

THIRD COMMITTEE: COMMERCIAL POLICY

SUB-COMMITTEE F ON ARTICLES 21, 23 AND 24

REPORT TO COMMITTEE III ON ARTICLES 23 AND 24

Chairman: Mr. J. MELANDER (Norway)

PART I

1. Sub-Committee F was appointed on 5 January 1948 to examine and submit recommendations on all proposed amendments to Articles 21, 23 and 24.
2. The Sub-Committee was composed of representatives of Argentina, Australia, Belgium, Brazil, Canada, Cuba, Czechoslovakia, France, Greece, India, Italy, Lebanon, Liberia, Norway, Philippines, United Kingdom and the United States of America.
3. Mr. J. Melander (Norway) was unanimously elected Chairman.
4. The Sub-Committee has held fourteen meetings. A list of the amendments considered is attached in Part III.
5. A number of representatives of delegations who were not members of the Sub-Committee attended as observers and also took part in the discussion of amendments which they had submitted. The Sub-Committee also heard statements by the representatives of the International Monetary Fund.
6. The Sub-Committee has already submitted its report on Article 21 (E/CONF.2/C.3/57). The present report deals with Articles 23 and 24.
7. Having examined, in Working Party and in Sub-Committee, the amendments to Articles 23 and 24 and proposals arising out of those amendments the Sub-Committee recommends to Committee III the approval of the revised text of these Articles together with the Annex and Interpretative Notes appended thereto as set forth in Part IV of this Report.

PART II

Article 23

8. In addition to the amendments to Article 23 listed in Part III, the Sub-Committee also considered an amendment to Article 22 proposed by Syria and Lebanon (Item 60 of the Annotated Agenda) which was referred to it by Sub-Committee E of Committee III as falling more properly under Article 23.

9. After a thorough consideration of the amendments mentioned above, the Working Party has concluded that a substantial redraft of Article 23 is desirable. Since, however, certain Members will have already accepted the principles of Article 23 of the Geneva text and will have begun to apply them, the Working Party considers that such Members should be allowed, if they so desire, to continue to apply these principles during the transitional period as defined below in paragraph 8. The Working Party accordingly submits the text which appears at the end of this report together with a proposed new Annex which embodies these principles. Two Interpretative Notes have been attached to the text of the Article and one to the Annex.

The new text does not require the Interpretative Note to paragraph 3 of Article 23 of the Geneva Draft and it has accordingly been dropped.

10. The major changes from the Geneva text of Article 23 are to be found in paragraphs 1, 2 and 4 of the revised Article.

11. In conjunction with the proposed revision of Article 23, it is considered desirable that paragraph 9 of Article 24 of the Geneva text (renumbered paragraph 8 in the text submitted by the Sub-Committee and subsequently described by that number) be amended by the deletion of the phrase "Subject to paragraph 4 of this Article," at the beginning of the paragraph. As a consequence of this change the Sub-Committee recommends that the interpretative note now attached to paragraph 4 of Article 24 of the Geneva text be attached to paragraph 8 of that Article, that the first sentence of the note be deleted, and that certain consequential drafting changes be made as shown in the attached text.

12. Paragraph 1 of the revised Article defines the exceptions to the rule of non-discrimination permissible during the post-war transitional period. This transitional period and its application in respect of individual members are defined by reference to the provisions of Article XIV of the International Monetary Fund or by reference to an analogous provision of a special exchange agreement pursuant to paragraph 6 of Article 24. The discriminatory measures, including adaptations thereof, permitted under paragraph 1 may be applied by a Member during the transitional period without the prior approval

/of the Organization

of the Organization.

13. Sub-paragraph 1 (d) provides that a Member may under certain conditions elect to operate during the transitional period under the Annex rather than under sub-paragraphs (b) and (c) of the Article. The subject matter of the Annex is dealt with in paragraph 17 below. Sub-paragraphs (g) and (h) deal with the administrative control which is to be exercised by the Organization over measures taken by a Member under this Article. The attention of the Sub-Committee was particularly directed to ensuring that Members operating under sub-paragraphs (b) and (c) and Members operating under the Annex enjoyed equality of treatment in this respect. As a consequence, the Sub-Committee in drafting these sub-paragraphs took account of the procedures laid down in Article XIV of the Articles of Agreement of the International Monetary Fund.

After the termination of the transitional period for a Member, paragraph 2 makes provision, subject to the prior approval of the Organization, for limited departures from the rule of non-discrimination.

14. Paragraph 4 permits a Member applying import restrictions in accordance with Article 21 to control its exports in such a manner as to increase its earning of currencies which it can use without deviation from the provisions of Article 22.

15. The effect of the Amendment to paragraph 8 of Article 24 is that the measures defined in that paragraph are not precluded by the provisions of this Section of the Charter.

16. Paragraph 3 is identical with paragraph 4 of the Geneva text and paragraph 5 is substantially the same as paragraph 5 of the Geneva text. Paragraph 5 (b) of the revised article incorporates an amendment which is a consequential change resulting from certain amendments to Annex A of Article 17 which have been approved by Committee III with reservation by the delegations of Brazil and Uruguay. (See E/CONF.2/C.3/59, page 17).

17. The Annex contains a substantial part of the provisions of the Geneva text of Article 23. Certain sections of that text have, however, been transferred to the Article proper and the declaration in sub-paragraph 1 (a) has been omitted in view of sub-paragraphs 1 (a) and 1 (f) of the Article. The procedures for administrative control in sub-paragraphs 3 (a) and 3 (c) in the Geneva text have been replaced by sub-paragraphs 1 (f), 1 (g) and 1 (h) of the Article. The criteria in sub-paragraph 1 (b) of the Geneva text remain the same.

18. Certain delegations suggested that the provisions of paragraph 4 of Annex [] be transferred to the body of Article 23 so that they would be

/applicable

applicable both to Members who elect Annex [] and those who do not so elect. The Working Party felt that this purpose was covered in part by the procedures available under Article 21, and that the change need not therefore be made.

19. It is considered by the Sub-Committee that the above changes meet a large number of the objectives to which the amendments submitted were directed. In view of the extensive revision of Article 23 it is not practicable to indicate how particular amendments have been accommodated. However, the amendments submitted by the following countries are considered by the delegates of those countries to be covered by the new text:

(a) Belgium

(b) Czechoslovakia

Amendments to paragraphs 1 (a), 1 (b), 2, 3 (a), and 3 (c) are covered by Article 23 and the proposed amendment to paragraph 5 is covered by the proposed revision of paragraph 8 of Article 24.

(c) Denmark

(d) France

(e) Lebanon

(f) Norway (amendment to paragraph 1 (b) (1))

(g) Syria

20. The Norwegian delegate indicated that the new text of Article 93 on Relations with non-Members which has been approved by the Sixth Committee (E/CONF.2/C.6/103/Add.1), met the major part of the problem to which his amendment on long-term agreements (E/CONF.2/C.3/F/W.4) was directed, and, accordingly, withdrew this amendment.

21. With respect to the amendment submitted by Italy (Item 69) the Sub-Committee considers that paragraph 2 of the revised text takes account of the concept of relative injury.

22. The delegate of Mexico has stated that his delegation is now reviewing the new text to see whether the purpose of its amendment (Item 68) is met.

23. The amendment submitted by Greece proposing a new Article 23A (Item 78) was replaced by an amendment to paragraph 5 of Article 23 submitted by the delegate of Greece. When the new text of Article 23, together with the change proposed in Article 24, were before the Working Party dealing with this matter, the delegate of Greece agreed that these new texts went a long way to meet the problem of his country. However, he did not feel that his point was met entirely, particularly in the post-transitional period. The Sub-Committee believes that further amendment in this respect would provide too wide an exception, and therefore recommends no further change in the text. The delegation of Greece reserved its position.

/24. The delegation

24. The delegation of Argentina reserved its position on Article 23. The delegation of Brazil expressed no opinion on the Article.

25. Owing to the substantial changes made in the text of Article 23 the text as shown in Part IV has not been printed with square brackets and underlinings.

Article 24

26. After consideration of paragraph 2 of Article 24 in the light of the amendments proposed by Australia and New Zealand (Items 79 and 80 of the Annotated Agenda), the Sub-Committee recommends the revision of the text of paragraph 2 as shown in Part IV (deletions from the Geneva text are shown in square brackets and additions to it are underlined).

27. The Sub-Committee gave consideration to an amendment to paragraph 6 proposed by the delegate for Liberia, referring to the case of a country which does not use its own currency. The Sub-Committee recommends that to meet this case a new sub-paragraph 6 (d) should be included as set out in Part IV.

28. In this connection, two members of the Sub-Committee, while having no objection in substance to the text shown below, thought that the Committee should consider whether such a provision should be included in the text of Article 24, or whether the special situation of Liberia could be suitably dealt with under Article 74, which provides for the waiver of obligations under the Charter.

29. The Sub-Committee also considers that paragraphs 6 and 7 of Article 24 can be combined with advantage, since they deal with the same subject. It also recommends that a consequential amendment should be included in the present paragraph 8 (new paragraph 7). These modifications are indicated in the text of Article 24 in Part IV.

30. The Sub-Committee, while aware of the desirability of keeping interpretative notes to a minimum, considers that the interpretative footnote to paragraph 4 of Article 24 of the Geneva text relating to "frustration" (Item 81 of the Annotated Agenda) is both essential and too detailed for inclusion in the text of Article 24. It therefore recommends that this interpretative note with the amendment thereto proposed in paragraph 11 of Part II of this Report be appended to the text of Article 24.

31. The Sub-Committee took note of the amendment of Mexico (Item 82) but felt that it would be desirable that a more specific amendment be submitted by Mexico.

Having heard a further explanation by the delegation of Mexico, the

/Sub-Committee

Sub-Committee does not consider that the text of Article 24 requires any change in the light of the proposed Mexican amendment. It took note that the problem to which the delegation of Mexico had directed its amendment was similar to that being considered by Sub-Committee G of Committee III.

In the light of the Sub-Committee's recommendation the Mexican delegate stated that his delegation reserved its position on Article 24.

32. The Sub-Committee considers that the title of Article 24 would more clearly indicate its content if it were changed to read as follows:

"Relationship with the International Monetary Fund and Exchange Arrangements".

33. It recommends also that the title of Section B of Chapter IV would more clearly indicate the content of the section if it were to read: "Quantitative Restrictions and Related Exchange Matters" instead of "Quantitative Restrictions and Exchange Controls".

PART III

AMENDMENTS SUBMITTED TO ARTICLES 21, 23 AND 24

| Article | Paragraph (Geneva text) | Country | Reference* |
|---------|----------------------------|----------------------|-------------------------------------|
| 21 | Proposed new Paragraph 1 | Belgium | E/CONF.2/C.3/F/W.6 |
| 21 | 1 | Ceylon | 27 |
| 21 | 1 | Australia | 28 |
| 21 | 2(a) | Argentina | 29 |
| 21 | 2(a) | Venezuela | 30 |
| 21 | 2(a) | Chile | 31 |
| 21 | 2(a) | Ceylon | 32 |
| 21 | 2(b) | Australia | 33 |
| 21 | 3(a) | Argentina | 34 |
| 21 | 3(b) | Denmark | 35 |
| 21 | 3(b) | Geneva Draft Note | 36 |
| 21 | 3(b) | Belgium | E/CONF.2/C.3/F/W.6 |
| 21 | 3(c) | Ceylon | 37 |
| 21 | 3(c) | Argentina | 38 |
| 21 | 3(c) | Brazil | E/CONF.2/C.3/F/W.24 |
| 21 | 4(a) | Ceylon and Venezuela | 39 |
| 21 | 4(a) | Argentina | 40 |
| 21 | 4(a) | Italy | 41 |
| 21 | 4(a) | Uruguay | 42 |
| 21 | 4(b) | Uruguay | 43 |
| 21 | 4(b) | Venezuela | 44 |
| 21 | 4(c) | Uruguay | 45 |
| 21 | 4(c) | Venezuela | 46 |
| 21 | 4(c) | Italy | 47 |
| 21 | 4(d) | Italy | 48 |
| 21 | 4(e) | Italy | 49 |
| 21 | Reservation on Article | Belgium | 50 (Replaced by E/CONF.2/C.3/F/W.6) |
| 21 | Footnote | New Zealand | E/CONF.2/C.3/F/W.23 |
| 23 | 1(a) | Uruguay | 62 |
| 23 | 1(a) | Mexico | 63 |

* The numbers refer to items in the Annotated Agenda (E/CONF.2/C.3/7) unless otherwise stated.

| <u>Article</u> | <u>Paragraph (Geneva text)</u> | <u>Country</u> | <u>Reference*</u> |
|----------------|------------------------------------|-------------------|---|
| 23 | 1(b) | Norway | 64 (Replaced by E/CONF.2/C.3/F/W.5) |
| 23 | 1(b) | United Kingdom | 65 (Withdrawn in Committee III) |
| 23 | 1(b) | Belgium | E/CONF.2/C.3/F/W.6 |
| 23 | 3(a) | Italy | 66 |
| 23 | 3(a) | Denmark | 67 |
| 23 | 3(c) | Mexico | 68 |
| 23 | 3 (new sub-paragraph) | Italy | 69 |
| 23 | 3 | Uruguay | 70 |
| 23 | 3 | Geneva Draft Note | 71 |
| 23 | 4 | Uruguay | 72 |
| 23 | 5(b) | Brazil | 73 |
| 23 | 5 (new sub-paragraph) | Norway | E/CONF.2/C.3/F/W.4 |
| 23 | New Paragraph 6 | France | 74 |
| 23 | Entire Article | Argentina | 75 |
| 23 | Entire Article | Czechoslovakia | 76 (Replaced by E/CONF.2/C.3/F/W.14) |
| 23 | Entire Article | Belgium | 77 (Replaced by E/CONF.2/C.3/F/W.6) |
| 23 | Entire Article | Chile | 77 |
| 23A | Proposed New Article | Greece | 78 (Replaced in Sub-Committee by an amendment to paragraph 5 of Article 23) |
| 24 | 2 | New Zealand | 79 |
| 24 | 2 | Australia | 80 |
| 24 | 4 | Geneva Draft Note | 81 |
| 24 | 6 | Liberia | E/CONF.2/C.3/F/W.15 |
| 24 | Proposed New Article | Mexico | 82 |
| 24 | Entire Article | Argentina | 83 |
| 24 | Entire Article | Belgium | 84 |

* The numbers refer to items in the Annotated Agenda (E/CONF.2/C.3/7) unless otherwise stated.

PART IV

Article 23

Exceptions to the Rule of Non-Discrimination

1. (a) The Members recognize that the aftermath of the war has brought difficult problems of economic adjustment which do not permit the immediate full achievement of non-discriminatory administration of quantitative restrictions and therefore require the exceptional transitional period arrangements set forth in this paragraph.
(b) A Member applying restrictions under Article 21 may, in the use of such restrictions, deviate from the provisions of Article 22 in a manner having equivalent effect to restrictions on payments and transfers for current international transactions which that Member may at that time apply under Article XIV of the Articles of Agreement of the International Monetary Fund, or under an analogous provision of a special exchange agreement pursuant to Article 24, paragraph 6.
(c) A Member which is applying restrictions under Article 21 and which was applying import restrictions to safeguard its balance of payments on 1 March 1948 in a manner which deviated from the rules of non-discrimination set forth in Article 22 may, to the extent that such deviation would not have been covered on that date by sub-paragraph (b) of this paragraph, continue so to deviate, and may adapt such deviation to changing circumstances.
(d) Any Member which before 1 July 1948 has signed the Protocol of Provisional Application agreed upon at Geneva on 30 October 1947, and which by such signature has provisionally accepted the principles of paragraph 1 of Article 23 of the Draft Charter submitted to the Havana Conference by the Preparatory Committee, may elect by written notice to the Interim Commission or to the Organization before 1 January 1949, to be governed by the provisions of Annex [], which embodies such principles, in lieu of the provisions of sub-paragraphs (b) and (c) of this paragraph. Annex [] shall not be applicable to any Member which does not so elect. Sub-paragraphs (b) and (c) of this paragraph shall not be applicable to any Member which does so elect.
(e) The policies applied in the use of import restrictions under sub-paragraphs (b) and (c) of this paragraph or under Annex [] in the postwar transitional period shall be designed to promote the maximum development of multilateral trade possible during that period and to expedite the attainment of a balance of payments position which will no longer require resort to Article 21, or to transitional exchange arrangements.

//(f) A Member

(f) A Member may deviate from the provisions of Article 22 pursuant to sub-paragraphs (b) or (c) of this paragraph or pursuant to Annex [] only so long as it is availing itself of the post-war transitional period arrangements under Article XIV of the Articles of Agreement of the International Monetary Fund, or of an analogous provision of a special exchange agreement under Article 24, paragraph 6.

(g) Not later than 1 March 1950 (three years after the date on which the International Monetary Fund began operations) and in each year thereafter, the Organization shall report on any action still being taken by Members under sub-paragraphs (b) and (c) of this paragraph or under Annex []. In March 1952, and in each year thereafter, any Member still entitled to take action under the provisions of sub-paragraph (c) or of Annex [] shall consult the Organization as to any deviations from Article 22 still in force pursuant to such provisions and as to its continued resort to such provisions. After 1 March 1952 any action under Annex [] going beyond the maintenance in force of deviations on which consultation has taken place and which the Organization has not found unjustifiable, or their adaptation to changing circumstances, shall be subject to any limitations of a general character which the Organization may prescribe in the light of the Member's circumstances.

(h) The Organization may, if it deems such action necessary in exceptional circumstances, make representations to any Member entitled to take action under the provisions of sub-paragraph (c) that conditions are favourable for the termination of any particular deviation from the provisions of Article 22, or for the general abandonment of deviations, under the provisions of that sub-paragraph. After 1 March 1952, the Organization may make such representations, in exceptional circumstances to any Member entitled to take action under Annex []. The Member shall be given a suitable time to reply to such representations. If the Organization finds that the Member persists in unjustifiable deviation from the provisions of Article 22, the Member shall, within sixty days, limit or terminate such deviations as the Organization may specify.

2. Notwithstanding the termination of the Member's transitional period arrangements pursuant to sub-paragraph 1 (f) of this Article, a Member which is applying import restrictions under Article 21 may, with the consent of the Organization, temporarily deviate from the principles of Article 22 in respect of a small part of its trade where the benefits to the Member or Members concerned substantially outweigh any injury which may result to the trade of other Members;

/3. The provisions

3. The provisions of Article 22 shall not preclude restrictions in accordance with Article 21 which either
- (a) are applied against imports from other countries, but not as among themselves, by a group of territories having a common quota in the International Monetary Fund on condition that such restrictions are in all other respects consistent with Article 22, or
 - (b) assist, in the period until 31 December 1951, by measures not involving substantial departure from the provisions of Article 22, another country whose economy has been disrupted by war.
4. A Member applying import restrictions under Article 21 shall not be precluded by this Section until the termination of its postwar transitional period arrangements pursuant to sub-paragraph 1(f) of this Article* from applying measures to direct its exports in such a manner as to increase its earnings of currencies which it can use without deviation from Article 22.
5. A Member shall not be precluded by this Section from applying quantitative restrictions:
- (a) having equivalent effect to exchange restrictions authorized under Section 3 (b) of Article VII of the Articles of Agreement of the International Monetary Fund; or
 - (b) under the preferential arrangements provided for in Annex A of this Charter, pending the outcome of the negotiations referred to therein.

Interpretative Note to Sub-paragraph 1 (g) of Article 23

The provisions of paragraph 1 (g) shall not authorize the Organization to require that the procedure of consultation be followed for individual transactions unless such a transaction is of so large a scope as to constitute an act of general policy. In that event, the Organization shall, if the Member so requests, consider the transaction, not individually, but in relation to the Member's policy regarding imports of the product in question taken as a whole.

Interpretative Note to Paragraph 2 of Article 23

One of the situations contemplated in paragraph 2 is that of a Member holding balances acquired as a result of current transactions which it finds itself unable to use without a measure of discrimination.

* These words in square brackets have been provisionally included in the text pending further consideration by the Committee.

ANNEX []

(Applicable to Members who so elect, in accordance with paragraph 1 (d) of Article 23, in lieu of paragraphs 1 (b) and 1 (c) of Article 23.)

1. (a) A Member applying import restrictions under Article 21 may relax such restrictions in a manner which departs from the provisions of Article 22 to the extent necessary to obtain additional imports above the maximum total of imports which it could afford in the light of the requirements of paragraphs 3 (a) and 3 (b) of Article 21 if its restrictions were fully consistent with Article 22; Provided that
 - (i) levels of delivered prices for products so imported are not established substantially higher than those ruling for comparable goods regularly available from other Members and that any excess of such price levels for products so imported is progressively reduced over a reasonable period;
 - (ii) the Member taking such action does not do so as part of any arrangement by which the gold or convertible currency which the Member currently receives directly or indirectly from its exports to other Members not party to the arrangement is appreciably reduced below the level it could otherwise have been reasonably expected to attain;
 - (iii) such action does not cause unnecessary damage to the commercial or economic interests of any other Member, including interests under Articles 3 and 9.
- (b) Any Member taking action under this paragraph shall observe the principles of sub-paragraph (a) of this paragraph. A Member shall desist from transactions which prove to be inconsistent with that sub-paragraph but the Member shall not be required to satisfy itself, when it is not practicable to do so, that the requirements of that sub-paragraph are fulfilled in respect of individual transactions.
2. Any Member taking action under paragraph 1 of this Annex shall keep the Organization regularly informed regarding such action and shall provide such available relevant information as the Organization may request.
3. If at any time the Organization finds that import restrictions are being applied by a Member in a discriminatory manner inconsistent with the exceptions provided for under paragraph 1 of this Annex, the Member shall, within sixty days, remove the discrimination or modify it as specified by the Organization; Provided that any action under paragraph 1 of this Annex, to the extent that it has been approved by the Organization at the request of a Member under a procedure analogous to that of paragraph 5 (c) of Article 21, shall not be open
/to challenge

to challenge under this paragraph or under paragraph 5 (d) of Article 21 on the ground that it is inconsistent with Article 22.

Interpretative Note to Annex

It is understood that the fact that a Member is operating under the provisions of Article 43 paragraph 1 (b) (i) does not preclude that Member from operation under this Annex, but that the provisions of Article 23 (including this Annex) do not in any way limit the rights of Members under Article 43, paragraph 1 (b) (i).

ARTICLE 24

[Exchange Arrangements]

Relationship with the International Monetary Fund
and Exchange Arrangements

1. The Organization shall seek co-operation with the International Monetary Fund to the end and the Organization and the Fund may pursue a co-ordinated policy with regard to exchange questions within the jurisdiction of the Fund and questions of quantitative restrictions and other trade measures within the jurisdiction of the Organization.

2. In all cases in which the Organization is called upon to consider or deal with problems concerning monetary reserves, balance of payments or foreign exchange arrangements, the Organization shall consult fully with the International Monetary Fund. In such consultation, the Organization shall accept all findings of statistical and other facts presented by the International Monetary Fund relating to foreign exchange, monetary reserves and balance of payments, and shall accept the determination of the Fund as to whether action by a Member in exchange matters is in accordance with the Articles of Agreement of the International Monetary Fund, or with the terms of a special exchange agreement between that Member and the Organization.

When the Organization, ~~in~~ for the purpose of reaching its final decision in cases involving the criteria set forth in paragraph 2 (a) of Article 21, is examining a situation in the light of the relevant considerations under all the pertinent provisions of Article 21, it shall accept the determination of the International Monetary Fund as to what constitutes a serious decline in the Member's monetary reserves, a very low level of its monetary reserves or a reasonable rate of increase in its monetary reserves, and as to the financial aspects of other matters covered in consultation in such cases.

3. The Organization shall seek agreement with the International Monetary Fund regarding procedures for consultation under paragraph 2 of this Article.

/Any such

Any such agreement, other than informal arrangements of a temporary or administrative character, shall be subject to confirmation by the Conference.

4. Members shall not, by exchange action, frustrate the intent of the provisions of this Section, nor, by trade action, the intent of the provisions of the Articles of Agreement of the International Monetary Fund.

5. If the Organization considers, at any time, that exchange restrictions on payments and transfers in connection with imports are being applied by a Member in a manner inconsistent with the exceptions provided in this Section for quantitative restrictions it shall report thereon to the International Monetary Fund.

6. (a) Any Member of the Organization which is not a member of the International Monetary Fund shall, within a time to be determined by the Organization after consultation with the International Monetary Fund, become a member of the Fund or, failing that, enter into a special exchange agreement with the Organization. A Member of the Organization which ceases to be a member of the International Monetary Fund shall forthwith enter into a special exchange agreement with the Organization. Any special exchange agreement entered into by a Member under this paragraph shall thereupon become part of its obligations under this Charter.

7. (a) ~~(b)~~ Such a special exchange agreement ~~between a Member and the Organization under paragraph 6 of this Article~~ shall provide to the satisfaction of the Organization that the objectives of this Charter will not be frustrated as a result of action in exchange matters by the Member in question.

~~(b)~~(c) The terms of any such agreement shall not impose obligations on the Member in exchange matters generally more restrictive than those imposed by the Articles of Agreement of the International Monetary Fund on members of the Fund.

(d) No special exchange agreement shall be required of a Member so long as it uses solely the currency of another Member and so long as neither the Member nor the country whose currency is being used has exchange restrictions. Nevertheless, if the Organization at any time considers that the absence of a special exchange agreement may be permitting action which tends to impair the purposes of any of the provisions of this Charter, it may require the Member to enter into a special exchange agreement in accordance with the provisions of this Article. A Member of the Organization which is not a Member of the International Monetary Fund and which has no special exchange agreement may be required
/at any time

at any time to consult with the Organization on any exchange problem.

8. 7. A Member which is not a member of the International Monetary Fund, whether or not it has a special exchange agreement, shall furnish such information within the general scope of Section 5 of Article VIII of the Articles of Agreement of the International Monetary Fund as the Organization may require in order to carry out its functions under this Charter.

9. 8. [Subject to paragraph 4 of this Article,] Nothing in this Section shall preclude:

(a) the use by a Member of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund or with that Member's special exchange agreement with the Organization; or

(b) the use by a Member of restrictions or controls on imports or exports, the sole effect of which, additional to the effects permitted under Articles 20, 21, 22 and 23, is to make effective such exchange controls or exchange restrictions.

Interpretative Note to Paragraph 4 8.

The word "frustrate" is intended to indicate, for example, that infringements by exchange action of the letter of any Article of this Charter shall not be regarded as offending against that Article if, in practice, there is no appreciable departure from the intent of the Article. Thus a Member which, as part of its exchange control, operated in accordance with the Articles of Agreement of the International Monetary Fund, required payment to be received for its exports in its own currency or in the currency of one or more members of the International Monetary Fund would not thereby be deemed to be offending against Article 20 or Article 22. Another example would be that of a Member which specified on an import licence the country from which the goods might be imported for the purpose not of introducing any additional element of discrimination in its import licences but of enforcing permissible exchange controls.