

THIRD COMMITTEE

PARAGRAPH 4 OF ARTICLE 17

SECRETARIAT NOTE

In response to the enquiry contained in E/CONF.2/52, proposals have been received from the delegations of Brazil and the United States concerning the text of Paragraph 4 recommended by the Co-ordinating Committee and the Heads of Delegations.

1. The delegation of Brazil proposes that the fourth line of sub-paragraph (c) be altered as follows:

"sufficient justification to fulfil its obligation /B/ under paragraph 1 of this Article,"

and that the last two sentences of sub-paragraph (c), beginning "if in fact...." should be a separate sub-paragraph under the designation "(d)".

2. The delegation of the United States has submitted the following redraft of the paragraph:

"4. (a) 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 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 such Member, of the concessions granted in the relevant Schedule of the General Agreement by any other Member which (a) has requested such Member to negotiate with a view to becoming a contracting party to the General Agreement on Tariffs and Trade /without concluding an agreement/ and (b) has not successfully concluded the negotiations; Provided that the

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Organization by a majority vote may require [such] the continued application of such concessions to any Member which has been unreasonably prevented from becoming a party to the General Agreement pursuant to negotiations in accordance with the provisions of this Article.

(b) If a Member which is a contracting party to the General Agreement on Tariffs and Trade proposes to withhold tariff concessions from the trade of a Member which is not a contracting party, [to the General Agreement on Tariffs and Trade] it shall give notice in writing to the Organization and to the affected Member, which may request the Organization to require the continuance of such concessions, and if such a request has been made the tariff concessions shall not be withheld pending a decision by the Organization under paragraph 4 (a).

(c) 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 without sufficient justification to fulfil 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] a 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."
