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REPORT OF THE UNITED NATIONS CONFERENCE
ON TRADE AND DEVELOPMENT *

Proposals designed to establish a process of conciliation within
the United Nations Conference on Trade and Development

Report of the Special Committee

* Item 32 of the provisional agenda.

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Foreword by the Secretary-General

This report was prepared by a Special Committee appointed by me under the recommendation contained in annex A.V.1 of the Final Act of the United Nations Conference on Trade and Development which was held in Geneva earlier this year. The Committee's task was "to prepare proposals for procedures within the continuing machinery designed to establish a process of conciliation to take place before voting and to provide an adequate basis for the adoption of recommendations with regard to proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries".

The members of the Special Committee, who served in their personal capacities, have presented a unanimous report and their conclusions and recommendations are contained in section VI of their report.

The Committee was composed of Syed Amjad Ali, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Pakistan to the United Nations; Mr. Gabriel d'Arboussier, former Minister of Justice, Deputy, National Assembly of Senegal; Mr. Abdel Moneim El Tanamli, President, Crédit Foncier Egyptien, United Arab Republic; Mr. A.P. Fleming, First Assistant Secretary, Department of Trade and Industry, Australia; Mr. Plácido García Reynoso, Under-Secretary for Industry and Commerce, Mexico; Mr. Richard N. Gardner, Deputy Assistant Secretary of State for International Organization Affairs, United States of America; Mr. D.S. Joshi, Secretary, Ministry of Commerce, India; Mr. J. Lacarte Muró, Ambassador of Uruguay to the Federal Republic of Germany and Representative to the European Economic Community; Mr. Manfred Lachs, Adviser to the Minister of Foreign Affairs, Poland; Mr. V.V. Mordvinov, Chief of Department of the Ministry of Foreign Trade, Union of Soviet Socialist Republics; Sir Keith Unwin, K.B.E., C.M.G., Minister, Economic and Social Affairs, United Kingdom Mission to the United Nations; Mr. Maurice Viaud, Minister Plenipotentiary, Adviser, Economic and Social Council Affairs, Permanent Mission of France to the United Nations.

The Conference had recommended that the Special Committee "shall be representative of the main interests and trends of opinion involved in the matter" and that the members be selected "on an equitable geographical basis, after consultation with their respective Governments".

The task set for the Special Committee was a difficult and complex one. The members of the Committee have undertaken it with thoroughness and earnestness and in a conciliatory spirit, which is amply reflected in their report. They have come forward with a unanimous set of recommendations which I commend to the General Assembly for consideration.

On behalf of the United Nations, I should like to extend my sincere thanks to the members of the Special Committee for their valuable contribution and to express the hope that their success augurs well for the future work of the Conference.

(Signed) U THANT
Secretary-General

23 October 1964

LETTER OF TRANSMITTAL

Sir,

We have the honour to submit herewith our report on conciliation procedures prepared in pursuance of paragraph 25 of the recommendation contained in annex A.V.1 of the Final Act of the United Nations Conference on Trade and Development which embodies our terms of reference:

- "(a) The tasks of the Committee shall be to prepare proposals within the continuing machinery designed to establish a process of conciliation to take place before voting and to provide an adequate basis for the adoption of recommendations with regard to proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries;
- "(b) Such conciliation may be carried out through a system of conciliation committees, the good offices of the Secretary-General of the Conference, or any other means within the framework of the United Nations;
- "(c) In devising the procedures referred to above the Committee shall take into consideration that the interested States may wish to place on record and to publicize their views. It shall also take into account the desirability of issuing reports at appropriate times which would state the areas of agreement and disagreement and the explanation of positions as regards, in particular, the implementation of proposed recommendations;
- "(d) The Committee should also consider the desirability of applying appropriate procedures to proposals involving changes in the fundamental provisions of this resolution; and
- "(e) Any Government participating in this Conference may submit to the Special Committee such proposals and recommendations as it considers relevant to sub-section (a) above provided they do not imply any amendment to the Charter of the United Nations or any departure from the principle that each country has one vote. The Special Committee shall include a study of such proposals and recommendations in its report to the General Assembly."

It was recognized at the Geneva Conference that where the economic or financial interests of countries were substantially involved, adequate opportunity should be provided for consultation and negotiation between interested parties before the Conference adopted the recommendations concerned. The concept of special conciliation procedures and mechanisms emerged at the Conference as a

His Excellency
U Thant
Secretary-General of the United Nations
New York

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possible method of promoting wider agreement on the important issues within the competence of future conferences. It has been our task to develop this idea in accordance with our terms of reference and to suggest a possible procedure which would make it effective.

Meetings of the Special Committee were held at the Headquarters of the United Nations from 28 September to 23 October 1964. At the request of the Committee, Syed Amjad Ali served as Chairman. The Secretary-General of the United Nations Conference on Trade and Development, Dr. Raúl Prebisch, was present at our meetings and we are much indebted to him for his advice. We desire also to express our thanks to the members of the Secretariat, and particularly to Mr. R. Krishnamurti, whose services at all times have been unstintingly given.

The Special Committee received with appreciation submissions of a number of Governments. These submissions contained ideas which assisted the Committee in its deliberations. The full text of Government submissions, and a short review of them, are annexed to the Committee's report.

The Special Committee's conclusions are given in section VI of its report. Its proposal for conciliation procedures has been set down, for the consideration of the General Assembly, in the form of a draft text which could replace paragraph 25 in the recommendation contained in annex A.V.1 of the Final Act of the Conference. The Special Committee has also thought it desirable to invite attention to certain consequential effects of the draft text on other parts of the said recommendation.

Accept, Sir, the assurances of our highest consideration.

(Signed) Amjad ALI
Gabriel d'ARBOUSSIER
Abdel Moneim EL TANAMLI
A.P. FLEMING
Plácido GARCIA REYNOSO
Richard N. GARDNER
D.S. JOSHI
J. LACARTE MURO
Manfred LACHS
V.V. MORDVINOV
Keith UNWIN
Maurice VIAUD

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I. OBJECTIVES AND CHARACTER OF CONCILIATION

Need for special conciliation procedures within the United Nations Conference on Trade and Development

1. The Special Committee recognizes that in most organs of the United Nations informal consultation and negotiation is practised prior to the stage of formulation and tabling of resolutions as well as during their actual consideration and adoption. This usual practice of conciliation serves a most useful purpose in bringing Member States together and facilitating a full and free exchange of ideas, and helps to narrow differences in viewpoints. The Special Committee also recognizes the value, during this process, of the assistance of the chairmen of those organs as well as of the Secretary-General in using their good offices in bringing about a wider measure of agreement. The Special Committee wishes to stress at the outset that all these usual or informal conciliation practices should be encouraged and continued.
2. The recommendation of the Conference held in Geneva to establish this Special Committee to prepare proposals for special procedures for conciliation was a result of the experience gained at the Conference that in some cases additional facilities for conciliation were required when the usual process had failed to bring about an adequate measure of agreement. The Special Committee believes that the institution of any special conciliation procedures within the Conference machinery will serve to supplement and strengthen the practice of informal conciliation.
3. The Special Committee emphasizes that the principal objective of the Conference was to make an effective contribution through the formulation and acceptance of the necessary policies in the field of trade and development. Special conciliation should therefore be designed to afford additional facilities to enable resolutions to be adopted with the widest possible support and thus increase their effectiveness. Conciliation could make a contribution in at least two ways to the realization of these objectives. First, conciliation could enable resolutions to be adopted with a greater measure of support and therefore with greater practical results. Second, conciliation could encourage a more sustained dialogue between interested countries and thus stimulate all these countries to take additional steps in recognition of their common responsibility in dealing with problems of trade and development.

4. The introduction of a special conciliation process within the Conference machinery, if approved by the General Assembly, would be an innovation in the United Nations in two respects, namely, that it would be formal and so provided for in the rules of procedure of the continuing machinery and, secondly, the conciliation recommended would be multilateral in regard to both the structure of its machinery and the manner of its operation.

5. The Special Committee wishes to emphasize that recourse to the special conciliation procedures should be had only in respect of proposals falling within the scope of paragraph 25 (a) of the recommendation contained in annex A.V.1 of the Final Act of the Conference on which it has not been possible to resolve outstanding differences through the usual processes of consultation and negotiation. The Special Committee recommends guide-lines applicable to proposals appropriate for conciliation and to those that do not call for conciliation (see section II below). The Special Committee points out that the frequent and excessive use of special conciliation procedures could easily lead to a situation in which the normal and effective functioning of the Conference machinery could be put in serious jeopardy. In this respect, the Conference would again rely on a spirit of co-operation and mutual goodwill on the part of all its members.

Flexibility of conciliation machinery

6. The Special Committee considered the advantages and disadvantages of establishing permanent or standing bodies or committees for special conciliation, as distinct from bodies of an ad hoc nature. The Special Committee recommends that the conciliation machinery should be of a flexible and ad hoc character and should not take the form of standing or permanent bodies. There are several reasons for a flexible and ad hoc approach. The Conference machinery is new and has yet to be established. The method of operation of the Trade and Development Board and its subsidiary bodies are not yet determined. The character of the conciliation machinery will have to be varied according to the subject matter to be conciliated, the interests involved, the level at which it is to be considered and other relevant factors. For all these reasons, the Special Committee recommends the institution of a framework of rules within which ad hoc conciliation machinery could be set up when required.

Value of special conciliation procedures

7. In considering the value of special conciliation procedures, the Special Committee gave attention to their effects on the recommendations of the Conference.
8. The Special Committee realizes that the legal character of the Conference recommendations adopted after conciliation could be no different from that of other Conference recommendations or recommendations adopted by other United Nations organs.
9. The Special Committee likewise agreed upon the objective, namely, greater effectiveness of the recommendations of the Conference to be obtained through their adoption with the support of a wider number of Governments. It considered that the ultimate aim should be the reaching of unanimous resolutions whenever possible so that a unanimous decision would lead to common action towards the objectives of the Conference.
10. The Special Committee wishes to stress these considerations in assessing the value of conciliation as they should have a large influence in shaping effectively policies and measures in the field of trade and development within the Conference machinery.

II. PROPOSALS DEEMED APPROPRIATE FOR SPECIAL CONCILIATION AND
THOSE THAT DO NOT CALL FOR SPECIAL CONCILIATION

11. The Special Committee recommends that the categories in sub-paragraphs (i) and (ii) below should serve as guide-lines:
- (i) Appropriate for conciliation shall be proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries in the following fields:
- Economic plans or programmes or economic or social readjustments;
 - Trade, monetary or tariff policies or balance of payments;
 - Policies of economic assistance or transfer of resources;
 - Levels of employment, income, revenue or investment;
 - Rights or obligations under international agreements or treaties.
- (ii) Proposals in the following fields shall not require conciliation:
- Any procedural matter;
 - Any proposal for study or investigation including such proposals related to the preparation of legal instruments in the field of trade;

- Establishment of subsidiary bodies of the Board within the scope of its competence;
- Recommendations and declarations of a general character not calling for specific action;
- Proposals involving action proposed in pursuance of recommendations which were unanimously adopted by the United Nations Conference on Trade and Development.

III. PROCEDURES FOR SPECIAL CONCILIATION

Initiation of the process of special conciliation

12. The Special Committee discussed at length the methods whereby the process of special conciliation would be set in motion. It considered the following aspects of the problem: the minimum number of Member States that would be required to propose special conciliation, whether it should be automatic or not, the role of the Chairman and the Bureau of the organ concerned in the process, and other related matters. In the light of its discussions, the Special Committee recommends that conciliation within the meaning of paragraph 25 of the Conference recommendation could be requested by at least ten members in the case of the Conference and by at least five members in the case of the Board, whether or not they are members of the Board.

13. The Special Committee recognizes the role of the President of the Conference and the Chairman of the Board in initiating conciliation procedures and, therefore, recommends that such procedures could be initiated whenever either of them is satisfied that the required number of countries as specified in the preceding paragraph are in favour of such conciliation.

Levels at which special conciliation should take place

14. The Special Committee considered in some detail the question of the levels at which special conciliation should take place. In this respect, it was pointed out that the term "within the continuing machinery" in paragraph 25 (a) of the recommendation refers to all the bodies of the Conference although this does not

mean that conciliation will be conducted at all levels of the machinery. It was noted also that under paragraph 23 of the recommendation the Board shall establish in particular three committees and shall also determine the terms of reference and rules of procedure of its subsidiary organs.

15. The Special Committee considered that it should examine the appropriateness, desirability and practicability of employing special conciliation procedures at three main levels: (1) the Conference Plenary and its sessional Committees; (2) the Board; and (3) Committees of the Board. It concluded that there could be no doubt that special conciliation would be applicable at the Conference and Board levels.

16. The Special Committee considers that in most cases special conciliation should be conducted at the Board level, since the Board would meet twice a year and would have the authority, when the Conference is not in session, to carry out the functions that fall within the competence of the Conference. However, the Board might transmit some difficult cases to the Conference for decision. Furthermore, some new proposals might be initiated during the Conference session, which might come within the scope of special conciliation procedures, and the Conference will be required to act on them. In such cases, the Special Committee agrees that, while special conciliation could be conducted at the plenary level of the Conference, it should normally be conducted at the level of the sessional Committee concerned. The relevant Committee would normally be a committee of the whole and would have greater facilities available for adequate technical study and discussion of the proposal and for narrowing the differences between the parties concerned. If it could not arrive at a solution, it would be able to prepare the way for the Plenary of the Conference to arrive at a solution. Quite apart from these opportunities for conciliation at the session, the Conference might, either due to lack of time or to the need for further technical study, decide to appoint a conciliation committee to operate after the end of its session and report back to the Board, without necessarily waiting to submit its findings back to the Conference, which might meet only after three years.

17. In the case of Committees of the Board, the Special Committee finds it difficult to decide the appropriateness, desirability and practicability of

applying special conciliation procedures. It feels that, although the terms of reference of the Committees of the Board have not yet been decided, it could assume that the Committees would have important functions which might include responsibility delegated by the Board for dealing with some matters without further approval, i.e. in cases in which it has been authorized to adopt recommendations for action. The Special Committee therefore feels that it cannot exclude the possibility of the Committees of the Board dealing with some matters of this nature.

18. The Special Committee also noted that the membership of Committees of the Board would probably not coincide with that of the Board in number or in country representation. An important criterion recommended by the Conference for the membership of committees was special interest in the subject matter dealt with by them, whereas in the case of the Board, the emphasis was on equitable geographic distribution and the desirability of continuing representation for the principal trading States. Moreover, unlike the sessional Committees of the Conference which would meet as part of the Conference, the Committees of the Board, it is assumed, would not necessarily meet at the same time as the Board.

19. In the light of the foregoing considerations, the Special Committee concludes that the deciding factors are, first, the desirability of avoiding a system which would introduce special conciliation so early that it would tend to discourage informal conciliation, and, second, but even more important, the desirability of avoiding a network of conciliation which, as well as being complicated and confusing, might be impracticable because of the demands on personnel required to participate in conciliation committees. The Special Committee therefore recommends the principle that conciliation committees should not be established at the level of the Committees of the Board, but that Committees of the Board could request the Board to establish conciliation committees in certain circumstances.

20. The Special Committee considered whether this method would involve unreasonable delay, but concludes that as Board meetings would always follow Committee meetings after the lapse of a few months at most, this delay should be accepted because of the overriding consideration of avoiding confusing and complicated machinery.

21. In practice, this procedure would involve two categories of subjects within the general category of "proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries". The first category would be those matters, if any, which the Committee had delegated authority to deal with definitively (see paragraph 17 above). In this case, conciliation would be initiated by a request of three members of the Committee concerned, or by the Chairman of the Committee as in the case of the Board or the Conference. The Chairman of the Committee would refer the request to the Chairman of the Board, who would at the first opportunity, and in any case not later than the first week of the next Board meeting, establish the conciliation committee. Membership of the conciliation committee need not be confined to membership of the Board Committee at which the proposal for conciliation originated.

22. The second category of subjects would be those on which a Committee of the Board was dealing with a subject on which the Board was to take definitive action. In this case, the Committee would follow the normal procedure and include in its report, in the case of differences of opinion, a clear indication of the areas of agreement and disagreement. The question of initiation of special conciliation procedures, including the timing of its initiation, would be a matter for the Board to decide in accordance with the procedure recommended in the present report.

Publicity

23. The Special Committee considered the question of publicity relating to proposals submitted to special conciliation procedures. It was agreed that, in general, publicity while special conciliation is in progress should be avoided since it would tend to defeat the purpose of conciliation. On the other hand, the Committee recognizes that the special procedures of conciliation may be protracted and that interested parties may wish to make their views known. The Committee considers that in this event the most suitable channel for the views of particular countries or groups would be provided by progress reports submitted by the conciliation committee to the body which had appointed it. At the same time the Committee realizes that even a progress report, if it is made public, might hamper progress towards conciliation. The Committee believes, therefore, that the

desirability of issuing progress reports (except when a report may have been called for by the superior body) should be left to the decision of the conciliation committee itself. When the conciliation committee has finished its work, it will, of course, in accordance with its instructions, submit a final report to its superior body and that report would be made available to Member States and would be included in the reports of the Board and the Conference in accordance with the procedures laid down in paragraph 28 below.

24. Member States will, in any event, have a further opportunity to publicize their positions when the report of the conciliation committee is considered at open meetings of the organ concerned and again in explanation of their votes if a vote is taken on the report.

Method of reporting

25. The conciliation committee would report to the Board, and its report, as foreseen in the recommendation contained in annex A.V.1, would contain an analysis of the different proposals and an agreed recommendation if it were possible to achieve it. In case the conciliation committee was unable to present an agreed recommendation, its report should contain a sufficiently detailed analysis of the different proposals presented by the Member States, the areas of agreement and disagreement, in particular the extent to which it had been possible for the conciliation committee to narrow the differences between the parties, and also, include the texts of the different proposals which were submitted to it. In case the conciliation committee has not been able to reach agreement but that this might be possible in a further period of conciliation, its report shall include a recommendation for a further period of conciliation.

Action to be taken on the report of the conciliation committee

26. If conciliation has been successful, the Special Committee assumes that the resulting proposal will be adopted by the body concerned. If the conciliation committee considered that a further period of conciliation might result in agreement, the report of the conciliation committee would recommend a further

period of conciliation. The Special Committee assumes that in this case, the body concerned would take a decision as to whether or not a further period should be granted. If conciliation has been unsuccessful, the Special Committee assumes that in such an event the body concerned may decide to proceed with a vote on the original proposal.

27. The Special Committee recommends that the recommendation or the resolution adopted by the body concerned on the proposal which was the subject of the report of the conciliation committee should refer explicitly to the report of the conciliation committee and to the conclusion reached by the conciliation committee in the following form, as appropriate:

"Noting the report of the Conciliation Committee appointed on [insert date] [insert document number],

"Noting also that the Conciliation Committee [was able to reach an agreement] [recommends a further period of conciliation] [was unable to reach agreement],".

Reports of the Board and the Conference

28. The Special Committee recommends that the reports of the Board to the Conference and the General Assembly and the reports of the Conference to the General Assembly should include, inter alia:

- (a) The texts of all recommendations, resolutions and declarations adopted by the Board or the Conference during the period covered by the report;
- (b) In respect of recommendations and resolutions which are adopted after a process of conciliation, there shall also be included a record of the voting on each recommendation or resolution together with the texts of the reports of the conciliation committees concerned. The record of voting and the texts of the reports shall normally follow in the report the resolutions to which they pertain.

IV. MECHANISMS FOR CONCILIATION

Conciliation committees

29. In considering the composition of conciliation committees, it was generally agreed that the membership of a conciliation committee should, as a rule, be small in size. The Special Committee recommends that the members of conciliation committees shall include countries specially interested in the matter with respect to which conciliation is initiated and that they shall be selected on an equitable geographical basis. The Special Committee also recommends that the President of the Conference and the Chairman of the Board be entrusted with the responsibility of nominating the members of the conciliation committee after consultation with the members of the organ concerned and that such nomination be approved by the Conference or the Board as appropriate.

30. The Special Committee considers that voting should not take place within the conciliation committee because it would defeat the very purpose of special conciliation. If the conciliation committee were unsuccessful in working out an agreed solution, the body concerned would, in any case, have the opportunity of taking a decision by resorting to the vote. The Special Committee does not consider it advisable to lay down any rules of procedure for the operation of the conciliation committee which by their very nature should function on a flexible and informal basis.

Good offices of the Secretary-General of the Conference

31. The Special Committee emphasized the important role of the Secretary-General of the Conference in the normal processes of conciliation and considers that full advantage should be taken of his good offices in the special conciliation procedures.

Time-limits

32. The Special Committee considered the question of time-limits for the process of conciliation and agreed that while adequate time should be given for study, discussion, the narrowing of differences and the negotiation of solutions, the time allowed should not be so long as to unduly delay the adoption of recommendations by

the continuing machinery. It was agreed that the conciliation committee should begin its work as soon as possible and that it should endeavour to reach agreement during the same session of the Conference or the Board. In the event that the conciliation committee is unable to conclude its work or fails to reach agreement at the same session of the Conference or the Board, it should report to the next session of the Board or to the next session of the Conference, whichever meets earlier. However, the Conference may wish to instruct the conciliation committee appointed by it to submit its report to the following session of the Conference in the event that the committee shall not have concluded its work or shall have failed to reach agreement during the same session of the Conference. As mentioned in paragraph 26 above, if at the session of the Board or the Conference at which the conciliation committee is required to report it recommends a further period of conciliation, the Board or the Conference may authorize the further period of conciliation by a simple majority vote.

V. PROCEDURES FOR CONCILIATION REGARDING FUNDAMENTAL CONSTITUTIONAL PROVISIONS

33. In considering paragraph 25 (d) of its terms of reference, the Special Committee noted that the recommendation on "institutional arrangements, methods and machinery" adopted by the Conference at Geneva was formulated and accepted after a great deal of patient negotiation and represented a compromise solution in respect of a variety of difficult and complex institutional issues on which widely divergent views are held by Member States. Therefore, the Special Committee considers it desirable that changes in the "fundamental provisions" of the resolution should be subject to "appropriate procedures". It further recommends that the "appropriate procedures" in this context should be the conciliation procedures recommended in connexion with paragraph 25 (a).

34. The Special Committee agreed that the provisions establishing the composition and the terms of reference of the Conference and its subsidiary organs shall be considered, inter alia, as fundamental provisions of the recommendation contained in annex A.V.1 of the Final Act of the Conference.

35. The Special Committee notes that the General Assembly is the competent body to take final decisions on all matters pertaining to this resolution and in fact

to the future institutional machinery in the field of trade and development. Indeed, the recommendation on institutional arrangements adopted by the Conference is itself subject to the approval of the General Assembly, as are the recommendations being presented by the Special Committee in the present report. The proposed permanent United Nations Conference on Trade and Development will itself be an organ of the General Assembly. Therefore, the legal competence of the General Assembly to adopt and amend the provisions of the resolution at any time is beyond question. At the same time the Conference machinery could, on its own initiative, make recommendations to the General Assembly in respect of possible changes in its constitution after application, if necessary, of the special conciliation procedures. The Committee believes that the General Assembly would give the utmost consideration to the recommendations of its own subsidiary organ to which it has given certain specialized functions and responsibilities in the field of trade and development.

36. In order to establish an adequate procedure, the Special Committee was of the view that the General Assembly would wish to receive advice from the Conference before making changes in the fundamental provisions of the recommendation contained in annex A.V.1 of the Conference. The Special Committee therefore leaves it to the General Assembly to decide whether to adopt this principle either in an appropriate provision of the resolution establishing the new machinery or through an appropriate change in its own rules of procedure.

37. The Special Committee recognizes that the Conference machinery will be new and will be undertaking a wide range of complex and difficult functions. The machinery itself is bound to evolve in the course of its operation and in the light of experience and emerging needs. It is, therefore, not advisable to deprive the machinery of the necessary degree of flexibility which would permit it to adapt itself to changing requirements. Rigid and inflexible procedures which would block necessary changes and adaptations should not be introduced within the machinery, before it has started to function.

VI. CONCLUSIONS AND RECOMMENDATIONS

38. The Special Committee submits, for the consideration of the General Assembly, the following draft text to replace paragraph 25 of the recommendation contained in annex A.V.1 of the Final Act of the United Nations Conference on Trade and Development:

"PROCEDURES

"25. The procedures set forth in this paragraph are designed to provide a process of conciliation to take place before voting and to provide an adequate basis for the adoption of recommendations with regard to proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries.

"(a) Levels of conciliation

The process of conciliation within the meaning of this paragraph may take place under the conditions stated with regard to proposals which are before the Conference, the Board or Committees of the Board. In the case of Committees of the Board, the process of conciliation shall apply only to those matters, if any, with respect to which a Committee has been authorized to submit, without further approval, recommendations for action.

"(b) Request for conciliation

A request for conciliation within the meaning of this paragraph may be made:

- (i) In the case of proposals before the Conference, by at least ten members of the Conference;
- (ii) In the case of proposals before the Board, by at least five members of the Conference whether or not they are members of the Board;
- (iii) In the case of proposals before Committees of the Board, by three members of the Committee.

The request for conciliation under this paragraph shall be submitted, as appropriate, to the President of the Conference or to the Chairman of the Board. In the case of a request relating to a proposal before a Committee of the Board, the Chairman of the Committee concerned shall submit the request to the Chairman of the Board.

"(c) Initiation of conciliation by the President or Chairman

The process of conciliation within the meaning of this paragraph may also be initiated whenever the President of the Conference, the Chairman of the Board or the Chairman of the Committee concerned is satisfied that the required number of countries as specified in sub-paragraph (b) above are in favour of such conciliation. In cases where the process of conciliation is initiated at the level of a Committee, the Chairman of the Committee concerned shall refer the matter to the Chairman of the Board for action to be taken in accordance with sub-paragraph (f) below.

"(d) Time for request or initiation of conciliation

The request for conciliation (or the initiation of conciliation by the President or the Chairman, as the case may be) may be made only after the debate on the proposal has been concluded within the organ concerned and prior to the vote on that proposal. For the purposes of this provision, the Chairman of the organ concerned shall, at the conclusion of the debate on any proposal, afford an appropriate interval for the submission of requests for conciliation before proceeding to the vote on the proposal in question. In the event that conciliation is requested or initiated, voting on the proposal in question shall be suspended and the procedures provided for below shall be followed.

"(e) Subjects in regard to which conciliation is appropriate or excluded

The institution of the process of conciliation shall be automatic under the conditions stated in sub-paragraphs (b) and (c) above. The categories in sub-paragraphs (i) and (ii) below shall serve as guidelines.

(i) Appropriate for conciliation shall be proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries in the following fields:

- Economic plans or programmes or economic or social readjustments,
- Trade, monetary or tariff policies or balance of payments,
- Policies of economic assistance or transfer of resources,
- Levels of employment, income, revenue or investment,
- Rights or obligations under international agreements or treaties.

(ii) Proposals in the following fields shall not require conciliation:

- Any procedural matter;
- Any proposal for study or investigation including such proposals related to the preparation of legal instruments in the field of trade;
- Establishment of subsidiary bodies of the Board within the scope of its competence;
- Recommendations and declarations of a general character not calling for specific action;
- Proposals involving action proposed in pursuance of recommendations which were unanimously adopted by the United Nations Conference on Trade and Development.

"(f) Nomination of a conciliation committee

When a request for conciliation is made or initiated, the Presiding Officer of the organ concerned shall immediately inform the organ. The President of the Conference or the Chairman of the Board shall, as soon as possible, after consultation with the members of the organ concerned, nominate the members of a conciliation committee and submit the nominations for the approval of the Conference or the Board, as appropriate.

"(g) Size and composition of the conciliation committee

The conciliation committee shall, as a rule, be small in size. Its members shall include countries especially interested in the matter with respect to which such conciliation was initiated and shall be selected on an equitable geographical basis.

"(h) Procedure within the conciliation committee and submission of its report

The conciliation committee shall begin its work as soon as possible and it shall endeavour to reach agreement during the same session of the Conference or the Board. No vote shall take place in the conciliation committee. In the event that the conciliation committee is unable to conclude its work or fails to reach agreement at the same session of the Conference or the Board, it shall report to the next session of the Board or to the next session of the Conference, whichever meets earlier. However, the Conference may instruct the conciliation committee appointed by it to submit its report to the following session of the Conference in the event that the committee shall not have concluded its work or shall have failed to reach agreement during the same session of the Conference.

"(i) Extension of the mandate of the conciliation committee

A proposal to continue a conciliation committee beyond the session at which it is required to report shall be decided by a simple majority.

"(j) Report of the conciliation committee

The report of the conciliation committee shall indicate whether or not the committee was able to reach an agreement and whether or not the committee recommends a further period of conciliation. The report of the committee shall be made available to the members of the Conference.

"(k) Action of the report of the conciliation committee

The report of the conciliation committee shall have priority on the agenda of the organ to which it is submitted. If the organ adopts a resolution on the proposal which was the subject of the report of the conciliation committee, that resolution shall refer explicitly to the report of the conciliation committee and to the conclusion reached by the conciliation committee in the following form, as appropriate:

'NOTING the report of the Conciliation Committee appointed on [insert date] [insert document number],

'NOTING ALSO that the Conciliation Committee [was able to reach an agreement] [recommends a further period of conciliation] [was unable to reach agreement],'.

"(l) Reports of the Board and the Conference

The reports of the Board to the Conference and to the General Assembly and the reports of the Conference to the General Assembly shall include, inter alia:

- (i) The texts of all recommendations, resolutions and declarations adopted by the Board or the Conference during the period covered by the report;
- (ii) In respect of recommendations and resolutions which are adopted after a process of conciliation, there shall also be included a record of the voting on each recommendation or resolution together with the texts of the reports of the conciliation committees concerned. The record of voting and the texts of the reports shall normally follow in the report the resolutions to which they pertain.

"(m) Good offices of the Secretary-General of the Conference

The good offices of the Secretary-General of the Conference shall be utilized as fully as practicable in connexion with the process of conciliation.

"(n) Proposals involving changes in the fundamental provisions of the present resolution

A process of conciliation shall also be applied under the terms and conditions laid down above in regard to any proposal for a recommendation to the General Assembly which would involve changes in the fundamental provisions of the present resolution. Any question as to whether a particular provision shall be considered fundamental for the purposes of this sub-paragraph shall be determined by a simple majority of the Conference or the Board."

ANNEX I

REVIEW OF PROPOSALS, RECOMMENDATIONS AND
OBSERVATIONS SUBMITTED BY GOVERNMENTS IN
CONNEXION WITH PARAGRAPH 25 (a)

1. The Special Committee had before it the proposals, recommendations and observations submitted by fifteen Governments^{a/} in connexion with paragraph 25 (a) of the recommendation of the Conference contained in annex A.V.1 of the Final Act. The following is a short review of these submissions.

Need for special conciliation machinery

2. Brazil, Ceylon, the Philippines, the Republic of Viet-Nam and Yugoslavia felt informal negotiations should be relied on in the first instance with the assistance of the good offices of the President and of the Secretary-General of the Conference. It was pointed out that the chief value of these informal consultations lay in their relative flexibility and adaptability to changing situations, unhampered by any rigid rules.

3. The United Republic of Tanganyika and Zanzibar was opposed to the establishment of special conciliation procedures since, in its opinion, the Charter of the United Nations and the constitutional conventions and practice of the organs of the United Nations already provided ample procedures for conciliation before a vote was taken. It contended that any formal conciliation machinery might be an instrument of filibuster or give certain Powers an economic veto.

4. Ethiopia believed that the recommendations of the Conference machinery which had been subjected to conciliation would commit Member States to carrying them out, while Costa Rica was of the opinion that although resolutions, once adopted, would be binding, it was not reasonable to press for the adoption of a proposal if the countries which were to be bound by it would vote against it. All other Governments stated or implied that the recommendations would not be legally binding and for this reason the widest possible agreement between Governments was essential in order to influence national policies through a process of persuasion.

Formal arrangements

5. Though the desirability of flexible arrangements was noted by some countries several Governments made suggestions with regard to the special arrangements that might be adopted should formal conciliation machinery be required. The matters

^{a/} For the texts submitted by these Governments, see annex II.

discussed in these proposals concerned voting rights; voting as a means of ascertaining areas of agreement; time-limits; levels at which conciliation machinery should be resorted to; membership and size of conciliation committees; the powers of conciliation committees; action to be taken on reports of conciliation committees; types of proposals which might be subject to conciliation and procedures for proposals involving "changes in the fundamental provisions" of the recommendation contained in annex A.V.1.

Voting rights

6. Argentina, Brazil, Costa Rica, Guinea, India, the United Republic of Tanganyika and Zanzibar and Yugoslavia reiterated the principle of each Member State having one vote and Yugoslavia stated that the informal contacts and conciliation procedure among interested groups of countries should not imply in any case any amendment to the Charter of the United Nations.

Voting as a means of ascertaining areas of agreement

7. The Government of Ceylon suggested that when there was a difference of opinion between industrialized and developing countries on a matter affecting the economic or financial interests of particular countries, a decision on the issue might be postponed to the following meeting of the Conference or of the Board and that only one such postponement would be allowed. In the case of the Board only, Ceylon would agree to a system of dual voting on the first occasion when a matter is considered merely for the purpose of securing postponement of an issue to a later meeting of the Board. Normal United Nations voting procedures would prevail in the final vote.

8. The Government of Argentina suggested that at each session of the Conference and of the Board, the principal trading States would be designated on the basis of their percentage participation in international trade. If a majority of these States were to vote against a proposal, the President of the Conference or Chairman of the Board would then appoint a small conciliation committee which would be representative of the interested countries and based on equitable geographical distribution. If the conciliation committee were to be unsuccessful,

the Secretary-General of the Conference would be called upon to exercise his good offices, after which the matter would be put to the vote. No amendments would be permitted after conciliation procedures had been exhausted. A two-thirds majority and a simple majority vote would be required in the Conference and the Board respectively. Malaysia also suggested that the Conference or Board should call upon the good offices of the Secretary-General of the Conference if the conciliation committee should fail.

Time-limit

9. Argentina was of the opinion that the conciliation procedure should be completed during the session of the Conference or of the Board at which it had been invoked. France believed that the conciliation machinery should be "immediately available", Ceylon that the process should not extend beyond two sessions of the Board, Brazil that the process should be "rapid and efficient", the Philippines that the proceedings of the Conference or the Board should not be "unduly delayed" by recourse to conciliation procedures, and Malaysia that a time-limit should be set for the committee's work by the Conference or Board as the case may be.

Levels at which the conciliation process would be invoked

10. Argentina, Brazil, Ceylon, Ethiopia, Malaysia, the Philippines and Yugoslavia envisaged that the conciliation procedures would be utilized at the Conference and/or Board levels while Iran and the Republic of Viet-Nam suggested conciliation at the level of the Committee of the Board as well.

Membership and size of conciliation committees

11. Various suggestions were made regarding the membership and size of conciliation committees.

12. With regard to membership, the Governments were agreed that the members should be representative of the interests involved and should be based on an equitable geographical distribution. Brazil and the Philippines also mentioned the use of independent experts and assistance from regional economic organizations. Iran,

which envisaged a General Conciliation Committee of nine members at the Board level and conciliation of seventeen members for each committee, at the level of the committees of the Board, suggested that the seats be apportioned on certain formulae based on the distribution of seats on the Board from amongst the countries listed in annexes I-IV to the recommendation contained in annex A.V.1 of the Conference.

13. Brazil and Malaysia proposed that a conciliation committee should be small in size, Ethiopia that it should consist of eleven members and the Philippines that it should have not more than ten members.

14. Iran proposed that the members of the General Conciliation Committee (Board level) be the heads of their respective delegations, that the chairmen of the three main committees of the Board shall attend the meetings of this committee and that the Chairman of the Board, or in his absence, the Secretary-General of the Conference would preside.

15. Brazil, which proposed the establishment of ad hoc machinery or permanent machinery, or a process which would utilize both types of machinery, thought that the members of the committees would be designated by the Chairman of the Board or the Secretary-General of the Conference, in consultation with the countries concerned. It also proposed that the conciliation committees should be presided over by the Chairman of the Board or the Secretary-General of the Conference, as appropriate.

Powers of conciliation committee

16. Ethiopia, Iran and Malaysia pointed out that the conciliation committee would explore the areas of agreement and disagreement and attempt to formulate proposals on which there would be a consensus. Should these efforts be unsuccessful, the committee's report would explain the various positions but would not make any recommendation.

Action to be taken on reports of conciliation committees

17. The United States of America believed that the institutional recommendations included in the Final Act of the Conference embodied the basic concept of substituting conciliation for voting where significant divisions existed.

Argentina, Costa Rica, Iran, Malaysia and Yugoslavia stated that recommendations on matters that had been subjected to conciliation would require a two-thirds majority vote at the Conference level and a simple majority at the Board level.

Types of proposals which might be subject to conciliation

18. Ethiopia believed that certain categories of issues which might be subject to conciliation should be identified in advance and that the criteria to be devised by the Special Committee should be such that the number of such issues should be cut down to the minimum. The issues should be of such importance as to show observable differences between identifiable groups.

Procedures for proposals involving "changes in the fundamental provisions" of the recommendation contained in annex A.V.1

19. The United States of America pointed out that the Special Committee also had the task of considering the application of special procedures to proposals involving changes in the fundamental provisions of the recommendation contained in annex A.V.1. On this subject Brazil felt that it would be desirable to apply the following criteria to such proposals of a constitutional nature: (a) the Conference would have exclusive competence to deal with them, and (b) proposals would be approved by a two-thirds vote and would take effect immediately without further requirements. In its opinion, proposals of a constitutional nature did not fall under the category of proposals which substantially affected the "economic or financial interests of particular countries".

ANNEX II

TEXTS SUBMITTED BY GOVERNMENTS IN CONNEXION
WITH PARAGRAPH 25 (a)

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Argentina	2
Brazil	4
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ARGENTINA

[Original: Spanish]

10 September 1964

1. Each State represented at the Conference or on the Trade and Development Board shall have one vote.

2. Decisions shall be taken in accordance with the following procedure:

3. CONFERENCE

(a) Items connected with fundamental problems shall be referred to the appropriate Committee for consideration.

(b) In cases where a majority of the () principal trading States, which shall be designated by the Conference at each of its sessions on the basis of their percentage participation in international trade, votes against a draft resolution, the President of the Conference shall, even if the draft resolution has received sufficient votes for its adoption, appoint a Conciliation Committee with a small number of members, selected in such a way as to ensure adequate representation of the conflicting interests and observance of the principle of equitable geographical distribution.

(c) If the Conciliation Committee is successful in its work, the results shall be transmitted to the Conference in plenary meeting. If the Conciliation Committee is unsuccessful, recourse shall be had to the good offices of the Secretary-General of the Conference.

(d) When the Secretary-General has completed his action, the matter shall be submitted for final consideration to the Conference in plenary meeting, which shall take its decisions by a two-thirds majority of its members present and voting.

(e) Once the conciliation procedure has been exhausted, no amendments may be put forward.

4. TRADE AND DEVELOPMENT BOARD

Decisions of the Trade and Development Board shall be taken in accordance with the procedure as for the Conference: i.e., if in the first vote the majority of the principal trading States represented on the Board vote against a draft resolution, a Committee similar to that provided for in paragraph 3 (b) above

shall be set up, and similar recourse shall be had to the good offices of the Secretary-General, if necessary. Once this procedure has been exhausted, decisions shall be taken by a simple majority and no amendments may be put forward.

5. In all cases, the conciliation procedure shall be completed during the session of the Conference or of the Board at which it has been necessary to make use of it.

BRAZIL

[Original: Portuguese]
29 September 1964

1. The work of the Committee could in essence be limited to two tasks:
(a) consideration of conciliation procedures, and (b) consideration of the treatment to be given to proposals involving a fundamental modification of recommendation A.V.1.

2. (a) Conciliation machinery: Brazil has no specific preference for any given formulae or methods, and is prepared to consider in the General Assembly all constructive proposals made, with the sole reservation that the conciliation procedures adopted should in no way deviate, either implicitly or explicitly, from the principle of equality of vote, which is set forth in the recommendation.

3. The procedures for conciliation should be both rapid and efficient. They must be rapid in order not to frustrate the very objectives of the Conference and so that no excessive delay at the conciliation stage will retard the beginning of the decision stage at the level of the Trade and Development Board or at that of the Conference itself. They must be efficient because it is in the interest of all countries, and particularly of the developing countries, that the conciliation should be successful and involve some compromise on the part of the developed countries, for without that the recommendation might well prove to have no real effect.

4. In brief, therefore, a machinery must be found which is rapid enough not to block the voting procedure and sufficiently well conceived to prevent this procedure from becoming a formality without practical significance. Within the limits of these two considerations several possibilities may be considered.

5. The function of conciliation might be carried out (1) either by means of an ad hoc machinery established within the Board itself, or within the Conference; (2) by setting up permanent machinery; or (3) by a combination of these two methods.

6. Under alternative (1), there are several lines of action which might be followed either in succession or as alternatives. First, the Chairman of the Board or the Secretary-General of the Conference could offer their good offices as mediators.

7. If these good offices should not prove fruitful, joint committees could be established, consisting of the countries making the proposal and those which consider themselves affected by it. They would be presided over by the Chairman of the Board or by the Secretary-General of the Conference, as appropriate. The members of such committees would be designated by the Chairman of the Board or the Secretary-General of the Conference, in consultation with the countries concerned.

8. A third possibility would be the establishment of committees of independent experts which would have the task of dealing with the matter at a technical level.

9. In theory there are still other possibilities which might be considered, including reference to the question to regional organizations. It is essential, however, whether all or only some of these methods are resorted to, that the total duration of the conciliation stage should not exceed a certain period, at the end of which the proposal should return to the Board or the Conference, whether or not the conciliation is successful. This period would necessarily have to be short and would obviously have to be the subject of negotiation, since it could not be fixed in abstracto.

10. Alternative (2) would call for the setting up of permanent conciliation machinery. This might consist of a Conciliation Council reporting directly to the Conference, to which would be referred proposals under paragraph 25 (a) of the recommendations which are submitted to the Board or the Conference.

11. It would be reasonable for the composition of this Council to be in accordance with the criteria adopted for the Board, such as equitable geographic representation, etc. However, since it would simply be an organ for conciliation, without provision for voting, there could be no basic objection to the use of other criteria as well, such as that of equal representation of the different groups of countries.

12. Because of the nature of its functions, the Council should have a small membership. The modus operandi should not present any difficulty. A representative of the authors of the proposal, and a representative of the countries affected by it would be invited to present their respective views. The Council would then have to find a solution to the impasse by making suggestions, by proposing alternatives, or by other means. After an agreed period had elapsed

the question would be considered concluded at the level of the Council, whether or not agreement was reached between the parties, and the proposal would again be considered by the Board or by the Conference.

13. Alternative (3) would be a combined solution under which the parties would have the choice of resorting either to the permanent machinery or to an ad hoc one. This method could function satisfactorily provided (a) it was not mandatory for the parties to exhaust the possibilities of ad hoc methods before having recourse to the permanent machinery, since, were that the case, the process might prove interminable, and (b) the total duration of the conciliatory process in all its stages should be relatively short. Brazil would be ready in principle to consider any of the above-mentioned formulae, subject to the basic conditions stated in paragraphs 3 and 4.

14. In the initial stage, however, it might be preferable not to institutionalize the conciliation machinery excessively, in order to avoid any functional rigidity which would obstruct the voting process. Ad hoc machinery might therefore be adopted on an experimental basis for a period of one year, after which it would have to be reviewed by the Board in the light of the experience gained. The desirability might then be considered of setting up permanent conciliation machinery which might or might not coexist with the ad hoc arrangements.

15. (b) Constitutional questions. The second task of the Committee should be to determine the treatment to be given to "proposals involving changes in the fundamental provisions" of the resolution - in other words, to indicate the procedure to be following with respect to proposals of a constitutional nature.

16. This is a most important question for the developing countries, the great majority of which have declared themselves in favour of an organization larger in scope and more permanent than that established by the Conference. Paragraphs 30 and 31 of the recommendation refer explicitly to future institutional arrangements. Consequently, the organization created by the Conference should not be regarded as something permanently crystallized, but rather as a plan in fieri and capable of evolving into more complex formulae. It would therefore be unreasonable to block this natural evolution by adopting excessively rigid voting criteria, which could only be justified in the case of a more perfect and

completed institution. At the same time, it is necessary to give the newly created organization a minimum of guarantees, in order to prevent changes of lesser importance or modifications prejudicial to the interests of the developing countries.

17. In the light of these considerations, it would be desirable if proposals of a constitutional nature were treated in accordance with two criteria: (a) the Conference would have exclusive competence to deal with them, and (b) proposals would be approved by a two-thirds vote and would take effect immediately without any further requirements.

18. According to the terms of recommendation A.V.1, conciliation is applicable only when a proposal substantially affects the economic or financial interests of particular countries. Proposals of a constitutional nature do not fit readily into this category. Taking a flexible approach and bearing in mind that the development of a consensus is as desirable in the case of substantive issues as it is with regard to constitutional matters, Brazil would not object if the procedures referred to in paragraph 25 (d) were deemed also to include prior conciliation procedures.

CEYLON

Original: English

18 September 1964

1. The experience gained at the World Trade Conference on methods of conciliation, consequent on the breakdown of the negotiations between the industrialized and developing countries on institutional problems, might serve as a useful guide to the establishment of procedures for conciliation. The deadlock between the industrialized countries and the developing countries on institutional questions was broken mainly as a result of the personal efforts of the President of the Conference and of the Secretary-General of the Conference and a couple of other senior officials who took certain initiatives on behalf of the two groups of countries. There would be considerable advantage in keeping conciliation procedures as flexible as possible and so leave it to the President of the Conference and the Secretary-General to act on their discretion. If formal procedures were established they would probably make the process of conciliation more difficult.

2. However, if formal procedures for conciliation were thought to be necessary by the Special Committee, the Government of Ceylon would suggest that the following might be considered:

(a) If there was a substantial difference of opinion between industrialized and developing countries on a matter affecting the economic or financial interests of particular countries, a decision on the issue might be postponed to the following meeting of the Conference or of the Board. This will give time for Governments of both groups of countries to reconsider the matter more carefully. We might agree to more than one postponement in such circumstances.

(b) Though the system of dual voting is most undesirable, there would be no harm in agreeing to dual voting on the first occasion when a matter is considered, merely for the purpose of securing the postponement of an issue to a later meeting of the Board. In the final resort, of course, the normal United Nations voting procedures should prevail. It is not, however, recommended that any kind of dual voting procedure should be adopted in respect of the Conference to be held once in two or three years since the adoption of a dual voting procedure would mean that a decision on a vital

matter would be held up till the next Conference is convened two or three years hence. In the case of the Board, however, a dual voting procedure on the first occasion would not create any difficulties since the Board is due to meet more frequently - at least twice a year.

3. It must be emphasized once again that there would be considerable advantage in keeping conciliation procedures flexible by leaving it to the President and Secretary-General to take appropriate initiatives when difficulties arise.

COSTA RICA

[Original: Spanish]

16 September 1964

1. The voting procedures adopted must establish, for the countries (groups) that will be bound by a resolution, the right to express their approval (by a simple majority, by negotiation, conciliation, etc.). Resolutions, once adopted, must be binding on all countries.
2. It does not seem reasonable to press for the adoption of a proposal if the countries which are to be bound by that proposal vote against it.
3. It should be laid down as a firm principle that procedural measures shall be adopted by a simple majority on the Trade and Development Board and in the Conference.
4. These are very general considerations. The preparation of specific proposals concerning possible voting machinery calls for extensive study and the consideration of many relevant factors.
5. Lastly, it does not seem appropriate to give official expression to ideas such as those set forth in Recommendation A of the Report of the Fourth Committee of the Conference, paragraph 4,^{a/} since they are favourable to the position of the industrialized countries. This group will undertake to seek a solution within these terms of reference.

^{a/} Paragraph 4 states: "Voting. Each State represented at the Conference shall have one vote. Decisions of the Conference on all matters of substance shall be taken by a two-thirds majority of the representatives present and voting. Decisions of the Conference on matters of procedure shall be taken by a majority of the representatives present and voting."
(Document E/CONF.46/134/Add.1, page 3.)

ETHIOPIA

[Original: English]

7 September 1964

1. Delegations that participated at the United Nations Conference on Trade and Development have learned from experience that important issues could not be profitably discussed and resolved in committees where large members of delegations are represented. In particular the Conference found that problems that touched upon the economic and financial interests of certain countries were better handled in smaller committees where only few representatives took part in the discussions. This practice later served useful and indeed it would not be an exaggeration to say that the very success of the Conference depended, in large part, on the swift and efficient negotiations carried out by the small conciliation committee during the final hours of the Conference.
2. It was against this background that the Conference decided to request the Secretary-General of the United Nations to appoint a special committee to prepare a proposal for a procedure of conciliation to be followed in the continuing machinery of UNCTAD.
3. The Imperial Ethiopian Government is fully aware that the preparation of a special procedure that would meet with the required assurance of every participating country is a difficult task. The primary objective of the Special Committee should be to devise an arrangement which would enable the various identifiable groups having differences of views to come together to discuss their differences with a view to finding solutions to the problems under consideration.
4. The questions that would immediately arise in this connexion revolve around the nature of and the representation of the conciliating body, the mandate of the conciliating body and the power of its recommendations as well as the choice of the problems to be considered in the conciliation process.
5. Regarding the nature of the conciliating body and the manner of representation, the Ethiopian Government is of the opinion that a committee of eleven members (one fifth of the Trade and Development Board) should be appointed.

6. The Trade and Development Board should appoint, from among its members, the members of the conciliation committee having due regard to the proper representation of the various identifiable groups, namely, from the developing countries, the developed countries with market economies and the socialist countries with centrally planned economies.
7. The Trade and Development Board should frame the terms of reference to be followed by the conciliation committee in respect of the issues to be considered. The power of the conciliation committee shall be to explore areas of agreement on problems dividing the members of the Trade and Development Board in accordance with its terms of reference. It should have no power of decision but only of recommendation. The recommendations, if accepted by the Trade and Development Board, should be binding on all members of the Conference.
8. The conciliation committee should report, as required, to the Trade and Development Board on the progress achieved in respect of the problems transmitted for its study.
9. As regards the choice of the problems to be considered by the conciliation committee, the Ethiopian Government is of the view that the number of problems to be examined in the conciliation process should be strictly limited. Stringent criteria should be devised by the Special Committee to cut down the number of the issues to the lowest possible minimum. In this connexion we would like to suggest that certain categories of issues should be identified in advance and these issues must be of such importance as to show observable differences between identifiable groups.
10. Further, the Imperial Government wishes to state that the success of UNCTAD and the implementation of the decisions reached will depend, to a large extent, on the limited use of the conciliation process. Frequent use of the conciliation machinery would not only lead to unnecessary delay of the settlement of issues but could also seriously tamper with the efficiency of the Trade and Development Board and eventually the Conference itself.

FRANCE

[Original: French]

23 September 1964

1. The French position on this subject has already been stated in the course of the closing meetings of the United Nations Conference on Trade and Development and by our delegation at the recent session of the Economic and Social Council.
2. The salient feature of that position is our concern that the resolutions adopted by the bodies to be established should reflect the common will of the various parties involved. It seems to us that those resolutions would run a grave risk of remaining without effect on national policies unless they had the positive support and co-operation of the various Governments to which they were addressed and which were affected by their content.
3. From this point of view the French Government considers it of the greatest importance that the members of the bodies to be established should do their utmost to reconcile the various points of view before voting. Although the success of any such effort at conciliation depends more on the attitude of mind of the national delegations concerned than on the procedures to be adopted, the French Government recognizes the value of setting up conciliation machinery in advance so that it will be immediately available when the nature of the disagreement warrants recourse to it. The French Government therefore considers that it would be useful for the Special Committee to work on those lines.

GUINEA

[Original: French]

24 August 1964

The Government of the Republic of Guinea remains convinced that the establishment of this ad hoc Committee will considerably facilitate the solution of problems or disputes which might arise between certain countries from the clash of their financial and economic interests.

The Government of the Republic of Guinea is all the more confident of the success of this enterprise in that it knows that the Special Committee will operate under the auspices of the Secretary-General of the Conference, who will undoubtedly make his good offices available to the Committee in accordance with its terms of reference.

Nevertheless, however confident the Government of the Republic of Guinea may be of the positive results which it hopes will stem from this Committee, it feels that it should make certain observations:

First, with regard to the composition of the Special Committee whose members will be appointed by the Secretary-General of the Conference, the Government of the Republic of Guinea expresses the desire that the developing countries shall be equitably represented, with due regard to the principle that each country has one vote. This last consideration naturally leads the Government of Guinea to reject any idea of establishing the principle of the weighted vote, which obviously prejudices the vital interests of the developing countries.

Lastly, it would be desirable to determine the nature of the juridical and administrative relations between the Special Committee and the permanent organ of the Conference to be known as the Trade and Development Board, of which the Government of Guinea is a member.

INDIA

/Original: English/

4 September 1964

The Government of India agree that it is essential that conciliation procedures should be devised within the framework of the institutional arrangements recommended by the Conference in order to implement measures relating to the expansion of international trade. While final decisions have to be taken under the well-recognized democratic procedures established by the United Nations, a process of conciliation may be useful before voting is resorted to in matters affecting substantially the economic and financial interests of countries or groups of countries. The Government of India are glad that the Secretary-General has already nominated the members of the Special Committee to consider this matter and trust that agreed conclusions will be arrived at as a result of the deliberations of the Committee.

IRAN

Original: English

9 September 1964

The Trade and Development Board shall have a General Conciliation Committee and one conciliation committee each for the three main committees. The conciliation efforts of these committees shall take place before voting on specific recommendations calling for action substantially affecting economic or financial interests of particular countries.

The General Conciliation Committee

1. The General Conciliation Committee shall have nine members, elected by the Board on the basis of equitable geographical representation and accordingly observing the following distribution of seats:

From amongst countries listed in annexes I and III
of paragraph 25 of UNCTAD

Final Act	"	5
Annex II	"	3
Annex IV	"	1
		<hr/>
		9

Note: Each one of the above groups may invite two members from its own group to assist in the discussions.

2. Representatives appointed to the General Conciliation Committee shall be the heads of delegations.

3. The General Conciliation Committee shall be presided over by the Chairman of the Board and, in his absence, by the Secretary-General.

4. The Chairman of the three main committees of the Board shall attend the meetings of the General Conciliation Committee when subjects relating to their respective committees are under its discussion.

5. The General Conciliation Committee shall take into consideration that the interested States may wish to place on record and to publicize their views expressed in the course of conciliation.

6. The General Conciliation Committee shall deal with matters on which conciliation is not reached at committee levels and which are referred to the Plenary of the Board. Its work shall be of an exploratory nature and it shall not be entitled to commit itself in any way on behalf of the Member States.
7. The General Conciliation Committee shall primarily define the areas of agreement and disagreement on specific subjects referred to it by the committees and shall try to prepare proposals on which consensus of opinion may be reached.
8. Proposals prepared by the General Conciliation Committee shall be considered by the Plenary of the Board and shall be approved according to paragraph 24 of annex A.V.1 of the Final Act of UNCTAD.
9. If the General Conciliation Committee fails to arrive at a basis for consensus of opinion on any matter, it shall submit its report to the Plenary of the Board, stating the areas of agreement and disagreement and the explanation of positions as regards, in particular, the implementation of proposed recommendations. Such matters shall be decided by the Board in accordance with article 24, referred to above.
10. The Secretariat of the Board shall extend every facility needed by the General Conciliation Committee for a successful conduct of its business.

Conciliation committees of the three main committees

11. Each main committee shall elect its own conciliation committee of seventeen members, observing the following distribution of seats:

From amongst countries listed in annex I of paragraph 25, referred to above	7
Annex II	5
Annex III	3
Annex IV	2
	<hr/>
	17

12. The Chairman of the main committees shall preside over the meetings of their own conciliation committees.

13. These committees shall seek conciliation on matters relating to their own main committees and may take decisions on such matters, subject to confirmation by the main committees concerned, in accordance with paragraph 24, referred to above.
14. In cases where conciliation is not reached by these conciliation committees, the main committee concerned shall refer the matter to the General Conciliation Committee, appending a summary record of the discussions of the conciliation committees.
15. The provisions of paragraphs 5 and 1 D above, shall also apply to these conciliation committees.

MALAYSIA

[Original: English]

13 October 1964

When conciliation procedures are to be employed

1. According to recommendation A.V.1 paragraph 24, decisions of the Conference on substantive matters should be taken by a two-thirds majority of the representatives present and voting, subject to the decision of the General Assembly on the provisions of paragraph 25.
2. In the Board, decisions should be taken by a simple majority of representatives present and voting, subject to the decision of the General Assembly on the provisions of paragraph 25.
3. Paragraph 25 provides safeguards against voting on substantive proposals of the nature described as "... of a specific nature for action substantially affecting the economic and financial interests of particular countries". When there are no adequate bases for the adoption of such a proposal conciliation procedures should first be resorted to before voting on the issue.

Conciliation procedures

4. Conciliation procedures should consist of two stages. First, there should be a system of conciliation committees (fairly small in size) consisting of an equitable representation of the interested parties. It is in such a small and intimate committee that efforts should be concentrated to find an acceptable basis for the adoption of a proposal of the nature described above. Secondly, if the interested parties find themselves still in deadlock then they should return the subject to the Conference/Board who should then call upon the good offices of the Secretary-General of the Conference.

(a) Conciliation Committee:

- (i) A conciliation committee should not be a standing committee of the Conference or Board. It should be set up as and when the situation requires.

- (ii) The composition of such committee should be such that there shall be equitable representation of all interested parties.
- (iii) A time-limit shall be set by the Conference/Board for the committee's deliberations.
- (iv) Where no unanimity is reached such a committee should not vote at the end of its deliberations but rather should present agreed recommendations or areas of agreement/disagreement to the Conference/Board.

(b) Good offices of Secretary-General of Conference:

If a conciliation committee fails to make a unanimous recommendation or if its recommendation is unacceptable as a basis for adoption by the Conference/Board, the latter should call on the good offices of the Secretary-General of the Conference.

5. If or when a recommendation by the Secretary-General fails to satisfy the requirements of those particular countries substantially affected, economically and financially, then the Conference/Board shall be free to decide on either (i) to seek a further means of finding an acceptable formula or (ii) to go ahead with voting.

PHILIPPINES

[Original: English]

23 September 1964

1. Recourse to informal negotiations or to an informal process of conciliation for the purpose of obtaining unanimity or reaching the widest possible agreement among Member States underlies nearly all the decisions of the United Nations and of its other organs and agencies. What is significant, even precedent-setting in this instance, is the attempt to formalize what has long been an informal practice and to require, in applicable cases, prior recourse to formal conciliation machinery before the Conference or the Board can proceed to a vote.
2. The chief value of informal consultations and negotiations in the decision-making process in international bodies lies in their relative flexibility and adaptability to changing situations, unhampered by any rigid rules. Any step to formalize this process of negotiations, therefore, must eschew the tendency towards rigidity and endeavour to retain, as far as possible, the quality of flexibility which has heretofore rendered it effective.
3. While no objection is perceived to the suggestion in sub-paragraph (b) of paragraph 25^{b/} to set up a system of conciliation committee within the Conference and the Board, the membership in such committees must be kept small in number (preferably not more than ten), must equitably reflect the main economic and financial interests represented in the Organization, and be regularly reconstituted at the beginning of each session of the Conference and/or the Board.
4. The matter of availing of the good offices of the Secretary-General of the Conference, either as member ex-officio of the conciliation committees or in the capacity of independent expert should be seriously considered. In the same manner, the use of the services of experts from within the regional economic commissions or the academic or private sectors, should not be entirely ruled out.
5. Adequate provision must be made to ensure that the proceedings of the Conference and the Board are not unduly delayed by recourse to the conciliation procedures; for the orderly resolution of questions of recourse to such conciliation procedure of reporting by the operation of the conciliation machinery covering the points mentioned in paragraph 25, sub-paragraph (c).^{b/}

^{b/} E/CONF.46/L.28, annex A.V.1.

REPUBLIC OF VIET-NAM

/Original: French/
5 September 1964

All proposals must be the subject of preliminary discussion in the technical committees of the Trade and Development Board.

Within the framework of each technical committee, the permanent Secretariat could act as conciliator.

Questions of some difficulty or importance could be submitted to a special conciliation committee.

UNITED REPUBLIC OF TANGANYIKA AND ZANZIBAR

/Original: English/

8 September 1964

1. The recommendation A.V.1 of the United Nations Conference on Trade and Development entitled "Institutional arrangements, methods and machinery to implement measures relating to the expansion of international trade", contained in E/CONF.46/L.28, annex A of the Final Act of the Conference is now definitive as a recommendation to the General Assembly. Therefore, the manner in which this particular recommendation was conceived and elaborated, while capable of being questioned in the General Assembly, should not normally engage the attention of the Special Committee. But the Government of the United Republic of Tanganyika and Zanzibar questions the highly irregular procedure adopted in the very conception of E/CONF.46/L.28 and its elaboration in the last forty-eight hours of the Conference. And states in particular that this particular recommendation was not extensively and exhaustively discussed. Nor were the African delegations consulted regarding its conception and elaboration.
2. Nothing in the recommendations of the Special Committee can deprive an organ of the General Assembly of its right to vote. The right to vote is clearly established and must be maintained. Nor can any recommendation make void the provisions of Articles 18 (1) and 67 (1) of the Charter vesting each Member State of the General Assembly and the Economic and Social Council with one vote.
3. Article 33 (1) of the Charter already establishes the elaborate process of pacification which must be employed in order to find a solution for a dispute the continuance of which is likely to endanger international peace and security. Conciliation is enshrined in this process. Conciliation has always and still is the practice used in the organs of the United Nations before any recommendation, resolution, declaration or decision is made by those organs. A trade dispute is no less a threat to international peace than a political dispute. To try to create any new formulae would be superfluous and redundant. The Charter of the United Nations Organization and the constitutional conventions and practice of the organs of the United Nations, provide already ample procedures of conciliation before a vote is taken.

4. What is to be the cut-off point of any such conciliation? A process of conciliation must not and cannot be admissible as a trick to circumvent the right of voting. The process of conciliation must not be a built-in instrument for killing legislation. Nor must a process of conciliation become an engine of filibuster.

5. A process of conciliation cannot be used to provide an adequate basis for giving certain industrialized Powers an economic veto.

6. The General Assembly and its subsidiary organs can only make recommendations to States Members. The recommendations of the General Assembly and the Trade and Development Board are not mandatory. Decisions of the Board do not carry automatic obligation upon, and implementation by States Members of the Conference. Decisions of the Board cannot have a juridical status superior to that of recommendations of the General Assembly. Therefore whether or not a recommendation of the Board requires action substantially affecting the economic or financial interests of particular countries, a State Member or country is not obligated to implement any such recommendation of the Board. But such State Member or country is entitled to accept or reject such recommendation in so far as it is consistent or inconsistent with its own constitutional and municipal legal processes and political arrangements.

7. The process of conciliation envisaged could be useful only if States Members of the Conference, agreed ab initio, that all decisions of the Board and Conference were mandatory and binding upon them. But this cannot be the case, because there is no treaty in existence adhered to by all members of the Conference which would fix this definitive obligation.

8. It is important to note too that a significant part of world trade is deliberately excluded from the province of deliberation by the Conference or Board. That is, international trade between countries at similar levels of development. This is to remain the exclusive province of the General Agreement on Tariffs and Trade. This makes the case for a weighted voting system or an economic veto or a conciliation process designed to frustrate decisions of the Board even more difficult to be advanced and maintained by that group of countries who control and manipulate the General Agreement on Tariffs and Trade.

9. The Government of the United Republic of Tanganyika and Zanzibar feel therefore that ample processes of conciliation before and after a vote is taken in United Nations bodies exist already. That it is redundant and ill-advised to create any such committees in the new institutional machinery of the Trade and Development Conference. That there can be no justification in law, morality nor in the practice of world trade in 1964 for giving an economic veto to any group of Powers within the United Nations system. That we should not consciously attempt to recreate the vices of the Security Council in new organs of the United Nations that in so doing, we run the risk of killing the new organ even before it has a chance to make its early fledgling and uncertain steps.

UNITED STATES OF AMERICA

[Original: English]

25 September 1964

1. At the Geneva Conference the United States voted for the recommendation in A.V.1 on continuing machinery on the assumption that such machinery and the procedures to be developed under paragraph 25 of the Recommendation will be acceptable to developed as well as developing countries. Since the Secretary-General has now convened the Special Committee for the specific purpose of developing such procedures, the Government of the United States wishes to take this occasion to reiterate the importance which it attaches to the work of this Committee.

2. One of the most notable aspects of the United Nations Conference on Trade and Development was the broad consensus which emerged on the need for special procedures in the new trade machinery. The consensus was eloquently summarized by the distinguished Secretary-General of the United Nations Conference on Trade and Development in his report to the Secretary-General of the United Nations:

"There is obviously no immediate practical purpose of adopting recommendations by a simple majority of the developing countries but without the favourable votes of the developed countries, when the execution of those recommendations depends on their acceptance by the latter. Hence the importance of conciliation machinery as a means of promoting such agreement."

3. The institutional recommendations included in the Final Act of the Conference embody the basic concept of substituting conciliation for voting where significant divisions exist. The resolution calls for special procedures in the new trade machinery "designed to establish a process of conciliation to take place before voting and to provide an adequate basis for the adoption of recommendations with regard to proposals of a specific nature for action substantially affecting the economic or financial interests of particular countries". The resolution also calls for consideration of the desirability of applying these procedures to proposals "involving changes in the fundamental provisions of this resolution". The United States Government is in full agreement with the principles embodied in the excerpts quoted above from the Final Act and from the statement of the Secretary-General of the Conference.

4. The Government of the United States is deeply committed to the basic objectives sought by the United Nations Conference on Trade and Development and will co-operate in every practicable way to assure that the new machinery recommended by the Conference contributes to fulfilling the aspirations of both developing and developed countries.

The United States believes it essential that there be an effective dialogue between the developed and developing countries on problems of trade and development. The United States further believes that the machinery recommended by the United Nations Conference on Trade and Development can provide a valuable forum for this dialogue. Such dialogue can exert a useful influence on the policies of both developed and developing countries and promote a fuller understanding of issues fundamentally affecting growth and prosperity.

6. The new machinery recommended by the United Nations Conference on Trade and Development will not be competent to take decisions which are legally binding on its members. If it is effectively to serve the purposes for which it is being created, it must influence national policies through a process of education and persuasion. The United States Government believes that conciliation can more effectively achieve this goal than the adoption of resolutions which do not represent a significant consensus of developed and developing countries.

7. Resolutions adopted over the opposition of countries whose policies they seek to influence are likely to alienate the parliaments and peoples of the very countries from which favourable action is sought. This will set back the process of persuasion, impede the development of mutually satisfactory trade and development policy, debase the currency of resolutions emanating from the new trade machinery, and even erode support for the United Nations system.

8. The United States Government is not committed to any particular procedure and is prepared to consider sympathetically any suggestions for special procedures which will accomplish the agreed objective. It is committed only to the basic objective which special procedures are designed to achieve - that the new trade machinery should have the maximum impact in influencing Governments to adopt mutually satisfactory trade and development policies which will serve the interests of all.

YUGOSLAVIA

[Original: English]

21 September 1964

The Conference underlined that adequate and effectively functioning organizational arrangements are essential if the full contribution of international trade to the dynamic growth of the world economy and, in particular, to the accelerated economic progress of the developing countries is to be successfully realized through the implementation of new economic policies. In line with these considerations, the Conference recommended the establishment of a new permanent machinery in the field of trade and development. In order to advance the functioning of the Conference, established as an organ of the General Assembly, and of the Trade and Development Board and its organs, a compromise was achieved and the setting-up of a Special Committee envisaged with a view to "prepare proposals for procedure within the continuing machinery designed to establish a process of conciliation to take place before voting and to provide an adequate basis for the adoption of recommendations with regard to proposals of a specific nature for action substantially affecting the economic and financial interests of particular countries".

2. Intensive informal contacts and consultations as well as conciliation procedures have been followed among different groups of countries at the Conference at Geneva. They have proved to be fruitful and have offered constructive results. We expect that this positive experience will be continued and further extended within the framework of the established continuing machinery.

3. It is of equal significance that the informal negotiations and conciliations be carried out primarily with the aim of reaching workable agreements on substantial issues of the new trade and development policy. They should be applied in promoting widely supported international actions required to ensure, for example, preferential treatment for manufactures and semi-manufactures of developing countries on the markets of industrial countries, long-term compensatory financing, establishment of SUNFED, elaboration of general principles governing international trade and economic relations, etc. As far as the methods of these informal contacts and conciliation are concerned, they could be carried out in all forms, within the conference, the Board and its Committees and organs, that

appear useful and offer prospects for achieving the desirable consensus. The good offices of the Secretary-General of the Conference or of the President of the Conference and of the Board could be of great value and significance in this framework.

4. The necessary progress in elaborating and implementing recommendations within the continuing machinery aimed at promoting international trade and accelerating economic development in general and of developing countries in particular, requires that there should be ample scope for procedures leading to wide agreements. Arrangements designed for this purpose should not derogate, however, from the ultimate right of the Conference and of the Board to adopt recommendations on any matter of substance by a simple majority vote in the case of the Board and by a two-thirds vote in the case of the Conference. The informal contacts and conciliation procedures among the interested groups of countries should not imply in any case any amendments to the Charter of the United Nations or any departure from the sovereign rights of each country having one vote in the continuing machinery.

5. The setting-up of the Special Committee commends praise. It is expected that the Committee will contribute to the establishment of widely acceptable conciliation procedures, thereby paving the way to the effective implementation of the recommendations and conclusions of the Conference and of the Trade and Development Board. The delegation of Yugoslavia to the nineteenth session of the General Assembly will consider with due attention the report of the Committee and will be guided by the above considerations in any action it may decide to undertake in the Assembly in connexion with the report.