty on the product concerned, provided that the Members in whose favour the duty has been bound receive due compensation in accordance
accordance with the procedures of Article 13.

(ii) Any increase in a rate of duty not previously bound and made either in anticipation of the agreement or to be made at the time of the agreement shall be specified in the notification to the Organization provided for in paragraph 2.

(iii) If any Member complains to the Organization that such an increase represents an excessive restriction on international trade as compared with the benefits to be derived in furthering the purposes of the proposed agreement, the Organization, if it determines that the complaint is justified, may require that the proposed increase be modified, as a condition to granting its authorization for the agreement.

(iv) The most-favoured-nation rate of duty established at the time of the agreement on any such product may, if not bound under any existing agreement, be subsequently increased, provided that the margin of preference is not thereby increased.

(v) The preferential rate of duty established at the time of the agreement on any such product may be subsequently reduced provided that the margin of preference is not thereby increased.

Alternative for 3 (e) proposed by Dr. Coombs:

The Organization upon the application of the Member shall agree upon a margin of preference which it approves as an exception to Article 16. As a condition of its agreement in such a margin of preference the Organization may require a reduction in the most-favoured-nation rate of duty proposed by the Member, if in the light of the representatives of any affected Member it considers that rate excessive.

(f) The agreement contains provisions permitting the adherence of other Members which are able to qualify as parties to the agreement under the provisions of this paragraph in the interest of their programmes of economic development or reconstruction on terms and conditions to be determined by negotiation with the parties to the agreement. The provisions of Chapter VIII may be invoked by such a Member, under this sub-paragraph, only on the ground that it has been unjustifiably excluded from participation in such an agreement.

(g) The agreement contains provisions for its termination, within a period of not more than ten years, subject to renewal for periods not greater than five years each.
Alternative for 3 (g) proposed by Mr. Novoa:

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 with the approval of the Organization for periods not greater than five years each.

4. (a) If the Organization finds that the contemplated agreement fulfills the conditions set forth in paragraph 3 and that the conclusion of the agreement is not likely to injure substantially the interests of Members not parties to the agreement, it shall within two months authorize the parties to the agreement to depart to the necessary extent from the provisions of Article 16 as regards the products covered by the agreement. If the Organization does not give a ruling within the specified period, the authorization of the Organization will be considered automatically received.

(b) If the Organization finds that the agreement, while fulfilling the conditions set forth in paragraph 3, is likely to cause substantial injury to the external trade of a Member not party to the agreement, the Members contemplating the agreement may enter into negotiations with that Member with a view to reaching agreement. If and when an agreement is reached, the Organization shall authorize the Members contemplating the preferential agreement to depart to the extent necessary from the provisions of Article 16 as regards the products covered by the preferential agreement. If, within two months from the date on which the Organization suggested such negotiations the negotiations, through no fault of the parties to the proposed agreement, have failed, the Organization shall nevertheless permit the necessary departure from the provisions of Article 16 provided that those parties grant the injured Member fair compensation or, if this is not possible or reasonable, so modify the agreement as to give such Member fair treatment. The provisions of Chapter VIII of this Charter shall apply to compensation under this sub-paragraph only when one of the parties to the negotiation does not accept the Organization's decision regarding such compensation.

(c) If the Organization finds that the agreement while fulfilling the conditions set forth in paragraph 3 is likely to jeopardize seriously the economic position of a Member in world trade, it shall not agree to any departure from the provisions of Article 16 unless the parties to the agreement have reached a mutually satisfactory understanding...
with that Member.

(d) If the Organization finds that the parties to the agreement have, before 21 November 1947, obtained from countries representing at least two-thirds of their import trade, the right to depart from m.f.n. treatment in the cases envisaged in the agreement, the Organization shall, without prejudice to the conditions governing such recognition, grant the authorization provided for in sub-paragraph (a), provided that the conditions set out in sub-paragraphs (a), (e), (f) and (g) of paragraph 3 are fulfilled. Nevertheless, if the Organization finds that one or more Members, which have not recognized this right to depart from m.f.n. treatment, are threatened with substantial injury, it shall invite the parties to the agreement to enter into negotiations with the injured Member, and the procedure of sub-paragraph (b) above shall apply.

5. Members may, subject to such conditions as the Organization may impose, enter into preferential agreements which, while in conformity with the objectives stated in paragraph 1 and with the provisions of sub-paragraph (b) of paragraph 3, do not conform to the provisions of other conditions stated in paragraph (3), provided that such agreements have received the approval of the Organization by a two-thirds majority of the Members present and voting.
1 March 1948

CO-ORDINATING COMMITTEE

ARTICLE 15 AS AMENDED 1 MARCH 1948

1. The Members recognize that special circumstances, including the need for economic development or reconstruction, may justify new preferential agreements between two or more countries in the interest of the programmes of economic development or reconstruction of one or more of them.

2. Any Member or Members contemplating the conclusion of such an agreement shall communicate their intention to the Organization and provide it with the relevant information to enable it to consider the contemplated agreement. The Organization shall promptly communicate such information to all Members.

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

4. The Organization shall consider whether the agreement fulfills the necessary departure from the provisions of Article 16, in accordance with the provisions of paragraphs 5 and 6 in respect of a proposed agreement for the establishment of tariff preferences which it determines to fulfill the following conditions and requirements:

(a) the territory of each party to the agreement shall be contiguous with that of one of the other parties, or all parties shall belong to the same economic region;

(b) any preferential customs duty provided for in the agreement is necessary to ensure a sound and adequate market for a branch of industry or agriculture which is being or is to be created or reconstructed or substantially developed or substantially modernized;

(c) the parties to the agreement undertake to grant free entry for the product or products of the branch of industry or agriculture referred to in sub-paragraph (b) or to apply to such products customs duties sufficiently low to ensure that the objectives provided for in sub-paragraph (b) shall be achieved;

(d) any compensation granted to the other parties by the party receiving preferential treatment shall, if it is a preferential concession, conform with the provisions of this paragraph.

(e) The agreement
(e) the agreement contains provisions permitting the adherance of other Members, which are able to qualify as parties to the agreement under the provisions of this paragraph, in the interest of their programmes of economic development or reconstruction on terms and conditions to be determined by negotiation with the parties to the agreement. The provisions of Chapter VIII may be invoked by such a Member under this sub-paragraph, in this respect only on the ground that it has been unjustifiably excluded from participation in such an agreement.

(f) The agreement contains provisions for its termination according to its purposes and within a period necessary for the fulfillment of such purposes but in any case not more than ten years, subject to provided that any renewal shall be subject to the approval of the Organization shall not be for periods greater than five years each.

5. When the Organization, upon the application of a Member, approves, in accordance with paragraph 6, an exception to Article 16, in respect of the products covered by the proposed agreement, it shall determine the margin of preference to be permitted thereon. shall agree upon a margin of preference which it approves as an exception to Article 16. As a condition of its approving such a margin of preference the Organization may require a reduction in an unbound most-favoured-nation rate of duty proposed by the Member in respect of any product so covered, if in the list of the representations of any affected Member it considers that rate excessive.

6. (a) If the Organization finds that the contemplated agreement fulfills the conditions set forth in paragraph 5 and that the conclusion of the agreement is not likely to injure substantially the interests of Members not parties to the agreement, it shall within two months authorize the parties to the agreement to depart from the necessary extent from the provisions of Article 16 as regards the products covered by the agreement. If the Organization does not give a ruling within the specified period, the authorization of the Organization will be considered automatically received.

(b) If the Organization finds that the agreement, while fulfilling the conditions set forth in paragraph 6, is likely to cause substantial injury to the external trade of a Member not party to the agreement, the Members contemplating the agreement may enter into negotiations with that Member with a view to reaching agreement. If and when an agreement is reached,
reached, the Organization shall authorize the Members contemplating the preferential agreement to depart [to the extent necessary] from the provisions of Article 16 as regards the products covered by the preferential agreement. If, within two months from the date on which the Organization suggested such negotiations the negotiations, through no fault of the parties to the proposed agreement, have failed, the Organization shall nevertheless permit the necessary departure from the provisions of Article 16, provided, that those parties grant the injured Member fair compensation or, if this is not possible or reasonable, so modify the agreement as to give such Member fair treatment. The provisions of Chapter VIII of this Charter shall apply to compensation under this sub-paragraph may be invoked in this respect only when one of the parties to the negotiation does not accept the Organization's decision regarding such compensation.

(c) If the Organization finds that the agreement while fulfilling the conditions set forth in paragraph [37] is likely to jeopardize seriously the economic position of a Member in world trade, it shall not agree to any departure from the provisions of Article 16 unless the parties to the agreement have reached a mutually satisfactory understanding with that Member.

(d) If the Organization finds that the prospective parties to the agreement have, before November 21, 1947, obtained from countries representing at least two-thirds of their import trade, the right to depart from most-favoured-nation treatment [in the cases] for the purpose of establishing regional preferences as envisaged in the agreement, the Organization shall, without prejudice to the conditions governing such recognition, grant the authorization provided for in sub-paragraph (a), provided that the conditions set out in sub-paragraphs [(e)] and (f) [and (g)] of paragraph [37] are fulfilled. Nevertheless, if the Organization finds that one or more Members, which have not recognized this right to depart from most-favoured-nation treatment, are threatened with substantial injury, it shall invite the parties to the agreement to enter into negotiations with the injured Member, and the procedure of sub-paragraph (b) above shall apply.

/INTERPRETATIVE NOTES
INTERPRETATIVE NOTES

Paragraph 4 (a)
The Organization need not interpret the term "economic region" to require close geographical proximity if it is satisfied that a sufficient degree of economic integration exists between the countries concerned.

Paragraph 6 (d)
It is understood that the words "have, before November 21, 1947, obtained from countries representing at least two-thirds of their import trade, the right to depart from most-favoured-nation treatment for the purpose of establishing regional preferences as envisaged in the agreement" cover rights to conclude preferential agreements which may have been recognized to mandated territories which became independent before November 21, 1947, in so far as these rights have not been specifically denounced before that date.

CONSEQUENTIAL AMENDMENT OF ARTICLE 13
Insert in paragraph 2 (a) of Article 13, after the word "reconstruction" in the second line, "or for the purpose of increasing a most-favoured-nation rate of duty in connection with the establishment of a new preferential agreement in accordance with Article 15".