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PREPARATORY COMMITTEE

of the

INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

(16)

Verbatim Report

of the

FIFTEENTH MEETING

of the

PROCEDURES SUB-COMMITTEE OF
COMMITTEE II

held in

Room 230,
Church House, Westminster,

on

Wednesday, 20 November 1946

at

10.30 a.m.

Chairman:- Dr. A. B. SPEEKENBRINK (Netherlands)

(From the Shorthand Notes of
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E/PC/T/C.II/PRO./PV/15

THE CHAIRMAN: Gentlemen, the meeting is called to order.

I welcome here this morning the observers of other Delegations so far as they are present at the moment. This was specially urged on us, that it would be a wise procedure to have at this stage when we are discussing these difficult matters observers from other delegations present at our meeting. We are now going to discuss, as a Drafting Committee, our memorandum on "Multilateral Trade-Agreement Negotiations" for presentation in Geneva. Tomorrow we will probably be discussing the draft report of the sub-Committee, and thus our having observers here from other delegations will facilitate our proceedings when these difficult subjects come up in Committee II for further discussion, with all Members present. I think it is best to have these other Members here in the role of Observers, and when we have concluded our study and examination of this paper (and they will in this way have a chance of following our discussions) they will then have an opportunity of asking any questions they wish to put and we will try to answer them, if we can at this stage.

We now have before us the new draft of the Memorandum on the procedures for the coming negotiations in Geneva. This memorandum has been somewhat altered about in certain places to a considerable extent; so that it will perhaps be best if we follow our usual course and start to discuss it page by page to see if there are any points to be taken care of. With regard to the Introduction, that is now very short, and I have myself a few remarks to make. We say in the first paragraph of the Introduction that "The Preparatory Committee has agreed to sponsor tariff and preference negotiations among its members." I think this is not entirely the case. As far as I know, the Heads of Delegation meeting agreed to recommend to each Government that the Preparatory Committee should sponsor these negotiations, but it is not a definite decision because we felt that we were not in a position to decide that on our own. Perhaps that point could be taken care of here. Then I have a small alteration to suggest in the second sentence, which reads at present: "Upon the completion of these negotiations the Preparatory Committee would

then be in a position to approve and recommend the draft Charter for the consideration" and so on. Perhaps it is right that we should add here, "to be worked out simultaneously at Geneva" because it is not a Charter that we have here at the moment; again, it is only a draft, and we will have to get it further worked out. Then it will have to be adopted at Geneva, I think.

MR PARANAGUA (Brazil): "as already formulated by the Preparatory Committee."

THE CHAIRMAN: That is not yet formulated. What we have done now is all the preparatory work; and then, in Geneva, we will expect to come to definite conclusions in the matter.

THE RAPPORTEUR: It might be taken care of simply by adding that "the Committee would be in a position to complete its formulation of the draft Charter and to approve it and recommend it to the International Conference on trade and employment for consideration."

MR PARANAGUA (Brazil): The second line, page 2, "substantial reduction of tariffs"---

THE CHAIRMAN: We will come to that. I would like, for the moment, to take it page by page. Are there any other remarks on the introductory part?

MR McKINNON (Canada): Except that I think the Rapporteur should be greatly commended for the extreme brevity into which he has compressed the Introduction.

THE CHAIRMAN: Then the second paragraph: "The negotiations among the members of the Preparatory Committee"--. I would propose that we put here: "They must proceed in accordance with the relevant provisions of the Charter as already provisionally formulated by the Preparatory Committee".

Mr. PARANAGUA (Brazil): Mr Chairman, where is the place to introduce the recommendation of the Committee to the Joint Committee on Industrial Development?

THE CHAIRMAN: That will come.

SENHOR OCTAVIO PARANAGUA (Brazil): In what place?

THE CHAIRMAN: Later on -- somewhere I think where we are discussing the mutual advantages.

SENHOR OCTAVIO PARANAGUA (Brazil): I do not know whether it would be better as a part of the introduction. The introduction is very short - covering the whole memorandum.

THE CHAIRMAN: I do not think that would be a good place, because we have certain general rules, and I think we might discuss it there. Then we come to page 2.

Mr. J. FLETCHER (Australia): Can I suggest something on page 1, the second paragraph? I thought it should start with these words: "The results of the tariff negotiations among the members" —. I do not press the point.

THE CHAIRMAN: That is not enough: wehave to put in preferences as well.

Mr FLETCHER (Australia): We could leave out the word "tariff".

THE CHAIRMAN: Yes -- "negotiations. Now we come to page 2: "General Objectives". There I have only one point. It says "The ultimate objective of the Charter is to bring about the substantial reduction of tariffs"—. I see that that is too strong.

Mr FLETCHER (Australia): I have the same objection. If you are going to state the objectives you ought to state the whole of the objectives of the Charter; but I am wondering whether it is worth while spending a lot of time on it, seeing that Article 18 is fundamental to this.

THE CHAIRMAN: Perhaps

SENOR OCTAVIO PARANAGUA (Brazil): Here we speak of reductions. The consolidation of a tariff item is also a great concession.

THE CHAIRMAN: That is covered later on.

Mr McKINNON (Canada): That is a paragraph stating that.

THE CHAIRMAN: Are there any remarks with regard to the general objectives?

Mr. ADARKAR (India): May I suggest that it would be advantageous to drop this paragraph altogether. It serves no purpose. It is generally understood that the negotiations are to proceed in accordance with Article 18 and in pursuance of that Article. So if it starts with the general nature of the negotiations, that would serve the purpose quite well.

THE CHAIRMAN: I do not follow that.

Mr ADARKAR (India): You see "General Objectives" starts with the declaration that "The ultimate objective of the Charter is to bring about the substantial reduction of tariffs and the elimination of tariff preferences". The Charter certainly has more than one objective, and if one objective is mentioned, another objective will also have to be mentioned. You see, we are looking upon the negotiations to achieve more than one result. Some countries desire to utilise this in order to secure a reduction of tariffs. Others would like to secure a reduction of tariffs or rationalisation of tariffs.

THE CHAIRMAN: If you put that in Article 18 ——

Mr ADARKAR:(India): Article 18 covers the position taken as a whole, quite fairly, so far as all countries are concerned. Much the best thing would be to drop out this general objective. If any introduction at all is required, it is merely the introductory remarks on page 1. No further introduction is necessary.

SENHOR OCTAVIO PARANAGUA (Brazil): Then how would it be?

Mr ADARKAR (India): Well, to drop out the first paragraph altogether: eliminate the words "The ultimate objective of the Charter"——

SENHOR OCTAVIO PARANAGUA (Brazil): Or "In order to implement the Article 18"—

Mr ADARKAR (India): That is mentioned in the following paragraph. The draft Charter in Article 18 provides that.

Mr SHACKLE (UK): I thought we had already provisionally felt that one should amend the first line to read "One of the main objectives" instead of "The ultimate objective". Does that not meet the delegate for India?

THE CHAIRMAN: "The Charter elaborated in Article 18 thereof is to bring about"-. Because we are only concerned here with Article 18. Would that meet your point, Mr Adarkar?

Mr ADARKAR (India): Well, I do not press the point. I thought it would make for clarity.

THE CHAIRMAN: Then perhaps we will do that.

Mr FLETCHER (Australia): I am not very happy about that, but I will let it pass. I am not very happy about just taking one portion of the Charter and expressing it in this way; but we will let it pass for the time. I think initially it states the objective. There are reservations.

THE CHAIRMAN: Should we say here: "One of the main objectives of the Charter elaborated in Article 18 thereof is to bring about" and so on?

SENHOR OCTAVIO PARANAGUA (Brazil): That is very good.

THE CHAIRMAN: If there are no further remarks, then we come to the general nature of the negotiations. Are there any observations there? (After a pause:-) No. Then it is adopted.

Mr SHACKLE (UK): There is a point at the end of the paragraph, Sir. I am not sure that this is really necessarily the right place, but I have a feeling that somewhere one ought to mention that there would be negotations about State trading margins on the same lines as the negotiations about tariffs. The sort of words I had thought of were these: I had thought of this coming in at the end of this section on the "General Nature of Negotiations", though that may not be the right place:- "The various observations in this memorandum regarding the negotiation of tariffs and tariff preferences should be read as applying also mutatis mutandis to the negotiation of State trading margins under Article 27." I think that is a point which we should bring in somewhere or somehow, but I am not sure whether this is the right place to do it.

THE CHAIRMAN: What is the opinion of the Rapporteur?

THE RAPPORTEUR: I think Mr Shackle's suggestion is a good one.

Mr SHACKLE (UK): That I had thought of as coming in at the end of this section, that is to say, at the end of the first sub-paragraph at the head of page 3.

THE CHAIRMAN: Yes, Article 27 of the draft Charter.

Mr SHACKLE (UK): Yes, of the draft Charter, if you like.

THE CHAIRMAN: Is that agreed? (..greed.) Then we come to general rules to be observed in negotiations. In the first line I think I would like to put in again "Paragraph 1 of Article 18 of the draft Charter set forth"—. Any remarks on this page?

Mr McKINNON (Canada): What are you doing - inserting the word "draft"?

THE CHAIRMAN: Yes, because it is still a draft Charter.

Mr McKINNON (Canada): Is there a typographical error in the third line of sub-paragraph (a)?

THE CHAIRMAN: "Prior international commitments shall not be permitted to stand in the way of negotiations with respect to tariff preferences, it being understood"—

Mr McKINNON (Canada): "tariffs and preferences".

THE RAPPORTEUR: As approved by the Subcommittee.

THE CHAIRMAN: Are there any other remarks with regard to page 3?

Mr FLETCHER (Australia): The last two lines of "a": "failing that, by termination of such obligations in accordance with their terms". I find difficulty in appreciating what the practical implication of that is. Does it mean that if a country resists negotiation or declines to reduce a tariff, the country with the contractual obligation is forced to terminate it? I think it should be elastic enough to give the country that enjoys the contractual obligation some say.

MR. SHACKLE (UK): May I say a word, Mr. Chairman? My understanding of the meaning was this. Let us suppose that a country which grants a preference is thinking of agreeing to some modification of that preference, it would then go to the country which under a prior commitment enjoyed the benefit of the preference and would see whether it was agreeable to the change. If it were agreeable to the change, then it could be done by an agreement between the contracting parties. If you did not get that agreement, then the country which was granting the preference would have to consider whether in the circumstances its interests lay in just accepting that that particular commitment could not be modified, or, on the other hand, in terminating the prior commitment under which the preference was contractually provided for. It would have a choice. If the beneficiary country did not agree, either the idea could be dropped, or, alternatively, the country which gave the preference could ask itself whether it was worth its while in the circumstances to terminate the prior agreement. It would not be forced to do it; it would be confronted with the choice of whether it would or would not in those particular circumstances.

MR. FLETCHER (Australia): I am wondering whether that makes it quite clear. In the way I read it, it could be interpreted as forcing upon you a situation where you have got to terminate an agreement.

THE CHAIRMAN: The main point we raised was this, that when we come together in Geneva a country accepts there a certain obligation. It is up to that country to find a way out of certain difficulties it may meet with regard to other existing obligations, and if it then found insurmountable difficulties it could come back and say "I cannot fulfil my obligations", and then we would have to apply Para. 3 of Article 18. But it is up to the country itself to find a way out.

MR. SHACKLE (UK): Might I possibly add a word or two supplementing

what I said before? I would like to call attention to the words in line 4 of Paragraph a, "action resulting from such negotiations It follows from that that it is not, so to speak, a question of compulsion to terminate an agreement. It is simply that if, as a result of the negotiations, it is agreed that there should be some modification, then that modification would be given effect to in one or other of the ways described below. That is my first point. It is not, so to speak, an ipso facto compulsion to terminate the prior commitments; it is only action resulting from the negotiations; that is to say, action resulting from agreement may lead to this consequence in the particular circumstances that I have described. That is my first point.

My second point relates to the words "in accordance with their terms", in the last line of Paragraph a. That I take to mean that if the prior commitment is an agreement which has a termination provision in it, then that termination provision would need to be complied with; that is to say, the requisite period of notice would need to be given.

MR. McKINNON (Canada): Mr. Chairman, the work of this Sub-Committee falls into two divisions: one of tariffs and preferences in a substantive way; the other to discuss procedure. It seems to me we are competent only to discuss, in connection with this Memorandum, the method by which we shall do what Article 18 tells us to do. Now, are we starting out to amend Article 18, or are we adopting methods of applying it?

THE CHAIRMAN: We are here only adopting methods of applying it. Article 18 will come up for discussion in Committee II, together with our Report as drafted by the Rapporteur.

MR. McKINNON (Canada): That is all I wanted to know. There is no suggestion that we are amending its wording now?

THE CHAIRMAN: No. Any further remarks under "General Rules"?

MR. COOMBS (Australia): Yes, Mr. Chairman. I am not quite sure of the effect of the ruling you have given on the next rule. It

would appear that it is a matter of principle, rather than procedure. It is the desire of the Australian delegation, at some stage of the proceedings, to state our view on the rule embodied in b., but I am not sure whether you would wish us to do it at this stage.

THE CHAIRMAN: I would think that would bring us into Article 18, and, as I said, we will in our Report give our arguments as to why we drafted the sub-paragraphs as they are here, and I think we could discuss it more intelligently then than if we tried to do it now, because we should have to give our remarks on every part of our subsequent report. I would have preferred to discuss this memorandum with other delegations at a later stage, but just now we want to make them conversant with the text of it, to facilitate further discussions at a later stage.

MR. McKINNON (Canada): That would be on the understanding, though, that if any of these rules should be amended in our other capacity, then the consequential changes will be made in the procedural memorandum?

THE CHAIRMAN: Certainly.

MR. SHACKLE (UK): I am wondering whether it may be desirable in the first line of this General Rules paragraph to say "Paragraph 1 of Article 18 as provisionally included by the Preparatory Committee in the Draft Charter", rather than "of the Draft Charter". I think the insertion of that word "provisionally" does make its status more clear than if we say "Article 18 of the Draft Charter."

THE CHAIRMAN: Is that not covered by the second paragraph on page 1, where we put in the word "provisional"?

MR. SHACKLE (UK): Possibly it is, but I think it make it more clear and more explicit.

MR. McKINNON (Canada): If we do that we shall have to apply it to 8 and 29 and 32.

Mr SHACKLE (UK): I do not press it.

Mr. LECUYER (France) (Interpretation): Mr Chairman, the other day I made a remark regarding the paragraph c. of this draft memorandum. It is stated under paragraph that it was agreed to give due allowance to tariff preferences and consolidation of tariffs. In my opinion, it was also necessary to mention quantitative restrictions, which have been adopted in latter years as a means of protection. I think that Mr Hawkins and Mr Shackle agreedwith me on this point and I, therefore, wonder whether this article could not be completed in the sense I have indicated.

THE CHAIRMAN: I think this only quotes Article 18 and we never agreed to change paragraph c. of Article 18. The only thing we did was to say that when we came to the explanation of how everything should be applied we could perhaps put in something of that sort, but not with regard to the changing of the wording of Article 18.

MR. LECUYER (France)(Interpretation): I do not insist, but I think this point should be covered somewhere in the memorandum, so perhaps we would consider it later.

THE CHAIRMAN: We will come to that later, yes. The main point, Gentlemen, is that our Rapporteur has put on here on page 2: "this means that no country would be expected to grant concessions unilaterally, without action by others, or to grant concessions to others which are not adequately counterbalanced by concessionsin return. The proposed negotiations are also to be conducted on a selective, product-by-product basis which will afford an adequate opportunity for taking into account the circumstances surrounding each product on which a concession may be considered. Under this selective procedure a particular product may or may not be made the subject of a tariff concession by a particular country". This is a very broad formula, trying to give a principle. The point is whether we should include here the special circumstances as mentioned by the French Delegate and also special circumstances as we discussed them in the last meeting of this Sub-Committee with regard to the proposal of the combined Committee of Committees one and two on industrial development. Perhaps here I would like to have the advice of our Rapporteur.

THE RAPPORTEUR: Mr Chairman, I should have thought from the earlier discussions it was agreed that the position with regard to quantitative restrictions would

be this, that countries, before they were asked to put into effect the general rules for the elimination of quantitative restrictions under any section of the Charter, would see what they would be getting in the way of benefits from the tariff negotiations and in that way there would be a general balance. I did not think that the Sub-committee had felt that quantitative restrictions should be taken into account on a selective basis in these negotiations, but that countries maintaining quantitative restrictions, in granting concessions and balancing those concessions against what they got would naturally take into account what they were asked to eliminate in quantitative restrictions when the tariff concessions went into force. I think a point of that kind might be included in the memorandum somewhere to indicate what the situation is but I do not think it should be included amongst these details relating to the selective character of the negotiations.

THE CHAIRMAN: I wonder myself if it would be better to come to that point when we discuss the Exchange Depreciation.

Mr McKINNON (Canada): No. Mr Chairman. It should not be in this memorandum at all, unless and until it is in the Articles in the Charter. I think the observations by the last four speakers indicated the difficulty we are in, namely, that we are trying to go forward, but with the cart before the horse. We are attempting here to indicate how we shall apply certain rules. We are now apparently facing the situation that the rules are not yet adopted. Therefore, if we proceed and discuss it on that basis now, we have then got to discuss it on the Report of this Sub-Committee in respect to tariffs and preferences and then go back and amend the procedural document. I suggest that in respect of a group of provisions such as these we should accept this as being the wording which has been adopted, which in fact it is, and we are not competent at the moment to amend it. If in a later Session and in another capacity we amend it, we have to come back and do the work over again, but we are not competent to amend it at the moment.

MR FLETCHER (Australia): I feel that the fact that it is in quotes shows that it is an Article which has been decided somewhere else.

MR McKINNON (Canada): Quite.

MR FLETCHER (Australia): Therefore, we cannot alter it. We can discuss it quite a lot, but there is another place where it can be raised.

THE CHAIRMAN: I suggest we just take note of the point of Mr. Leeuyer and see what can be done later on.

Mr. SHACKLE (UK): I do not want to suggest in any way reopening this matter, but I would like to read a passage from the proposals of December 6th last, from which I think this passage was taken. It reads like this: "In the light of the principles set forth in Article 7 of the mutual agreements, members should enter into arrangements for the substantial reduction of tariffs and for the elimination of tariff preferences, action for the elimination of tariff preferences being taken in conjunction with adequate measures for the substantial reduction of barriers to world trade as part of the mutually advantageous arrangements contemplated in this document". I think that gives the phrase "mutually advantageous" a rather wider extension than just the tariffs and tariff preferences. I see that would mean reopening Article 18 to take account of that point, but there is a slight difference which I think it is worth calling attention to.

THE CHAIRMAN: Mr Hawkins, would you like to comment on that?

MR HAWKINS (U.S.A.): It seems to me that what he has said is true, that in considering the advantages from all the sections of the Charter, that does not mean that it does not apply here as regards the concessions given on tariffs by one country to another.

THE CHAIRMAN: I again suggest that you leave the point for the moment and see whether we have to return to it later. We still have the other point, which we discussed and adopted, as far as my recollection goes, in the last meeting of the Sub-Committee, that in this memorandum we should, if possible, refer to the Articles of the Charter in regard to industrial development, and in the Charter itself we took note of that under paragraph 3 of Article 18. But there is a difficulty. I think we can cover it if we have the whole of Article 18 already applicable with regard to the conduct of our initial negotiations.

MR ALAMILLA (Cuba): I think we come back to this Article 18. I would strongly support the position taken by the Canadian Delegate that we just go on with the discussion of procedure.

THE CHAIRMAN: There is one point that has not been covered in the memorandum. That was agreed to at our last meeting.

MR ALAMILLA (Cuba): We proposed a modification of the article that was proposed by Mr Shackle and we took it. It is not referred to here.

THE CHAIRMAN: But I would just like to keep it in mind.

MR ADARKAR (India): It seems to me that if we are going to retain the initial paragraph on "General Objectives", the kind of amendment which we have made in paragraph 3 of Article 18 could be covered by an amendment of this paragraph. The second sentence of this paragraph reads: "The negotiations among the members of the Preparatory Committee should therefore be directed to this end, and every effort should be made to achieve as much progress toward this goal as may be practicable in the circumstances". We might add there: "having regard to the provisions of the Charter as a whole", or, better still: "having regard to the provisions on economic development".

THE CHAIRMAN: We could say "having regard to the provisions of the Charter as a whole". I would much prefer that, because that is in paragraph 3 of Article 18.

MR ADARKAR (India): "having regard to the provisions of the Charter as a whole" would cover it more than "economic development" only. As a matter of fact it is implied in the phrase "as may be practicable in the circumstances", but I think it is better to make that clear.

MR ALAMILLA (Cuba): Where is that?

THE CHAIRMAN: That is in "General Objectives".

MR FLETCHER (Australia): Might I suggest, so that we can get away from these questions of policy principle, that for the whole of this heading, beginning "General Rules to be Observed in Negotiations", we substitute something like this: that the negotiations should be conducted in accordance with the provisions of the Draft Charter. I think, if you start on the basis of introducing one Article, there is no limit to the number of Articles that do enter into the negotiations. I think we have to remember that in final analysis most of these negotiations go round the products of industries, and at least all the general provisions in the commercial policy charter bear on the products of industries in different ways. While one will have no bearing on one product, another Article will have another bearing, and I think we will get into an awful tangle here if we try to isolate different articles of the Charter and say that we will conduct negotiations in accordance with that particular article.

MR McKINNON (Canada): I would like to repeat my observation, that we cannot go putting into a memorandum on procedure things that are not yet in the Charter. The point raised by the Indian Delegate will have to be considered in our Report and it will then get into the Charter in some form, but we cannot deal with it in a memorandum on procedure.

MR ALAMILLA (Cuba): Is there any objection to adding the phrase that was suggested by the Indian Delegate just now?

THE CHAIRMAN: It is a thing we adopted in our Committee, and I cannot follow you, Mr McKinnon, because we have in this memorandum to elaborate what we have adopted in our Sub-Committee; therefore, we have to see how we can cover it. I am quite prepared to do it later, but I think I am now in agreement with the Delegate of India.

MR VIDELLA (Chile) I would like to see that wording included.

MR HAWKINS (U.S.A.) What I have got you could not call an objection, but it does not seem to me to be necessary. After all, the Charter is not going to govern the calculations that have been put in there. If we start putting in this procedural memorandum every calculation in the Charter, it is going to be a terrifically long memorandum. My objection therefore is not one of substance, but one of form.

MR SHACKLE (United Kingdom): Possibly the point would be covered if in this section "General Rules to be Observed in Negotiations" were substituted by a single sentence: "The General Rules are set forth in Article 18 of the Draft Charter", and we can take out the wording suggested by the Delegate for India. It is better to leave them in their original context than to place them in a different context where the balance of emphasis is somewhat different.

MR ADARKAR (India): The reason suggested is so comprehensive that I fail to see what objection there is to making it. It is not specific in character at all. It does not make any specific reference to any particular part of the Charter. It merely states: "having regard to the provisions of the Charter as a whole".

THE CHAIRMAN: May I just refer to page 13 for one moment, and perhaps then we can discuss it. The first paragraph reads: "The Agreement should conform in every way to the principles laid down in the Charter and should not contain any provision which would prevent the operation of any provision of the Charter".

MR ADARKAR (India): It is only the Agreement.

The way in which the Rapporteur has put it really recognises the difficulties that individual countries may feel in achieving the goal which has been set forth. The need for this arises in making it clear that the countries taking part in the negotiations will not be right in bringing forward all manner of difficulties. The sentence reads like this: "every effort should be made to achieve as much progress toward this goal as may be practicable in the circumstances". That may enable a country taking part in the negotiations to bring forward all manner of difficulties, saying "My progress towards this goal is hampered by these difficulties and those difficulties". The merit of the qualifying phrase is that, unless those difficulties are recognised in some part of the Charter, those difficulties will not be kept in mind. "As may be practicable in the circumstances" is rather wide. The qualifying phrase "having regard to the

provisions of the Charter as a whole" limits the range of the difficulties which are permissible in this connection.

THE CHAIRMAN: I would be agreeable to put it in there. That would be in conformity with paragraph 3 of Article 18, as we have adopted it.

MR HAWKINS (U.S.A.) I do not object, except on formal grounds.

MR McKINNON (Canada): My objections were purely on formal grounds and on a well taken point of order; but I am not gainsaying it. It is a work of supererogation. I would gladly agree to including the words which he adds after the word "circumstances".

THE CHAIRMAN: Then we will add "having regard to the provisions of the Draft Charter as a whole".

Then, gentlemen, we can now turn to "Miscellaneous Rules of Guidance". It is fairly short, and we could go to page 4: "Base Date for Negotiations". I have a question to ask here. In the second sentence of the third paragraph it says: "However, the discussions during the first session of the Preparatory Committee indicate that because of increases or decreases in preferential margins during the past several years, the establishment of a common date presents certain difficulties and may not be practicable". I understood that you also had this difficulty with regard to tariff systems. For instance, the French Delegate pointed out that 1939 would, for him, have to be the base date, on account of what happened during the war, and I think other countries may find themselves in the same difficulty. For instance, I think Mr McKinnon himself remarked in the earlier discussions that during the war there were certain changes in the tariff system that should be covered by the base dates, and we in our country have done the same thing.

MR McKINNON (Canada): I do not insist that my point covers itself in a procedural memorandum; and to meet the point now raised by the French Delegate, I suggest that we drop all the words between "because" in the fourth line, and "[illegible]" three lines later. It would then read: "However, the discussions during the first session of the Preparatory Committee indicate that the establishment of a common date presents certain difficulties and may not be practicable".

THE CHAIRMAN: I am agreeable to that.

MR McKINNON (Canada): Shall I read it again? "However, the discussions during the first session of the Preparatory Committee indicate that the establishment of a common date presents certain difficulties and may not be practicable." It means deleting the reference to preferences.

THE CHAIRMAN: I think that covers what we really discussed. The sentence after that reads: "It is therefore suggested that immediately following the close of the first session of the Committee each member of the Committee concerned should inform the Secretariat of the United Nations as to the date which it proposes to use as the base date for negotiations with respect to preferences." I think we should insert here the words "tariffs and", so that it would read "with respect to tariffs and preferences".

MR FLETCHER (Australia): I find myself in a good deal of difficulty over this base date idea and I am inclined to think that we are having much ado about nothing. Our difficulty is in giving a base date, say, at the opening of the negotiations along the lines suggested here; but I think if you examine the position it is not a base date that you want. I can visualise a situation where, generally speaking, you regard, let us say, the end of 1939 as fixing your preferences. That may be the last preferential agreement you have made. Now, subsequent to that you can have on different dates complete suspensions of duty, and if you are looking for a base date covering the whole of the tariff and particularly a uniform date for all countries, I think you are searching for something that it is quite impossible to find.

THE CHAIRMAN: It is not a uniform date for each country; every country can state its own date.

MR FLETCHER (Australia); That brings us down to a base date for a particular country. I think we could all, after a good deal of investigation, find out what date we would be prepared to regard as a base date and everybody would be prepared to accept - except for certain exceptions. I spoke of suspensions. You then have cases where duties have been temporarily increased, and not all on the same date. These wartime suspensions and wartime increases have gone on over the war period and if you apply this rule of automatic reduction to things of that kind you have got quite an unjust position; so that you finish up, I think, where you have got to search for a date that by and large covers your tariff; but there must be reservations in respect of given products on which,

say, emergency action has been taken in the matter of suspensions, and recognise those as being technically existing preferences as at the base date. Then it says that the provisional tariff agreement is to contain a general obligation on the part of the signatory to accord most favoured nation treatment to each other signatory, and so on; and that seems to be the purpose for which you need this base date; and there is a secondary purpose but I think the base date takes care of itself during the course of the negotiations and it is immaterial whether we decide on it before the negotiations or after, as long as it is a fair and mutually acceptable date.

THE RAPPORTEUR: I think at least in certain cases it would assist in preparing a request for concessions from others to know what date would be considered by them as acceptable as a basis for negotiations.

MR FLETCHER (Australia): I can see your objection but ---

THE RAPPORTEUR: I think your particular point as to fixing any one day as applying to all products might be taken care of by deleting on the top of page 5 the requirement that the date should hold good for all products.

MR FLETCHER (Australia): Could not that be done after the negotiations or in the course of the negotiations?

THE CHAIRMAN: The point for us is that you must know where you base your request and your concession - that is the main point - and that is why every country has to give a date as a starting point for its negotiations; and that is why we prefer it to be for all products. I can see that for one or two products there should be a different date but if we start with that we complicate our coming negotiations to such an extreme extent that there will be no end to it.

MR FLETCHER (Australia): I am thinking in terms of a man who has a good deal of practical work to do, and I know that if we have got to search for this base date and make sure that it is right it means a careful analysis of the whole of your tariff and your contractual obligations. Now, we are going to spend a great deal of time in doing that and this proposition does throw very heavy demands upon all your technical resources. If I was convinced that this base date is essential prior to the negotiations I would say so and agree to it, but I feel quite confident that the point it seeks to cover can be left over to a later stage; and that would mean that such technical resources as we have we could utilise for the essential preparatory work.

THE CHAIRMAN: I am very much afraid to do that. May I ask the other members of this

Sub-Committee for their opinions?

MR HAWKINS (USA): I would like to be clear on Mr Fletcher's point. Is it your idea that you would take the date as the date you start negotiations?

MR FLETCHER (Australia): No, I think that the search for the appropriate date is a different problem for every country. I think, speaking for our own country, it would not be a very big problem. We have not had many suspensions of duty. There have been suspensions of duty in other countries that affect our preferences and there have been temporary increases of duty in other countries that affect our preferences. It requires a very close analysis to see just how this rule would work out in practice if you have got to select a date. I have got no quarrel with you in principle at all; it is the method whereby you are trying to reach this particular objective.

MR HAWKINS (USA): I am not very clear, I am afraid. I do not know your situation, but why could not Australia, for example, say, "We take as a base date 1939"? You would not regard your wartime conditions as being normal. The countries concerned have got to know the basis of these requests.

MR FLETCHER (Australia): I believe that it is quite likely that after we have made an extensive analysis we could take, say, the date of the outbreak of war, and maybe with one or two qualifications covering emergency action we would be right; but I am not in a position to know that until that analysis has been made. That looks after one side of it. Then you see different countries which are enjoying under contractual obligations certain preferences on this and that commodity. We would be interested in seeing that those countries did not adopt a date that automatically knocked out the preferences merely to conform with a working principle like this.

MR HAWKINS (USA): That would be subject to discussion - if you named a date that suited your circumstances.

MR FLETCHER (Australia): Would you not agree with me that you cannot name a common date where there are suspensions and increases going on over a period of years? There is a date that would cover the bulk of your tariff but it would not be the date that you would regard as acceptable in respect of this and that product on which the duty had been temporarily suspended; and in other cases on this and that product on which, say, the duty had been increased.

THE CHAIRMAN: Is not the point this? When you talk about a duty that has been temporarily suspended the duty is still there; it is only that you did not apply the duty. So there is no problem here. The only problem would be that you

would have raised certain duties owing to wartime considerations, or something like that. I think that every country must find a solution for that problem. Perhaps they would have to give way on that, but if they cannot do that with regard to this problem I cannot see how ever we shall come to conclusions in Geneva; so I would propose that we simply leave this part of the paragraph as it is.

MR SHACKLE (U.K.): I think it may require a little qualification in one respect, that is, that a base date which suited one tariff negotiating country might not suit the other. In that case you might have to fix up some compromise, so I do not think it would be quite as hard and fast as this paragraph would suggest. I am thinking of what appears at the bottom of page 4 and the top of page 5: "The base date for negotiations established by any country granting preferences should hold good for its negotiations on all products with all other countries members of the Preparatory Committee." Supposing the base date that, shall we say, the United Kingdom takes does not suit France, we may have to seek some compromise, so I do not think we can say more than that it should <u>normally</u> hold good for its negotiations.

MR McKINNON (Canada): I do not think you can qualify it that way. I see Mr Fletcher's difficulty from the standpoint he mentioned, and I think that is a difficulty which one of us has to face and assume. I do not agree with Mr Shackle that there is any necessity for agreement with any other party. As long as contractual obligations exist they are maintained; that is all. If they cannot be negotiated away then they have to be faced in some other manner; but it is entirely up to each country to pick its own date, and all it has to do is to select a date and notify the secretariat.

MR LECUYER (France)(Interpretation): Mr Chairman, I think that the question is really a very simple one. All we are endeavouring to do is to see that the different countries inform the Secretariat of the base date that they have adopted in order to facilitate future negotiations. There might be some difficulty in the case of a particular country establishing a date, but I do not think, generally speaking, this is very difficult to achieve. As I say, there may be a difficulty for a country - it is not the case for France but it may be the case for other countries - to establish one single date for the products in that country, because it may have been that for single products suspensions or increases have been made at certain times and that the base date for that is not the same as that which is applicable to all the general products of the country. Therefore I think that the suggestion made by the Rapporteur to delete the last part of the paragraph ending on page 5 would be correct and would go some way towards meeting the desires expressed by the Australian Delegation. Now, if a country informs the Secretariat and other countries of its base date which it has adopted and subsequently discovers an anomaly in its tariff structure, it can always amend this in the future, and I do not think that any other country would object to an amendment of the base date in reasonable circumstances.

MR McKINNON (Canada): I was going to say any other country cannot object. The onus of determining a date, which may be difficult, is on the one country. It is not a matter of agreement. It would notify the other countries of the date on which it is basing its negotiations.

THE CHAIRMAN: The only point, then, is whether we will leave the words as they are or delete them and make the clause more general. I understand the Rapporteur is agreeable to altering the words and that it would create no special difficulty, if we deleted these words "of all products".

MR McKINNON (Canada): I think it might lead to very great difficulties and lead to recriminations, to say that for a certain list we go back to 1939, for another list to 1941 and for another list to 1946. I think it would lead us into a very strange situation.

THE CHAIRMAN: I would prefer myself, as I have indicated before, that we take the risk, and that a country should take the best date it can and be prepared to give and take something here. If they are not prepared to do that, well, we cannot see any sense in this.

MR FLETCHER (Australia): Mr Chairman, I am quite concerned about that. If as the result of the acceptance of a single date we found that the application of a particular rule automatically eliminated a preference, we would think that the elimination of the preference on the grounds that we had accepted this working rule of a single date was totally illogical. That is the point I am trying to get over. I do not think a single date is practicable and at the same time just. It may be in normal times, where you have both, say, at the beginning of the year, a suspension, and then a few days after/a substantial increase in duty, -wards and a strict application of the rule to the elimination of marginal rates, but you cannot visualise the effect.

THE CHAIRMAN: If we only add here "but generally hold good for its negotiations with other countries", I think it gives the rule, and in very special cases you could come back to that. I think if we said "will generally hold good", that will meet the point. I am not too enthusiastic about it, but on the other hand we must find a solution or we will never be able to negotiate in Geneva.

MR [illegible] (Cuba): I do not want to introduce a new subject into the discussion, Mr Chairman, but I think it is a very important one, and I must do it now. You say that every country is going to state its own date or dates, whatever may be the solution that you come to on these specific problems which we have been discussing up to now. When a tariff preference depends on a bilateral or maybe on a trilateral contract, what would happen if one country under that contract was to establish one date, and another country which is a party to that same convention fixed another and a different date? Therefore I thought it was much better the way it was before, that through diplomatic channels the country would have to agree to a common date on which the preference should be fixed. I am not making a point of it, but I am looking at the possible problem there, and I would like to have the ideas of other members of the Committee about this point.

THE RAPPORTEUR: This memorandum would not prevent any two countries from consulting as to the dates to be used.

MR ALEMILL (Cuba): But would it permit two countries that have an agreement in which a certain tariff is fixed, that is to say, where a tariff preference is fixed, because one might fix one date and another might fix a different date? Would that be permitted?

THE RAPPORTEUR: Well, the memorandum would, yes, but I should think that the situation would be taken care of by the trading operations, but I do not see ----

MR ALEMILL (Cuba): The only problem is that then what we say here would do, because if every country is going to designate its own date and we have to qualify that by saying that whenever those specific tariff preferences are depending on a bilateral convention, which is always the case - or even more - then the parties to the convention have first of all to agree to a certain date which should apply to all the members of the specific agreement. I do not propose any specific words, only the idea.

THE CHAIRMAN: We are now up against a little difficulty, and I agree with the Australian Delegate here, that it would create a certain amount of trouble. Therefore perhaps I might repeat my suggestion, which is to say "generally hold good", and if there are some very special problems which they might have to face, then we can get information as to those problems and we can discuss that before, but we must/have at the beginning of the negotiations a kind of Tariff Steering Committee which would then take care of these special problems.

MR ALEMILL (Cuba): You do not think, with the Rapporteur, that something could be put in there saying that agreement should be come to between the parties? Thes tariff preferences depend on mutually agreed conventions.

THE RAPPORTEUR: I think if you did that you would be telling the various countries how they should fix their dates. This simply says that they have to try to establish a date and they have to tell the Secretariat. But they are completely free.

MR McKINNON (Canada): And more than that, it is not competent for us here, sitting as a Procedural Sub-Committee of the Preparatory Committee, to tell countries how they should carry out their contractual obligations. That

is up to them. We should not have anything to do with that.

THE CHAIRMAN: Shall we try to cover it with the words "generally hold good"?

MR McKINNON (Canada): That may provide an elasticity that may be very welcome in certain cases.

THE CHAIRMAN: What do you think, Mr Hawkins?

MR HAWKINS (USA): Well, Sir, I think that is probably all right, but I do not see any difficulty in naming a date, a general date.

THE CHAIRMAN: No; but the only point is that as it reads now it is very definite, and if you put in the word "generally" it would cover the greater part of these commodities concerned, but there may be certain other points that we would be able to cover by saying "generally".

MR McKINNON (Canada): It might be interpreted as covering everything but the really important items, which would be bad.

MR FLETCHER (Australia): Does not the question again look after itself in the other propositions that you have got here, that you contemplate a situation where you finish up with a schedule showing the preference margins? I have the feeling that this question of a date is quite unnecessary at this stage. Supposing Australia was trying to do a smart trick and put something over on any given commodity that somebody was negotiating with us, or with the people to whom we had a contractual obligation in respect of a given commodity, over some issue that arises from the suspension or a temporary increase in a duty, it would soon come to light, and it is therefore for the Conference to determine.

MR HAWKINS (USA): You will get a great deal of confusion here if there is no date fixed. I do not suppose anyone would do it, but it is quite possible that if countries had based their activities on what they regarded as a normal date, say 1939, when they would come into negotiation, and someone said: "Now we have changed all that. We have quadrupled our tariffs since that time" - what happens to your negotiations?

MR McKINNON (Canada): You have got to have a beginning somewhere. It may be that in respect of certain items a final decision will not rest on a date at all, but that will all come out in the negotiations. I do not

think, however, that you should vary the rule that there must be a starting point, and it is the responsibility of the country to name its year.

THE CHAIRMAN: Then I just finish this discussion on this stage by asking whether we will put in the word "generally" or not. What do you say, Mr Hawkins?

MR HAWKINS (USA): No.

MR McKINNON (Canada): No.

MR SHACKLE (UK): No, Sir.

MR ADARKAR (India): I would prefer the plain use of the word "generally".

MR LECUYER (France): No.

MR ALAMILLA (Cuba): I do not insist on putting it in.

MR VIDELA (Chile): I am of the same opinion as the Indian Delegate.

THE CHAIRMAN: So we have 4 against and 4 for inclusion. So we must leave it out for the time being. Page5: any remarks?

SENHOR OCTAVIO PARANAGUA (Brazil): Yes: "Avoidance of New Tariff Measures". I would like to know if the Rapporteur would agree to add that the provision of this paragraph shall operate in accordance with the provisions of Article 29 of the Charter.

THE RAPPORTEUR: I think this is just a general statement and therefore you would not need to provide for any exceptions or escapes or anything of that sort.

SENHOR OCTAVIO PARAGANUA )Brazil): In any case, we make this reservation in the case of unforeseen developments, when we can take emergency action. Because after the tariff negotiations we can take emergency action, I think we must be entitled before negotiation also to take emergency action.

THE RAPPORTEUR: Then I should think there would not be such a measure as would tend to prejudice the success of the negotiations, so that it would be permitted.

SENHOR OCTAVIO PARAGANUA (Brazil): Yes, emergency action; that is covered.

THE CHAIRMAN: If it were a case of real emergency, I think that would constitute a good defence at Geneva; but I hope there will not be much of that.

Mr McKINNON (Canada): No, because the other negotiating country would not pay anything to have the emergency measure reduced or removed.

Mr ADARKAR (India): This portion, in the way it is worded, is rather inconsistent with the sentence under "General Nature of Negotiations" on page 2, which reads: "Under this selective procedure a particular product may or may not be made the subject of a tariff concession by a particular country". It is open to a country to exclude certain tariff items from the scope of negotiations, and therefore in respect of such items it should be open to that country to effect new tariff measures prior to the negotiations. What I would suggest, Sir, is that if such measures are in fact effected, then any concession given in respect of such measures should not be regarded as of any value for

the purpose of negotiations, unless, of course, there is mutual agreement between the negotiating countries. So far as India is concerned, a tariff Board has been at work examining the problems of various Indian industries, and at the time when the Indian delegation left India, the Government of India had already reached decisions on seven reports submitted by the Tariff Board. It is not unlikely that action has already been taken or is about to be taken on those reports. It seems to me, Sir, that if any action is taken in such circumstances as an increase in duty or the imposition of a new duty, then such duties should not becapable of being brought forward as a quid pro quo in these negotiations; and I think that object would be better served by re-wording this portion in some sense like this, that in any determination as to whether a member has fulfilled its obligations under Article 18, the concessions given by it in respect of any tariff measures effected prior to the negotiations shall not be taken into account, or, will not be taken into account.

THE CHAIRMAN: What is the main idea of this paragraph? I think, if I understood it, that we must have some confidence in the coming months before our negotiations over a short period that we shall not seek any developments which might be looked upon as members trying to improve their bargaining position. I think that is the main point that is covered by this paragraph. So that perhaps we could put in here: -"which might be looked upon as improving their bargaining position and therefore tending to prejudice the success"-. That is the idea that we have here.

Mr ADARKAR (India): The object of suggesting this amendment is to express just that intention, that in any determination as to whether a member has fulfilled its obligations under paragraph 8, the concessions given by it in respect of new tariff measures will not be taken into account, but, at the same time, such a provision will not preclude that member from introducing desirable changes in its tariffs if such measures are considered desirable; nor would it preclude such new measures from being brought within the scope of negotiations.

THE CHAIRMAN: Yes, but that is the main point, I think: if you have

a new tariff there, then you improve your bargaining position, and that is just what we want to prevent.

Mr ADARKAR (India): No, any directions given in respect of such measures should be insisted upon by the countries effected by it, but they should not be expected to give any quid pro quo, and if a country has only such reductions to show, it should not be regarded as having fulfilled its obligations under 18. That was the intention.

THE CHAIRMAN: It is a very important point.

Mr McKINNON (Canada): I think it would be too bad to make the amendment suggested. // As I read this little paragraph, it is merely an expression of a pious hope that there will be good will among the potential members and that they are not going out to raise their tariffs in advance; but there is no question they are perfectly free to do so if they wish: they have utterly untrammelled freedom to raise rates as much as they want; and I think we rather bring the whole question into a dubious aspect if we make a provision for it and say: However, it will not count if they do it. I think it is better to leave it where it is and they have the fullest freedom. //

Mr FLETCHER (Australia): I have been thinking that perhaps we are dealing with this question in the wrong place here. I can see the objective. I can say that I agree with the objective; but if you attempt to put it in what purports to be a set of rules, I think you are putting it in a different setting, and the thought did occur to me that perhaps the proper place to deal with this thing is by resolution in the General Committee, or something of that kind. That is one aspect. This here refers to new tariff measures. Well, when you come to administer tariffs, just what constitutes a new tariff measures is a very nice point. No doubt you have in mind these major tariff changes that are intended; but the biggest trade barriers that you encounter these days are the trade barriers introduced over night by the alteration of a ruling made on import control. You attempt to put a standstill on tariff measures; but there is no standstill on all the other more drastic devices. The major point I have is that this seems hardly a place to put in a rule that is virtually a tariff standstill, and I feel in rather an invidious position when you

attempt to put this in and accept a rule without having opportunities to consult your government as to whether they are in a frame of mind to support a tariff standstill.

Mr McKINNON (Canada): Mr Chairman, I think there is a lot in what Mr. Fletcher says. We are attempting here to explain a rule or say how it will be applied, and there is no rule. There is the most complete freedom. That is the rule.

Mr VIDELA (Chile): I am not entirely in agreement with the Australian delegation, because I think a sort of truce or recommendation of truce should apply to all the Charter. You know that there are quantitative restrictions, and if we are limited only to tariffs in a sort of truce or recommendation of a truce, we may be unbalanced, we may be handicapped with this recommendation; and, on the other side, the Subcommittee on Quantitative Restrictions will not make a recommendation of the same sort, and then we shall need to overcome this by taking into account this recommendation." We shall need to counterbalance with the higher duties any measure taken in regard to quantitative restrictions." Therefore I entirely agree and back the suggestion of the Australian delegation that this paragraph should go to the general agreement on the Charter - I do not know whether it should be Committee V, but we shall see later.

Mr HAWKINS (USA): Mr Chairman, I take it that if one tries to introduce a rule like this in a meeting, it will involve a very prolonged and trying debate. Should you do it here, the moment you try to establish generally at times like these where a short supply situation still exists and regulations and controls must necessarily be in a state of flux, you just do not get it. On the other hand, you cannot have it here, because this is speaking of the more or less permanent tariff measures which are to be the basis for negotiations. It is feasible here; but, as Mr McKinnon said, even here it is not binding in that it prevents any increase whatsoever; but it does state a rather important basic principle which it is desirable to observe if the negotiations are to be successful. My only point, Mr. Chairman, is to take it out here. You had better abandon it. You cannot get anywhere in general meeting on it.

MR McKINNON (Canada): I agree. I think we should leave it here for what it is worth, or drop it altogether.

THE CHAIRMAN: I think we should have it in here for what it may be worth. I think it is very important, having regard to the coming negotiations.

MR VIDELA (Chile): Under tariff measures and restrictions.

THE CHAIRMAN: No, because the point there is that we have certain restrictions at this moment which certain countries simply had to impose temporarily on account of the very difficult situation and which have been covered by the provisions of the draft charter. They do not do that for pleasure, but simply because they have to do it to cope with a situation of emergency, but these are permanent measures. If you raise a tariff, you raise it and it is a thing that will go on for a long time. It is a subject for negotiation. With regard to quantitative restrictions and all the other things, if we adopt the charter at Geneva, they will be abolished generally.

MR VIDELA (Chile): This is a question of tariffs, I know, but there are quotas also. We used to send apples here up to 1932, but in that year we could not send a single box.

MR HAWKINS (United States): If quotas are to be discussed, I think it should be in connection with the Quota Section and handled by the Quota Committee. We are dealing here with tariffs and the negotiations next Spring and getting conditions favourable to those negotiations.

THE CHAIRMAN: I should be very sorry if we deleted this paragraph, which is in general terms.

MR PARANAGUA (Brazil): Why do we not put "tariff measures and import restrictions of a permanent character"? That means, if it is something in an emergency, it will not be taken into consideration.

MR VIDELA (Chile): Yes, I quite agree with that.

THE CHAIRMAN: I do not mind that.

MR PARANAGUE (Brazil): If that is the spirit -- the question of a

permanent measure.

MR HAWKINS (United States): My objection would be this. I think in substance it is right but, if you put that in, you are tending to refine this down and make it more precise and more tight, whereas it is only intended to be a general expression of principle. You cannot get now a tight tariff truce. The moment you do, you are going to have to consider a list of exceptions if it is made too tight, and those exceptions would, I think, cover pages. Most of them would be all right, but we are trying to express a general principle here, relating to tariffs only.

MR ALAMILLA (Cuba): The Cuban delegation feel perfectly satisfied with the paragraph as it is, considering it has a moral obligation for whatever good it is, and with these qualifications, that it does not prevent a country from doing it but that it is something which would not be a good thing to do. That is the way we feel and we strongly support that the paragraph be left exactly in the way it is.

MR VIDELA (Chile): I would leave my reservation, Mr Chairman, subject to this that, if the Quantitative Restrictions Sub-Committee is making the same recommendation on quotas, I will accept this paragraph in this section.

MR HAWKINS (United States): I think it is only fair to predict that the Quantitative Restrictions Sub-Committee will not be attempting prior to the coming into force of agreements to effect a truce on quantitative restrictions. It is a difficult thing to do in these times. It may be all right, but I should doubt it very much.

THE CHAIRMAN: I think we can leave this point now and leave it as it is here.

MR FLETCHER (Australia): I am satisfied with the explanation.

THE CHAIRMAN: We note your reservation, Mr Videla.

MR VIDELA (Chile): Thank you.

MR ADARKAR (India): Mr Chairman, in order that our position should be

made quite clear, I should say that in soliciting the particular amendment, we attached more importance to this provision than is attached by the Delegate from Canada or by certain other delegations, as appears from the discussion. If it is made clear somewhere in the report that this does not prevent a country from introducing desirable changes in its tariffs, I think there should be no objection at all to letting the particular provision stand as it is. Our only anxiety is that it should appear somewhere in the report or in some other document -- in this document, if possible -- that it does not prevent a country from introducing new tariff measures which are considered essential. My object in suggesting the amendment was that such measures should not be taken into account in determining whether a country has fulfilled its obligations under Article 18. That brings in the spirit of the truce.

THE CHAIRMAN: May I suggest this, that you discuss with the Rapporteur the question of putting in his report some kind of statement such as you have made from your side. I think it is better than discussing it and trying to reach agreement. I think that would preserve the position and would be the best thing to do here.

MR ADARKAR (India): I will explain it to the Rapporteur, Mr Chairman.

THE CHAIRMAN: Then we come to Exchange Depreciation.

MR PARANAGUA (Brazil): Mr Chairman, I want to ask the Rapporteur about the meaning of the second part of this paragraph. I can understand that exchange depreciation, but there is an addition here. Does this second part mean that, if there is a reduction of the incidence of the tariff owing to circumsta nces, we are obliged to mainta in this reduced incidence of the tariff?

THE CHAIRMAN: Which part do you mean?

MR PARANAGUA (Brazil): "At the same time the principle set forth above should not be expanded to cover changes in the ad valorem equivalent of specific tariffs caused by changes in general world price levels of commodities -- because, when we convert our

specific tariff into an ad valorem tariff, we will convert according to the values at the time the tariff was enacted. When you put a specific duty, you always have in mind a certain value of the goods. That means you are doing the conversion according to the time the tariff was enacted. Is that right? Is that when I understand here?

THE CHAIRMAN: Yes, but we have tried to cover that. I do not know whether yours were special tariffs introduced during the war.

MR PARANAGUA (Brazil): I think I can make myself clear with an example. If I have a motor car of 2,000 pounds weight, the value of the car is 1,000 dollars. If I put 300 dollars tariff on this car, that means 30 per cent. I can even write 30 per cent ad valorem or 300 dollars on 2,000 pounds. Now, a country having an ad valorem tariff to which this car goes at 1,500 dollars will tax this car 450 dollars, because it is 30 per cent, but the country with specific duties will tax it at only 300 dollars, because it is by weight. Then, when I am doing the conversion, I am doing the conversion from the time I enacted my tariff, because otherwise it would be a reduction from 30 to 20 per cent in the incidence of the tax.

THE CHAIRMAN: Yes, but we tried to cover that with item 8, which says that you have a normal price level and, if you convert from specific duties to ad valorem duties, you get the rate percentage.

MR PARANAGUA (Brazil): What I want is to maintain the same incidence of duty. If my intention was 30 per cent translated into weight, in doing the conversion now I can maintain the same incidence of duty and I suppose that is covered by that paragraph, is it?

THE CHAIRMAN: Yes.

MR PARANAGUA (Brazil): There is nothing contrary to that in the last phrase of this paragraph. I do not know if the Rapporteur will agree with that?

THE CHAIRMAN: Did you follow that, Mr Leddy?

THE RAPPORTEUR: Yes. I think there is some difficulty caused by this sentence.

MR PARANAGUA (Brazil): I propose that we put here that the conversion from specific to ad valorem duty cannot result in an increase of the incidence of the tax.

MR HAWKINS (United States): Yes; I think that is all right.

MR PARANAGUA (Brazil): That is that the conversion of a specific tariff into an ad valorem tariff would not result in an increase of the incidence of the duties?

THE CHAIRMAN: If it is agreeable, we will change this sentence in that way. We then come to the next item.

MR FLETCHER (Australia): Mr Chairman, before you leave the Exchange Depreciation and the change from the specific rate tariff, this is presenting me with some nice complications, in the sense that, when Australia depreciated her currency, she did exactly the opposite to what you are proposing that these countries may do. I think I ought to point out that I think you are thinking of this from the point of view of whether you have the protective incidence of a duty in mind or the monetary unit incidence of the specific rate duty. To come back to an illustration which I will state as simply as I can, at one time the Australian pound and the English pound were on parity. Then a situation arose in which it took 125 Australian pounds to buy an article that cost £100 in England. That additional cost to the Australian importer served as a protection and throughout our tariffs we brought down the rates of duty to obliterate the extra protection that was provided under the exchange depreciation. I should go on to say that there are still a number of those old duties in force; that is that they have not been altered since Australia depreciated her currency. I think we want to be realistic in having duties that will stand alteration and, when the people who will be affected see that you have a depreciated currency and when you recognise it is a base which entitles a person to raise its tariff rather than reduce it, I do not know what the situation will

bo. This argument about a specific rate and ad valorem duty is a tremendously complex thing and, if we are going to thrash it out to our satisfa ction, I should think we should be here for months and months. I was wondering whether we could not leave this out entirely and find another way.

THE CHAIRMAN: Australia and also France are faced with this difficulty. My idea would be, it was just the rate of protection which would not be increased. If we then found it advisable not to increase it in those days, and even to decrease it -- that is quite right. I think the other part will apply, that you should not try to improve your bargaining position. If you do feel, in the old days, that you should have increased the protection, as far as I see, in your example you had a special price; you paid more for that.

MR FLETCHER (Australia): More in terms of your own currency.

THE CHAIRMAN: Yes, and you thought that adequate protection. Why are you changing it? It is simply to give people a system to work on. Why are you changing it? That is contrary to the spirit of the Charter.

MR FLETCHER (Australia): Could I ask this question: Where a country is in these difficulties over the specific rates, have you revenue considerations in mind or protective considerations?

THE CHAIRMAN: In my opinion specific duties are never used; they are always protective; that is the use of protective duties.

MR FLETCHER (Australia): If you want to make a certainty of revenue, you put 1/- a gallon on beer; you do not make it ad valorem. I do not know whether I can see any way through it.

MR LECHER (France)(interpretation): Mr Chairman, since France has been mentioned in the course of the discussion as an authority which could be envisaged in this Report, I would like to state that the reason why France has adopted ad valorem tariffs instead of specific tariffs is that specific tariffs no longer exist in France. They have been suspended during the war. We are now establishing a nomenclature which does not correspond to the previous tariffs. We have the nomenclature, but we do not yet have the rates of duties which should be inserted into it. We will establish this rate of duties and the rates will correspond to the protection which was granted in 1939 by means of tariffs. We have assumed certain obligations towards the United States, for instance, in this respect, that the same protection will be granted in the near future as was granted in 1939. Therefore, I do not mind whether this

sentence remains in the text of the memorandum or does not, and I feel that many countries will have the same feeling. France is not particularly interested in this particular sentence, and I must say that I think that in the discussion we are having now we are giving too great importance to the discussion of this problem which, after all, is not such a great problem.

MR PARANAGUA (Brazil): I am sorry it is not in the Report clearly that no country can improve its bargaining position. The whole Report is for that, and all other considerations must be put aside.

THE CHAIRMAN: I used these words before, and I quite agree.

MR PARANAGUA (Brazil): It is quite clear -- under no pretext.

THE CHAIRMAN: We could put it in somewhere; perhaps it would be better in the previous paragraph. I think that is the idea, that you cannot improve your bargaining position.

MR VIDELLA (Chile): We are coming back to the avoidance of new tariff measures.

THE CHAIRMAN: Perhaps.

MR VIDELLA (Chile): I think it is a very important point.

THE CHAIRMAN: We will see where we can put it in here -- "improved bargaining position". Coming back to exchange depreciation again, I feel that I would like to have this phrase, which, after all, gives the position. It does not say that a country cannot have any specific duties. There is no obligation to change that; but if it changes from specific duties into ad valorem duties, applying this principle, I cannot see that it should raise many difficulties.

MR FLETCHER (Australia): I want to reduce tariffs.

THE CHAIRMAN: You are still free to do that.

MR PARANAGUA (Brazil): You have a ceiling.

THE CHAIRMAN: It is only a ceiling.

MR FLETCHER (Australia): I was wondering whether it would be possible to cover the idea without referring to the specific rate rate of tariffs. "The position of certain countries may be drastically changed as the result of war, and its aftermath", and go on to say that these may necessitate or justify an alteration in the tariff.

THE CHAIRMAN: We should have to see it in writing, but I think I get the idea of that, though it is not quite clear to me. The position is simply that we have had certain difficulties on account of the war and that certain countries should be allowed to work that out.

MR FLETCHER (Australia): I am not arguing against the justification for deleting such a situation as you are in. Could not we think it over during lunchtime.

MR HAWKINS (U.S.A.): Your previous paragraph covers a good deal of the sense of it.

THE CHAIRMAN: Yes.

MR FLETCHER (Australia): These are people who are over-protected at the moment.

MR HAWKINS (U.S.A.); It is really part of the preceding paragraph. You could leave it out, if it is causing Mr Fletcher great difficulty.

MR FLETCHER (Australia): I would prefer to see the paragraph out, myself. It only removes my difficulty.

THE CHAIRMAN: Are members agreeable to having it left out entirely?

MR PARANAGUA (Brazil): I do not agree. This is merely part of the Exchange Depreciation. We are having trouble about that, because when countries begin to do the conversion, there would be a discussion about that.

MR HAWKINS (U.S.A.): It is covered by the principle in the preceding paragraph.

THE CHAIRMAN: Let us just think it over during the lunch interval. I think perhaps we could solve the difficulty by laying more stress on the principle of the preceding paragraph.

MR PARANAGUA (Brazil): We could put a reservation in the preceding paragraph about not increasing it; to do the conversion without increasing the incidence of duties, and then that is covered. I prefer it as it is.

THE CHAIRMAN: We will return to that later. The meeting of the Quantitative Restrictions Sub-Committee for tonight has been cancelled, and we have only this difficulty, that there is a meeting of Committee II at 3 o'clock.

MR HAWKINS (U.S.A.): That is only the Technical Committee.

THE CHAIRMAN: I have not to be present, but I think perhaps other Delegates may have to be there. I am quite prepared to go on this afternoon, but I think it will create a problem for Mr Vidella.

MR VIDELLA (Chile): I ought to be there. I will have my/servation on both re-
paragraphs.

THE CHAIRMAN: We understand that.

MR VIDELLA (Chile): Because we have also specific tariffs and I shall need to see what is here.

THE CHAIRMAN: Nobody is committing his government, but we want to reach such agreement as is possible.

MR VIDELLA (Chile): I insist that this first paragraph on new tariff measures should be a general paragraph covering the whole of the Charter.

THE CHAIRMAN: Have you any objection to going on with our work this afternoon?

MR HAWKINS (U.S.A.) I think it would be a good idea.

THE CHAIRMAN: I think it will be better to go on this afternoon than to leave it; we must cover it today if possible. We will inform you of what we have done.

MR VIDELA (Chile): Yes, of course.

THE CHAIRMAN: Then I suggest that we meet again here at 3 o'clock this afternoon. (Agreed).

(The meeting rose at 1.02 p.m.)

(For Afternoon Session see E/PC/T/C.II/PRO/PV/15 - Part II.)

The meeting resumed at 3 p.m.

THE CHAIRMAN: We still have before us page 5, and there was only one question left: whether we delete the whole clause on "Exchange Depreciation" or leave it as it is there but put in something in which we could put more stress on the previous paragraph, being the question that members should not improve their bargaining position, or combine both paragraphs - that is also another possibility - and shorten it; but we have to get out of this difficulty now if we want to prevent a repetition of the same discussion in the main Committee.

MR LECUYER (France)(Interpretation): I think it would simplify matters and also get rid of the misgivings which have been expressed here this morning if we add to the paragraph under discussion, that is, "Avoidance of new tariff measures", an additional sentence stating, "Particularly in case of conversion of a specific tariff into an ad valorem tariff the substitution should not have as a consequence an increase of the incidence of the tariff."

THE CHAIRMAN: If we simply put in that after the first sentence I think your point will be covered and everybody will be happy.

MR FLETCHER (Australia): I am wondering whether we ought to say "an increase of the protective incidence of the tariff". This is very close to the rough draft I prepared.

MR LECUYER (France)(Interpretation): This is our meaning - "protective incidence".

MR FLETCHER (Australia): I will read out our draft, which I think is very close ——

THE CHAIRMAN: I think if we are agreed, it is sufficient to have this one.

MR FLETCHER (Australia): I think there is a difference between a rate imposed for genuine revenue purposes and a rate imposed for protective purposes, that is, to protect a domestic industry.

THE CHAIRMAN: I think the point we want to cover is the rate of protection, not revenue purposes.

MR SHACKLE: Could not we simply put in the word "protective" before the word "incidence"?

THE CHAIRMAN: That was Mr Lecuyer's idea, I believe. Perhaps we may have it again so that we shall know the exact wording? The first change that was adopted this morning, I think, was that we should put in the first sentence of the paragraph "Avoidance of new tariff measures" something about not improving the bargaining position. We agreed on that. Then after that we should have the sentence suggested just now by Mr Lecuyer, which he will perhaps read out again.

MR LECUYER (France)(Interpretation): "Particularly in cases of conversion of a specific tariff into an ad valorem tariff the substitution should not have as a consequence an increase in the protective incidence of the tariff."

THE CHAIRMAN: Is that agreeable? (Agreed.) Then I think we have settled that difficulty nicely.

Then we strike out the whole paragraph on "Exchange depreciation", and then we come to the very important paragraph "Principal supplier rule". Are there any remarks there? I think the point is covered.

MR McKINNON (Canada): It struck me as a very adequate clarification of the paragraph we read the last time, and I think the Rapporteur has done an excellent job of reconciling the various thoughts that were expressed.

MR FLETCHER (Australia): I have two points on this paragraph. The first sentence says: "It is generally agreed that the negotiations should proceed on the basis of the 'principal supplier' rule." I think it would help the reading of people who are unfamiliar with it if we added the words "as defined in this paragraph." It is not a very big change to make, and I mention it because so many people seem inclined to interpret the principal supplier rule with a great deal of rigidity; and you have got to read the remaining portion of the Article carefully to see how this principal supplier rule is to work.

THE CHAIRMAN: We can adopt that suggestion, I think.

MR FLETCHER (Australia): The other point I had in mind was this. On page 6, about the middle, we have the words "the importing member should", and I was going to suggest the addition there of the words "as a general rule be willing to"; so that it would read, "the importing member should as a general rule be willing to include that product". What I have in mind is that there may be certain cases in which you would have a good case for resisting negotiations on a particular item, notwithstanding that, say, the people constituting the nuclear group supplied 60 per cent of the product. You might have very good reasons for wanting to retain it for negotiation with another group, and I think we should be left with some little latitude to deal with the odd cases that would arise.

THE CHAIRMAN: I do not think there are any objections to this change. I have no objections to it, for my part. Is it agreed? (Agreed.) Then, gentlemen, we have covered this paragraph on "Principal supplier rule".

We now come to "Form of tariff schedules" and I have one point to raise here. We speak of "a total of sixteen schedules of tariff concessions". I think

if Russia takes part later it will not be a matter of tariff schedules with them and as it reads now you have only covered seventeen countries, and I think it would be wise to make provision for the eighteenth.

THE RAPPORTEUR: I think I could put down that in addition there would be a schedule if Russia participated.

THE CHAIRMAN: I think it would be wise to have that. Are there any other remarks?

MR FLETCHER (Australia): I have what I think is a rather fundamental question to raise on the form of tariff schedules. I have looked at this multilateral agreement to which, let us say, sixteen schedules are to be attached as our next concrete goal. I regarded the drafting of the Charter as the first goal. The second goal is the multilateral agreement. Now, there is a tremendous amount of work - and real work - to be done before we reach that second goal. I would be very interested to learn whether anyone regards the idea of a sixteen- or seventeen-sided tariff agreement on the lines envisaged as a technical feasibility. Speaking frankly, I have the gravest of doubts as to whether it is a technical feasibility within a matter of months. It may be a technical feasibility within a matter of years, but just how sixteen countries can get themselves in a position to conclude this sixteen-schedule agreement within a matter of months I do not know. I just cannot see a way through our own particular difficulties there. Now, in thinking round the problem I have come up against a second issue. I do not know whether it is a real one; I may be exaggerating it to some extent; but it is one through which I cannot see daylight myself at the present time, and I think unless we can see daylight through it we may have to recast our thoughts, particularly as to the way in which we attack the problem of reaching the second goal. Being a sixteen-sided agreement, you have the question of its simultaneous implementation.

Mr McKINNON (Canada): Not necessarily.

Mr FLETCHER (Australia): Well, as I say, I may be wrong or I may be exaggerating this, but I have given careful thought to it and I do not see any answer to it in our own case at the present time.

THE CHAIRMAN: Perhaps before you go further I may try to explain, and members will correct me if I am wrong. These are the ideas we had here: we get 16 or 17 lists of demands to other countries. It has to be sent in before the 31st December, and you can add additional lists later on just to get the full information available. Then the various members will receive copies of all these lists; so that they will be able to study them, combine them, and so on, and see how far we go with regard to the requests. Then at the beginning of our meeting at Geneva, we get on the table the same kind of lists and concessions to be offered. Again these lists have to be conbined and confronted with the lists of demands. We shall then have at the beginning of our Geneva meeting immediately a Tariff Steering Committee, being the Heads of Delegations or being other people. They will, with the material available, take certain decisions as to how the negotiations should take place, where, as we have seen the principal supply rule should form a very important part. In that way it is hoped that we will be able to have certain negotiations going on in such a way that not all the countries have to take part in these negotiations, and they will be directed to them later on when the commodities in which they are specially interested come into the picture. In that way we shall not have all these negotiations simultaneously, as you envisage. Nevertheless, there will be several negotiations at the same time, and therefore in a further part of this memorandum we ask the countries to state as soon as possible how many schemes they will be able to send and further, to which countries these schemes should apply. Is not that the position?

Mr FLETCHER (Australia): Yes. Well, I am familiar with the procedure that is proposed. I may say I am actively working on it in Australia. But I am in trouble over a situation where a number of countries have got substantially through their mechanical problems, you are at the stage of having a multilateral agreement, and you are faced with the

question of its implementation. Now, we in Australia have constitutional limitations: the terms of our constitution are such that we can only bring the tariff agreement into force through Parliament. That arises out of the principle that in matters bearing on taxation Parliament shall make the laws, and custom duties have been ruled by the legal people to be a taxation measure and this constitutional provision affects them. We have a further constitutional limitation which says that a measure dealing with taxation shall deal with taxation alone and nothing else. That necessitates in the case of an agreement really two enactments: one enactment to approve the agreement - it is just a simple Act of approval - and the implementation of the agreement is dependent upon consequential legislation. In the past, let us take a situation where you have a bilateral agreement. We have sought to arrange simultaneous publication of this agreement so that people in both countries will know what the terms of the agreement are. It seems to me that you will be faced with the same issue on the 16-sided agreement, and I cannot conceive of a situation in which you can get simultaneous publication of an agreement. Thinking it down further, what is your situation if one country alone is not able to conform with the idea or stands out and says: We must have simultaneous publication of this?

Mr McKINNON (Canada): Mr Chairman, may I ask Mr Fletcher a question?

THE CHAIRMAN: Yes.

Mr McKINNON (Canada): What would be the difference if it did? If it stands out, it is out. If it merely cannot implement because of constitutional matters for a certain period, surely it would be entitled to the benefits that we contemplate extending in our discussion even to non-members. I cannot see that it would make a bit of difference if on our part we ratified it in February, the Netherlands in June, the States in May and somebody else in December. I do not think it will make any difference.

Mr SHACKLE (UK): You might have some sort of provision as to the ratifications being in by a certain time or, alternatively, by the time that a certain number of ratifications have been received the thing should come into force. There would be a sort of date

by which you would get your ratifications in.

Mr McKINNON: Yes, that would be all right, but I cannot see that they all need to ratify and bring into force at once. Some of them cannot; but I cannot see why they should not get just as good treatment in that respect and be given the same degree of tolerance and leniency as we are contemplating giving to non-members.

Mr FLETCHER (Australia): We are clear what we mean when we are discussing ratification and implementation. You see, I am troubled with the fact that in the past there was a sort of time-honoured principle that there is a simultaneous disclosure of any agreement that contains tariff changes.

THE CHAIRMAN: Well, the idea is that we will have, if possible, after our negotiations, that agreement attached to this memorandum. Every delegation will then see that it is sent to its Parliament or other bodies concerned. Those will be open, and then we have to receive ratifications, and say that every country cannot fulfil its obligations except under the negotiations and the agreement.

Mr JOHNSEN (New Zealand): New Zealand is in exactly the same position as Australia: we have no power except by Parliament, and we could not implement an agreement.

Mr McKINNON (Canada): Are not you covered by the words: "It shall be brought into force as soon as possible"?

Mr JOHNSEN (New Zealand): That will be the position.

Mr McKINNON (Canada): That is the wording. I do not think we can get everybody on the same footing with regard to the implementation.

THE CHAIRMAN: In the Netherlands you find the same thing: our tariff rates have to be enforced by law, so that we have to change the law.

Mr SHACKLE (UK): I think the position is substantially the same in the United Kingdom. The only difference is that we can ratify a convention by the Executive, but the tariff part would have to be passed as legislature.

THE CHAIRMAN: Yes; and then you would have Parliament making remarks and perhaps forcing you to make certain changes.

Mr McKINNON (Canada): By Order-in-Council - that is, action of the Executive - we can bring tariff changes into effect. The full

agreement would be ratified by Parliament probably later.

Mr FLETCHER (Australia): I was more concerned with the reasons that customarily actuate people in calling for simultaneous publication of the agreement.

THE CHAIRMAN: You can have the publication; it will not be a secret document.

Mr FLETCHER (Australia): That is just the point that struck me.

THE CHAIRMAN: It is extremely wide. We are supposed to go down there and negotiate agreements, and after that you come home and say what you have done, and expect your people to endorse it or repudiate it. I think that is the only point. Otherwise there is no point in going to negotiations.

Mr FLETCHER (Australia): No, I do not think you have got my point clear: that you go to this negotiation and carry it through as a body of officials. Ordinarily if you did that it would not be known to the public until the day that you introduced it into your Parliament or proclaimed that it was coming into operation.

Mr HAWKINS (USA): It will be known to everybody.

Mr FLETCHER (Australia): That is the point I am trying to come to: supposing one country objected to this publication.

THE CHAIRMAN: It cannot. That is why we have this agreement, and make it a part thereof with that memorandum: so that everybody will know before he arrives in Geneva what is expected after we have concluded our negotiations. That is the only reason why we make this memorandum now. Otherwise we should leave all these things, but now everybody can prepare himself.

Mr McKINNON (Canada): I cannot see that it would be a material point if one country did object, because, as Mr Hawkins says, the moment one publishes it, it being a single consultative schedule, it is known to everybody else.

Mr FLETCHER (Australia): Yes.

Mr HAWKINS (USA): That is true of an ordinary bilateral agreement.

Mr JOHNSEN (New Zealand): Yes, but Mr Fletcher says there is always an arrangement for simultaneous publication in a bilateral agreement, anyhow.

THE CHAIRMAN: Let me say this to the Australian delegate: you may say it takes you four or five weeks to get home; so do not let us publish until after five weeks, and do not let us publish it as such in Geneva. You may expect that when we have conducted our tariff negotiations, we shall still have to go on with the Charter, for certain points of the Charter will not have been covered. So that certain members of the delegation could go home, put the thing in form to their governments, so that when the time comes for the publication of the whole thing, they could have ample time to prepare themselves. If we do not do it in this way, I do not see how we can do it.

Mr FLETCHER (Australia): That is what was worrying me. Well, let me put this situation: supposing that at the conclusion of these multilateral trade agreement negotiations you have got your agreement written out, and six or seven of the participants said: we do not wish this document containing a lot of alterations in tariff rates published until we implement it ourselves. Could you disregard the wishes of those people?

THE CHAIRMAN: Well, it would just depend on the state of affairs in which we find ourselves after these negotiations, because every country has special difficulties and we have to find a common solution for these difficulties; but I cannot see that we can cover this point now.

Mr SHACKLE (UK): The thing will have to be published, in any event, at the moment it is going to be put through Parliament.

THE CHAIRMAN: You must have a certain time after concluding the provisions of the negotiations - let us say one or two months - before you can publish the whole thing. In the mean time, the work on the Charter goes on. After that, every country is free to do what it must do to implement its obligations.

Mr FLETCHER (Australia): Yes, but I am still concerned with the point: supposing you ran into this situation, what are your plans to cover it?

THE CHAIRMAN: I should prefer to decide that in Geneva.

MrSHACKLE (UK): Is not the normal procedure in a case of that kind that the thing is staged sometimes by initialling and then afterwards signature, but more often signature? The thing would then be published as an ad referendum agreement, and the various parties could take it to their Legislatures for necessary approval. You would have an interval for that to happen. You would lay it down that either by the time a certain number of ratifications come into effect the thing comes into force, or you may lay down a date by which ratifications should besent in, and if you get the requisite number of ratifications by that date, the thing is binding.

Mr FLETCHER (Australia): When you say "ratification" Ihave no doubt as to what you mean. Normally ratification is a measure which may take place many months after the actualities have been gone through. The point I am raising is the putting into effect of the tariff rates. That is the implementation of the agreement.

Mr SHACKLE (UK): To get everybody to put the tariff changes into effect at the same moment: is that your point?

Mr FLETCHER (Australia): Yes.

Mr McKINNON (Canada): You will never do that.

Mr FLETCHER (Australia): I agree; but supposing you had a situation where two or three members gave you the normal reasons why they do not wish a tariff agreement made public until they implement it, what provision have you made to cover that situation?

Mr SHACKLE (UK): You mean it shall not be made public until it is introduced into their Legislatures, because it is to become public at that moment?

Mr FLETCHER (Australia): That is the normal demand in a bilateral trade negotiation.

Mr HAWKINS (USA): Mr Chairman, what I do not see is where this differs from an ordinary bilateral agreement; what is the difference?

Mr FLETCHER (Australia): I think there is a vast difference between making arrangements for two people to implement an agreement simultaneously — and by implement I mean put the amended ratesof duty in force — and asking or proposing that 16 countries do it simultaneously.

Mr HAWKINS (USA): The normal way in a bilateral agreement is to negotiate an agreement. It usually contains a provision that it will take effect upon the exchange of ratifications and the exchange of proclamations for ratification. I do not see why you could not adapt that procedure to a multilateral agreement; it would be the same thing: it would be when instruments of ratification are deposited by a certain number of countries.

Mr FLETCHER (Australia): Iam not discussing the terms of ratification.

Mr HAWKINS (USA): I am not either, except that is the usual time at which an agreement becomes effective.

THE CHAIRMAN: You sometimes agree to postpone publication for two or three or four weeks to give the other party time to bring the thing before his government or before his Parliament in the most suitable way; you give him some time; and so I think that is simply the point of the Geneva agreement, that there will be one or two months: it will be effective in one or two months.

Mr SHACKLE (UK): Of course, some journalists may have got it and published it.

THE CHAIRMAN: Yes. I do not think we should bother too much about that problem. If you have this in the memorandum, you have four or five months to discuss the position at home, and if you have any remarks to make, you can put them in in the mean time; but do not let us try to find a solution for every contingency ,because you will never succeed indoing that.

Mr FLETCHER (Australia): Why I raised it at this point is because I think itis the second goal towards which we are aiming. If we have named it as our second goal and described it in terms and we later discover it to be impracticable, we have got to have an alternative if we are going to get anywhere at all; and I think just to postpone all consideration of the thing, dismiss it and say there is no problem in it, would expose us to the danger that at some later stage we may have to say: Well, we have given more thought to this, and we now discover that even if we could reach the goal that was set inNovember, we remain indifferent.

Mr McKINNON (Canada): That would be all right. There is nothing sacrosanct about these rules. Half of them may apply; half of them may not work out in practice. It is only a series of difficulties. If the point you are raising proves, after we have been at Geneva for three months, to be one of very substantial importance, we shall have to face up to it. I cannot see that we can now work out a series of alternatives that might suit the constitution or position and practice and procedure of 16 countries. I would have to admit right away I do not know many of them.

THE CHAIRMAN: No, and I think when you take this document you can discuss the position at home; that is the idea.

Mr. ALAMILLA (Cuba): Mr Chairman,, I think we are embarking on an internationaladventure and we are all full of doubts as to how the thing is going to work; but we have the best intentions of making it work. I believe it is quite impossible at this moment to say what is going to happen. We are going to encounter a lot of problems in our way. We will try then to resolve them, and Ithink as we have been working here for about a month or 15 days on that particular thing, we all had the same feeling that the delegate of Australia has. We are all full of doubts, but we are only trying to lay down some very very broad lines in order to see how we shall work this out. It is absolutely impossible to try to visualise all the possibilities that will arise out of this. If we were attempt to do so, we should never get away from this table. We have to think of them one by one and try to solve them. With all the good will that we have I think we may be able to do it. If at the end we find it is a practical impossibility, then we shall just have to abandon it.

THE CHAIRMAN: I think we have covered it adequately.

Mr FLETCHER (Australia): Iwould like to deal with the point. It is one I am sorry to press, but I feel really uncomfortable about it. Iam thinking solely in terms of mechanics. I am speaking as one who wants to see this thing work, and from now onwards the degree of success that we shall have in April depends upon the thought that we give to the mechanical portion of this preparatory work. There is a vast

amount of preparatory work to do. I should say every country is finding itself in the same position as we are, that the number of technical personnel that you can utilise for this is all too few. That necessitates that you should have the clearest possible understanding of where you are going. Now, our preparation, if we are to go for a multilateral agreement and nothing else, will be on very different lines than if the goal were a series of bilateral agreements. Ishould hate to find ourselves in a position that when we got to Geneva we said: Well, this multilateral business is just unmanagable; therefore we have got to resort to something else, but we have not planned to meet that.

THE CHAIRMAN: Is this the position, that you will in the first instance prepare for 16 bilateral negotiations; you put in your requests andgive certain concessions? Now, we are only trying to give you certainrules which should facilitate your work, so that you should not apply for requests for all the commodities for every country. It is just to get a short cut to these problems, and what we are trying to do is just to help you in this mechanical problem. If you did it in another way, you would have 16 bilateral negotiations covering the whole field of all the commodities. Then you would certainly be in a mess. Then you would need at least 16 teams to negotiate at the same time.

Mr FLETCHER (Australia): There is really the same ground to be covered whichever way you tackle it. The only difference in the situation is that you finish up with one document instead of 16.

THE CHAIRMAN: No.

THE RAPPORTEUR: What do you do about your non-tariff provisions?

Mr FLETCHER (Australia): Well, I would be prepared to deal with them.

THE RAPPORTEUR: In each bilateral agreement?

Mr SHACKLE (UK): There is a very obvious point, that where you are dealing with preferences it is really bound to be multilateral. It is really a multilateral negotiation.

Mr FLETCHER (Australia): I find myself in the position here that I am more or less called upon to agree with and support a rule and a proposition which I feel in the bottom of my heart is unachievable.

THE CHAIRMAN: Perhaps you could give us a better rule, but I do not see one.

Mr ADARKAR (India): Mr Chairman, on this question whether the form of agreement should be multilateral or bilateral the Indian delegation have already expressed a view. The reason why the same issue was not raised here was the understanding that we in this memorandum are not concerned with discussion of the basic principles which are to concern the negotiations, but to work on the assumption that certain principles will be adopted, and we are to confine ourselves to questions of procedure. If basic issues are to be raised, I think the consideration of this memorandum will be a very protracted affair. So that it seems to me we might confine ourselves at this stage to the consideration of the procedure which is to be laid down, leaving the treatment of principles to be dealt with in the Report, except that the mention of the principle is considered to be very important indeed. It seems to me that this questionof multilateral or bilateral is so fundamental that the only way we can deal with it is by discussing it in the Report.

THE CHAIRMAN: Well, I think we should terminate our discussion of this point now, because I cannot see that it brings us much further. We work on a certain assumption and then we try to clarify it as much as possible in this memorandum. If that is not clear enough, then we shall have to improve on it; but if we put in all sorts of other assumptions, we shall never finish. I suggest we confine ourselves to this, basing ourselves on the first assumption. If that is agreed, we can then go to the status of preferential rates of duty. Are there any remarks there?

Mr FLETCHER (Australia): This again is linked with the form of the agreement.

THE CHAIRMAN: Yes.

Mr FLETCHER: And it envisages this multilateral agreement.

Mr McKINNON (Canada): Mr Chairman, this wasadopted at the last meeting of the Committee and the decision clearly was the one said by the Rapporteur in the last paragraph, that it be left to the country concerned to determine which of the two methods indicated above. I do not see that thereis anything to discuss.

MR JOHNSEN (New Zealand): I have a point I would like to clarify on the words "preferential rates still remaining". I take it that that is on negotiated items and is not intended to refer to items on which there have been no negotiations at all? After all, the schedules would only cover items on which there have been negotiations.

MR HAWKINS (USA): I thought it was to cover all remaining rates. It seems to me they should all be included.

MR JOHNSEN (New Zealand): If the agreements were made I do not know what portion of the various items might be subject to negotiation, but there might be quite a substantial number still remaining, and they can be retained in accordance with the provisions of the Charter. You do not need to re-publish a tariff. The agreements that are made should be in conjunction with existing tariffs disclosed.

THE CHAIRMAN: There is this point. When we have that agreement then we have schedules of tariffs of every country. They will cover every item in the tariff schedule, I suppose?

MR JOHNSEN (New Zealand): I did not visualise that.

THE CHAIRMAN: Why not?

MR SHACKLE: If that procedure is followed, it will really mean in the case of countries which have preferences that their whole tariff will have to be scheduled. I should have thought the rational plan was to include in the schedules those rights which have been negotiated. As regards the remainder, it would have to be quite clear what they were; you would have to have some means of placing it on record that it was your preferential duties existing on such and such a date which were your critical ones for the purpose of your agreement, but, having done that, I do not see the need of re-printing the whole of your tariff.

THE CHAIRMAN: In that case you would follow the same procedure in regard to the preference?

MR SHACKLE (U.K.): That is what I meant. It is only, in fact, I think, as regards preferences that that point arises of the non-negotiated rates. You would clearly have to make it publicly known what those rates were in some undoubted way, but I do not think that involves scheduling the whole preferential tariff to your agreement.

MR FLETCHER (Australia): I have much the same feeling about this. There are two alternatives provided. As against the first, I have a note that this presents practical difficulties which are more or less insuperable in Australia's case

because of special preferential tariffs in which the itemisation is not parallel. We are familiar with the problem of trying to separate those things out and we certainly could not do the first of them. On the second, we might go very much closer to that. My thought was that as regards the conclusion that the Rapporteur here shows each country should be left to handle this question in the way which it finds most convenient to itself.

MR McKINNON (Canada): I think that is what this means.

MR FLETCHER (Australia): It says "which of the two methods". There are other methods of achieving the same end.

THE CHAIRMAN: We have to clarify it a bit because it leaves some doubt.

THE RAPPORTEUR: I think the point raised by Mr Shackle could be very easily taken care of simply by saying "preferential rates which are negotiated".

MR McKINNON (Canada): That is what I mean; you have undertaken an obligation not to increase the preference.

THE RAPPORTEUR: I think it might read, "The formulation by each member of a scheduled tariff concession which would apply to all other members raises a question as to the method of relating to such schedules preferential rates of duty which have also been negotiated", and under "1" you could say, "The preferential rates might be incorporated" or "Such preferential rates might be incorporated".

THE CHAIRMAN: I think we can leave it to the Rapporteur.

MR McKINNON (Canada): We must remember that we shall not have this in front of us again.

THE RAPPORTEUR: This is what I have before me now: "which would apply to all other members raises a question as to the method of relating to such schedules preferential rates of duty which have also been negotiated".

MR McKINNON (Canada): I do not think that is quite the meaning you are attempting to put into words there, is it? What you are concerned with are the preferential rates relating to the m.f.n. rates that have been negotiated.

MR JOHNSEN (New Zealand): Could not you put in the words "negotiated items" in that sentence?

THE RAPPORTEUR: May there not be preferential cases in which that would be the case?

(At this point the Chairman was called to the meeting of Committee II.)

MR McKINNON (Canada): We have eighteen hundred items in our tariff and as a result of these multilateral negotiations twelve hundred of the eighteen hundred become involved. Some of these - by far the great majority - will be negotiated at the request of some favoured nation. A certain number will be negotiated at the request of some preferential area. Surely it is not contemplated that we need schedule the 600 items that are not negotiated by anybody? In respect of these each of us will have already undertaken an obligation not to increase the margin of preference. Surely that is entirely up to the country itself as to how it shows that? I cannot see that any signatory to the agreement would be interested in knowing either the preferential rate or the m.f.n. rate or the margin on those items which nobody thought worth while negotiating.

THE RAPPORTEUR: I would agree with that completely. The only thing it would seem you would have to put into a schedule of some kind would be a rate which had been negotiated. That would apply both to m.f.n. rates where they are negotiated and to preferential rates.

MR JOHNSEN (New Zealand): As long as we understand that, that is quite clear.

THE RAPPORTEUR: I think the revised wording now covers only negotia ed preferential rates.

MR McKINNON (Canada): Your latest wording related to a negotiated preferential rate. That is the other side of it. I am not sure that the original wording was not quite all right if we understand we are talking only in respect of items in respect of which either one or both rates have been negotiated.

THE RAPPORTEUR: That was the intent but it was not clear before.

MR McKINNON (Canada); Mr Johnson said a moment ago that if that was the meaning he thought we all understood it, I believe.

MR JOHNSEN (New Zealand): That is right.

THE RAPPORTEUR: Would you prefer to have it clarified or left the way it is?

MR ALAMILLA (Cuba): I think it should be clarified.

MR McKINNON (Canada): We shall not have this document before us again as a Sub-Committee. Now that Mr Leddy has stated what he takes the meaning to be and there seems to be agreement generally that that was intended, we could safely leave it to him to put that into words, I think.

MR ALAMILLA (Cuba): I agree.

THE RAPPORTEUR: Yes, and the wording was: "...raises a question as to the method of relating to such schedules preferential rates of duty which have been negotiated and preferential rates on products for which the most favoured nation rate of duty has been negotiated".

MR McKINNON (Canada): Yes.

THE RAPPORTEUR: Now, are there any other comments on the "Status of Preferential Rates of Duty"? If not, the next item is "Procedures for conducting negotiations among the members of the Preparatory Committee". Are there any comments under "First stage"?

MR ALAMILLA (Cuba): This is only a drafting point and I am not really authorised to put this up, but I think if you start by saying "Each member should transmit to each other member" and then after that you have to give thirty copies they will always be getting them; and I think we ought to say that we are going to send them to the ones who are interested and who request them and to the Secretariat. I think we might leave it to the Rapporteur to clear that up.

THE RAPPORTEUR: Yes; each member in sending a list to another country should at the same time send thirty copies of it to the Secretariat.

MR ALAMILLA (Cuba): You do not want to have to give out seventeen copies and then after that thirty more.

MR FLETCHER (Australia): We would like to see that paragraph end with the word "member" in the fifth line. I think if we are going to circulate these requests widely we are going to get into all sorts of difficulties of premature publicity; and, after all, the main purpose of this list is to assist the country making preparations for negotiations to get on with their work, so that they will come to the conference prepared to get down to business.

MR McKINNON (Canada): We discussed this provision also at great length at our last meeting, and it was decided that as regards the lists of requests, whether you think of them as just the first one, which is a list of commodities, or the second one, which is the one meant here, the list showing the requested rating, that publicity in those cases could not make very much difference. There is no harm in asking for the sky even if you hope to get only part way there. The publicity will occur anyway.

Presumably if only one copy is sent to the Secretariat it is going to be published in some way. I pointed out that we had to risk any disadvantage of premature publicity on the list of demands, and I did not think it mattered very much if they did get it.

THE RAPPORTEUR: I should think every country should be in a position to say "These are merely requests made to us; we have given no commitment whatsoever".

MR ALAMILLA (Cuba): They are only requests.

THE RAPPORTEUR: Does that meet your point?

MR JOHNSEN (New Zealand): It will give rise to a lot of high hopes, I am afraid, on the part of certain merchants.

THE RAPPORTEUR: Does that meet your point, Mr Fletcher?

MR FLETCHER (Australia): I dislike this entirely, but, as Mr McKinnon says, it was discussed at the other meeting and I do not know that there is much use in my persevering now. I would have liked to see more emphasis placed on this question of letting countries know what items the other country is likely to be interested in. I do not attach as much importance to the rate request list as to the very early receipt - the very earliest possible receipt - of the list naming the commodities in which a country is likely to make a request for it. Because of staff limitations you do not want to be spending your time on items that no request will be made on, and if this notification were made early on you could concentrate all your attention on it. The actual spelling out of the request is not so important. In the final analysis the country processing the list that contains the commodity has a first responsibility to make up its mind how far it can go. With this as it stands it is left to countries to present their list by the 31st December. Once a date is mentioned it becomes a date that people get in their minds, and they say "As long as we get it through by that date it is all right". In Australia's case it leaves us with very little time to process the thing, and as we have to print large numbers it looks to me that it would be a matter of ship movement, and even if we caught the boat which fits in with it I should think it would take four to six weeks.

MR McKINNON (Canada): It says "preferably not later than".

THE RAPPORTEUR: I think it would help some countries in trying to get it out as soon as possible if you had a date in mind, and I think the language is not tight.

MR FLETCHER (Australia): No, but it gives a person an authorisation to wait until 31st December.

THE RAPPORTEUR: That is not waiting very long.

MR JOHNSEN (New Zealand): I take it that these negotiations are going to take place in an atomosphere of secrecy?

MR McKINNON (Canada): No. Certainly as regards the request I share Mr Shackle's view that very soon there will be no secrecy.

MR JOHNSEN (New Zealand): I can see great difficulties arising in completing negotiations if publicity is going to be given to these requests. I know what it will be like in New Zealand if manufacturers know that a request is made for a certain concession. It is not so bad if they know the item might come up for consideration, but if they know a certain specific request has been made the reaction will be such that I am afraid the Government will be faced with the greatest difficulty.

THE RAPPORTEUR: Is not that unavoidable in negotiations of any sort? The other members of the Committee will have to know, it seems to me, how the negotiations are proceeding.

MR JOHNSEN (New Zealand): On a multilateral basis I think that would be unavoidable; everybody would want to know what was going on; but in the past in bilateral negotiations we have always found it possible to maintain secrecy in negotiations.

MR McKINNON (Canada): It will be public knowledge very quickly.

MR JOHNSEN (New Zealand): I can see that, and I can see great difficulties arising, and I assume our Governments will have an opportunity of saying what attitude they will take up on a matter like this. I certainly would not care to commit my Government on it - and, of course, I have no authority to do it anyhow.

MR McKINNON (Canada): I do not know if Mr Johnsen was at the previous meeting, but none of us liked this then any more than we do now. We did not like the idea of the public circulation even of the first list. We thought it was extraordinary to have to send thirty copies to the Secretariat as well as to every other member, and there were many things we did not like about it; and above all we feared the publicity; but it was discussed and discussed, and this is what emerged. It seems to me now, from the standpoint purely of technicians, we were jealous of the secrecy that must be maintained, but we

did discuss it and discuss it and eventually we arrived at this; and it seems to me, in the present attenuated stage of the Committee, with no Chairman and the United States representative gone, we cannot very profitably discuss it. I think we ought either to adopt this or adjourn and meet again.

MR ALAMILLA (Cuba): I think it should be made clear that we have divided it into two stages. Offers will be made and they may or may not be published. That is the first thing. The second thing is that the articles which are going to be offered in exchange would only be known to those in the actual meeting in April. The thing is completely divided.

MR JOHNSEN (New Zealand): I would understand that, but I thought we should at least try to apply some measure of secrecy during the negotiations. I assume that would be the case then, just as we have had no public sessions here.

MR ALAMILLA (Cuba): I think it would be unavoidable, and we have to look at it from a practical point of view. We felt it was better that the countries should know as soon as possible what would be requested from them, and that we should have to take the risk of anything becoming public. We felt that was better than going to Geneva in April and having to spend a long time finding out these things at that stage. We discussed it at considerable length and we decided that was the best thing we could do.

THE RAPPORTEUR: What do you want to do about this? Do you want to agree to the two paragraphs or do you want to postpone discussion of them until the Chairman returns?

MR McKINNON (Canada): I move the adoption of it as it stands.

MR SHACKLE (U.K.): I had the most fiddling little point on the second paragraph to bring up: I do not quite see why, when you are sending your lists to each of the other countries, you should not send a copy of the customs tariff at the same time. Why send them all to the United Nations and then to the different countries? It seems unnecessary.

MR FLETCHER (Australia): It struck me that that was done after you made your request. You more or less must have the tariff when you prepare the request.

MR ALAMILLA (Cuba): I would like to answer that, because I was the one who proposed it. The idea is that you are not going to send your request directly to everyone - only to those who are going to request something - and you send the thirty copies to the Secretariat and all your copies of your tariff.

MR SHACKLE (U.K.): There may be some people of whom you are not making a request.

MR ALAMILLA (Cuba): To those you do not send any request, but they would receive in due course a notice that a request had been made to somebody else.

MR SHACKLE (U.K.): I follow; thank you.

THE RAPPORTEUR: Is there any seconder to the motion moved by Mr McKinnon?

MR ALAMILLA (Cuba): I second.

MR FLETCHER (Australia): Are we adopting the Report?

THE RAPPORTEUR: It would be as a recommendation to Committee II. Anybody is free to raise any question on this Memorandum there. Now, are there any comments on the "Second stage"?

MR JOHNSEN (New Zealand): Yes, on the question of the practicability of sending these tariffs, I am afraid our tariff has not been printed since 1928 - that shows you how frequently we make alterations! We are right out of copies of the tariff at the moment and there is no possibility of getting other copies printed.

MR McKINNON (Canada): I think this was thought to be a clause that might be honoured in the breach by a good many members. I believe another delegate suggested he was not sure that they had one in print at all.

MR JOHNSEN (New Zealand): I think if we sent lists showing the duties on the items in which members were interested that would meet the case. Now, are there any comments on the second stage?

MR FLETCHER (Australia): To what extent is this practical for each country? I ought to be frank and say that in our case it is quite an impossibility, particularly with the majority.

THE RAPPORTEUR: This would have to be by the beginning of the second session.

MR FLETCHER (Australia): Yes, but when I consider it in conjunction with the plans of procedure this morning, I think that to put this in and to lead people to think that you will arrive at this Conference with this list is misleading everyone, and it may well bring about a chaotic condition at the Conference.

MR McKINNON (Canada): I understand that the Technical Committee's Report is through Committee II, and that the feeling there is that possibly we might adjourn, as it would all be discussed again there.

THE RAPPORTEUR: You mean without further action here on the Memorandum?

MR McKINNON (Canada): Yes. This is not an official announcement.

THE RAPPORTEUR: We would simply submit this to Committee II without recommendation from the Sub-Committee on Procedures?

MR McKINNON (Canada): Yes.

THE RAPPORTEUR: Then is it agreed that we adjourn now? (Agreed.)

Adjourned sine die.