Emergency Action on Imports of Particular Products

1. If, as a result of unforeseen developments and of the effect of the obligations incurred under or pursuant to this Chapter, any product is being imported into the territory of any Member in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive products (or, in the case of a product, which is the subject of a concession with respect to a preference is being imported under such conditions as to cause or threaten serious injury to producers in a territory which receives or received such preference), the Member shall be free to suspend the obligation in respect of such product in whole or in part, or to withdraw or modify the concession to the extent and for such time as may be necessary to prevent such injury.

2. Before any Member shall take action pursuant to the provisions of paragraph 1, it shall give notice in writing to the Organization as far in advance as may be practicable and shall afford the Organization and those Members having a substantial interest as exporters of the product concerned, an opportunity to consult with it in respect of the proposed action. In critical and exceptional circumstances such action may be taken provisionally without prior consultation, provided that consultation shall be affected immediately following upon the taking of such action.
3. If agreement among the interested Members with respect to the action is not reached, the Member which proposes to take or continue the action, shall, nevertheless, be free to do so, and if such action is taken or continued, the affected Members shall then be free, not later than sixty days after such action is taken, to suspend, upon the expiration of thirty days from the date on which written notice of such suspension is received by the Organization, the application to the trade of the Member taking such action, of such substantially equivalent obligations or concessions under this Chapter the suspension of which the Organization does not disapprove. In serious cases the Organization may authorize an affected Member to suspend concessions or obligations in addition to those which may be substantially equivalent to the action originally taken.

Article 35
Consultation - Nullification or Impairment

1. Each Member will accord sympathetic consideration to, and will afford adequate opportunity for consultation regarding, such representations as may be made by any other Member with respect to the operation of customs regulations and formalities, anti-dumping and countervailing duties, quantitative and exchange regulations, subsidies, state-trading operation, sanitary laws and regulations for the protection of human, animal or plant life or health, and generally all matters affecting the operation of this Chapter; and will, in the course of such consultation, provide the other Member with such information as will, without prejudicing the legitimate business interests of particular business enterprises, enable a full and fair appraisal of the situation which is the subject of such representations.

2. If any Member should consider that any other Member is applying any measure, whether or not it conflicts with the terms of this Charter, or that any situation exists, which has the effect of nullifying or impairing any object of this Charter, the Member or Members concerned shall give sympathetic consideration to such written representations or proposals as may be made
may be made with a view to effecting a satisfactory adjustment of the matter. If no such adjustment can be effected, the matter may be referred to the Organization, which shall, after investigation, and, if necessary, after consultation with the Economic and Social Council of the United Nations and any appropriate inter-governmental organizations, make appropriate recommendations to the Members concerned. The Organization, if it considers the case serious enough to justify such action, may authorize a Member or Members to suspend the application to any other Member or Members, of such specified obligations or concessions under this Chapter as may be appropriate in the circumstances. If such obligations or concessions are in fact suspended, any affected Member shall then be free, not later than sixty days after such action is taken, to withdraw from the Organization upon the expiration of sixty days from the date on which written notice of such withdrawal is received by the Organization.

NOTES

Article 34

1. The Delegates for Canada and Chile maintained the reservations they had made at the First Session regarding the desirability of permitting action under Article 34 without prior consultation even in emergency circumstances. The Delegate for Chile also maintained the opinion expressed by the Delegation of Chile at the First Session, that if action were permitted to a Member without prior consultation, immediate counter-action by affected Members should also be permitted without the delays involved in obtaining the permission of the International Trade Organization to take such action

2. A suggestion was made that the words "in serious cases" in the last sentence of paragraph 2 should be amended to "in case of serious abuse". It was agreed that this suggestion should be referred to the Legal Drafting Sub-Committee for consideration.
Article 35

1. The Delegate for Czechoslovakia reserved his position regarding the words "and will, in the course of such consultation, ..............such representations" which were added at the end of paragraph 1.*

2. The Delegate for Brazil reserved his position regarding the inclusion of the words "anti-dumping and countervailing duties" in paragraph 1.

3. It was agreed that the phrase "any object of this Charter" in paragraph 2 should be referred to the Legal Drafting Sub-Committee for further consideration.

* At the suggestion of the Delegate for the United States, it was agreed to delete all references to the supply of information by State trading enterprises elsewhere in the Charter, due to the adoption of the United States proposal as amended by the United Kingdom, to paragraph 1 of Article 35.