The effect of paragraph 3 of Article 66 is that, apart from the cases provided for elsewhere in the Charter, no waiver of obligations is possible unless the Conference determines criteria and sets up procedures. Moreover, these acts require a two-thirds affirmative vote of all the Members of the Organization.

It is the view of the Australian Delegation that there may be cases where special procedures with a special majority vote are not required, and that in such cases, the ordinary rules of procedure of the respective organs of the Organization would suffice. It is therefore suggested that the Conference should be free to determine whether or not particular classes of questions relating to release from obligation do or do not require the determination of criteria and the establishment of special procedures. Moreover, the Australian Delegation believes it unwise to require that two-thirds of the whole membership should be required to give their affirmative vote in a decision of this kind. The voting requirement in paragraph 3 of Article 66 removes the right of Members to adopt a neutral position by abstaining from voting, because a failure to vote for a proposal automatically becomes a vote against it.

The Australian Delegation proposes that the substantial power to release Members from obligations in exceptional circumstances should be stated as a general power of the Organization (not of the Conference) and placed in Article 61.

The question as to which organ of the Organization shall exercise the power may then be covered in Article 66, paragraph 3. It is suggested that it should be left permissive for the Conference to determine criteria and procedures, including voting procedures. This method of presentation has the following effects:

(a) the Conference can study the categories of cases which it may expect to come before it and decide
whether or not special criteria and procedures are necessary;

(b) elasticity in respect of voting is retained. The revised Article 61(e) permits release from obligations by simple majority, but the Conference could decide (again by simple majority) that a particular category of issues should require decision by a different kind of majority. There is an analogy in the United Nations Charter in Article 18(3) where the General Assembly may decide by simple majority what additional categories of questions should be decided by two-thirds majority;

(c) the Conference is left free to decide whether or not decisions to release Members from particular obligations may be taken by organs other than the Conference. It might be argued that the present drafting of Article 66(3) does not permit this because of the language of Article 66(2)

Accordingly the Australian Delegation submits the following draft amendment:

**Article 61:**

Insert following new sub-paragraph in place of existing sub-paragraph (e) -

"In exceptional circumstances to waive obligations of Members undertaken pursuant to this Charter;"

The present sub-paragraph (e) then becomes sub-paragraph (f).

**Article 66:**

Amend paragraph 3 as follows:-

"The Conference may determine criteria and establish procedures, including voting procedures, for the making of decisions under sub-paragraph (e) of Article 61."

**Article 72**

**COMMENT**

The structure of the International Trade Organization includes expert Commissions which are to advise and perform other functions on behalf of the Executive Board. It is proposed that there should be a Commission for each of the fields covered respectively by Chapter IV, V, VI and VII.

No Commission has been proposed to embrace the subjects of Chapter III. The subjects are important among the purposes of the Organization. Moreover, the Australian Delegation believes that the practicability of abiding by the rules laid down in the rest of the Charter will depend to an important degree
on the implementation of Chapter III. It is therefore felt that the Organization requires regular advice on the general economic questions that will arise under Chapter III. The Economic and Social Council and other Organizations have machinery to review and report upon developments in this field upon which the I.T.O. can depend for assistance. The Australian Delegation believes, however, that presentation to the Executive Board and Conference of Information and advice on issues arising out of Chapter III which are relevant to decisions which have to be made in the wide field of commercial and commodity policy calls for technically equipped personnel within I.T.O. It is essential, for practical purposes, that information and advice should be related to the specific issues which are before the Organization at any given time.

It is therefore suggested that Commission B consider whether this need should be met by the creation of a Commission on questions of employment and economic activity or by some other form of machinery.

Article 68

COMMENT

The text of Article 68 (in square brackets) provides for 15 Members of the Executive Board. Alternative B in Part II of the Report of the New York Administrative Sub-Committee envisages up to 18 Members on certain assumptions about the number of Members of the Organization, and assuming a particular method of selecting Members of the Board. The Australian Delegation suggests that Commission B consider whether the Executive Board should contain a larger number than 15 Members in the event that a system of simple election for all Members is agreed upon for incorporation in the Charter. As a basis for discussion, the Australian Delegation would propose 18.

The Delegation suggests also that, in the consideration of Article 68, the type of majority vote required for election of Members should be examined.