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CONSEIL ECONOMIQUE ET SOCIAL

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

VERBATIM REPORT

SEVENTH MEETING OF COMMISSION A, HELD ON TUESDAY, 3 JUNE, 1947 at 2.50 P.M. IN THE PALAIS DES NATIONS, GENEVA.

H.E. Mr. ERIK COLBAN (Chairman) (Norway)

Delegates wishing to make corrections in their speeches should address their communications to the Document Clearance Office, Room 220 (Tel.2247).

CHAIRMAN: Our Agenda comprises the study of Articles 14, 15, 15A and 24 of the Draft Charter. You will find all the information you need in Document W.150. You have before you also the New York Draft. There you will find, as is noted in Document W.150, that at New York two Delegates made a suggestion with regard to the application of the rules on preferences. I take it that we will not start the discussion with that but postpone it until we have discussed Paragraph 2 of Article 14.

The next point we come to is what is called Specific Comments, on Page 10 of the New York Draft. These Specific Comments also relate to Paragraph 2, that is, to preferences, and before we deal with that we must deal with Paragraph 1. You will find on Page 2 of Document W.150 a communication from the French Delegation.

CHAIRMAN (Interpretation): Does the Delegate of France wish to complete the commentary which appears on Page 2 of Document W.150?

M. Pierre BARADUC (France) replied in French - not interpreted.

Dr. Gustavo GUTIERREZ (Cuba): On Page 2 of Document W.150 it is said the Cuban Delegation reserves its right to present amendments at the moment Commission A begins the discussion of this Article, or before that date. I wish to ask the Chair if this is not a proper moment for the Cuban Delegation to make a statement.

CHAIRMAN: It would certainly be the right moment to do this if the Cuban Delegate had sent his suggestion to me; I think he has not. So I would invite him now to present his suggestion.

Dr. Gustavo GUTIERREZ (Cuba): Mr. Chairman, We have really been very hesitant to take any of the time of the Commission in relation to this matter. We were indeed expecting that, with the many amendments which have been presented to Articles 14 and 24, we could find a way out of our problem. Nevertheless, we consider that we must state clearly our position according to the experience we have had in the tariff negotiations.

The Cuban Delegation is of the opinion that it is inconsistent with the purposes of the Charter and with the basic idea of a multilateral agreement, which aims at the removal of unnecessary trade bariers and customs duties, that the concessions made by one Member should have to be granted to another Member, even if the latter were unwilling to fall into line with those Members who readily accept a multilateral agreement based upon reciprocal and mutually advantageous concessions between all Members.

Article 24 already provides a remedy for the extreme case in which a Member has failed to fulfil, within a reasonable period of time, its obligations under Paragraph 1 of this Article. But this seems to refer only to the case in which the Organization finds, as sentence 2 of Paragraph 3 states, "that the Member has, without sufficient justification, having regard to the provisions of the Charter as a whole, failed to negotiate" with the complaining Member.

The Cuban Delegation understands that this covers the case in which a Member has rejected the negotiations, but not the different situation, which may be not less serious, of its refusal to make reasonable concessions equivalent to the offers made by another Member.

Under these conditions the concessions granted in the interest of all Members who are co-operating to create a genuine multilateralism lose their real character and become a unilateral obligation of one Member in favour of another.

In order to avoid that the progressive idea of a real multilateralism in international trade, to which the Cuban Delegation adheres, could be discredited by such undesired and undesirable consequences, and to make fully clear the inter-dependence existing between the obligations set forth in Articles 14 and 24, the Cuban Delegation suggests that there be inserted in Article 14, Paragraph 1, after the words "shall be accorded immediately and unconditionally", the words "subject to the provisions of Article 24".

The Cuban Delegation also suggests that a new paragraph, 4, be added to Article 24 to read as follows:

Article 24, Paragraph 4.

"Paragraph 3 will apply correspondingly if offers made by one Member in accordance with Paragraph 1 were not met by equivalent concessions of the other so as to make possible a reciprocal and mutually advantageous agreement on tariff and/or other charges on imports, and if the first Member considers that its interests would be seriously prejudiced by the fact that nevertheless its multilateral concessions could be claimed by the other Member on the basis of the Most-Favoured-Nation clause".

Furthermore, the Cuban delegation is convinced that the preferences deliberately kept in force as a result of careful deliberations should be protected. Therefore, the Cuban delegation proposes that paragraph 1(b) of Article 24 should read as follows:

"All negotiated reductions in Most-Favoured-Nation import tariffs shall operate [automatically] to reduce or eliminate margins of preference, as far as the Member that enjoys the preference and will be affected by such reduction agrees. No margins of preference shall be increased, after the negotiations are completed."

CHAIRMAN: It is in the terms of our rules of procedure that amendments or proposals must be submitted by a certain date, and that amendments or proposals submitted after that date will not be dealt with in the Commission but transmitted to such ad hoc sub-committee as may be constituted for dealing with the article concerned. I wonder whether it would be satisfactory to the Cuban delegate that his statement be written and presented to all the delegations in English and French and sent over to the ad hoc sub-committee which I take it for granted we shall be obliged to constitute.

DR. GUSTAVO GUBIERREZ (Cuba) (Interpretation): The Cuban delegation has no objection, but as the case presented by the Cuban delegation is involved in amendments presented by all the delegations we will take part in the debate and raise it again in its place.

CHAIRMAN: Does anyone want to speak on the Cuban declaration now? This not being the case I think we abide by the rules of our procedure, but obviously every delegate has the right to have at the back of his mind what the Cuban delegation has just said.

(continued in French) (Interpretation): I would like to come back on what I said a few minutes ago, come back to the declaration made by the French delegate. It is not, properly speaking, an amendment. It is a declaration by which the French delegation draws the attention of the conference to the difficulties which the French administration meets in applying that paragraph 1 of Article 14 and with certain points of Article 16.

M. BARADUC (France) (Interpretation): Mr. Chairman, you may well consider that the point raised by the French delegation on page 2 of document 150 is a point of detail. As you pointed out yourself, this is not exactly an amendment which we want to propose but it is an old story which the French delegation has had an opportunity more than once to explain to members of this conference. We brought this point up in our meeting in London, again in the Drafting Committee in New York, and, if my recollection is correct, also at our present meeting in Geneva.

We had hoped until recently that it would be possible to amend the Draft Charter so as to introduce in the clauses of the Charter this different distinction between country of origin and country of export of certain goods. This is a traditional discrimination which exists in French legislation, and it would have suited our own legislation had the Charter recognised this principle which is important to us.

As things are now, we do not want to press our point, but feel that we will require a certain delay after the Charter has been signed to adjust our legislation to the clauses contained in the national Charter. Such adjustment in our own national legislation will not be possible until such time as the general agreement on tariffs, which will presumably deal with Article 14, has been signed.

When the Charter comes into effect, on the contrary, it will be possible for the French government to consider the necessary amendment in our own legislation so as to bring it into harmony with the clauses of the Charter.

The only practical question that I want to ask the Commission is whether members of the Commission consider that the French government, considering the peculiarity of our legislation, would

be justified in asking for a certain delay after the Charter has been signed, so as to adjust our own legislation to the clauses of the Charter.

CHAIRMAN (Interpretation): If nobody asks for the floor, I will try to answer the question put by the delegate of France.

If I may say so, I am gratified to understand that the French delegation does not insist on any change in the Charter itself, but that it expects, at the time when the general tariff agreement would be signed, some understanding on the part of other delegations if the French government does not succeed at that time to bring its own legislation on the same level to comply exactly with the Charter.

This being understood, then it simply means that the other delegations will show the confidence that they have that French administration will be able to live up to its promises at the time when the Charter itself will be signed.

M. A. FAIVOVICH (Chile) (Interpretation): Before speaking about the observationso of the French delegate, I would like to ask him whether his intention is to suggest that in some way or another the Charter itself mentions the fact that the Commission and the Conference would allow the French government a certain delay to comply with the clauses of the Charter.

M. BARAUC (France) (Interpretation): The French delegation leaves it entirely to the Commission to decide whether a note should be made in the tariff agreement itself, or whether it should simply be mentioned in the report of our work generally.

CHAIRMAN: The delegate of Chile.

Mr. FAIVOVICH (Chile) (Interpretation): I wish to thank the French Delegate, Mr. Chairman, for his commentary upon the proposal which he has made; but even though the Charter does not specifically mention the fact that each of the signatory powers will have to adjust its national legislation to the clauses of the Charter, such procedure goes without saying, and the necessary adjustments will have to be made by all necessity before any Member can become a party to the Draft Charter.

If the French Government consider that in view of their peculiar legislation they will need a certain delay in order to adjust their legislation to the clauses of the Charter, the provision of such additional delay must by all necessity be considered as an Amendment to the clauses of the Charter which the Commission is now considering. Such Amendment, as a matter of fact, would give the French Government a preferential situation, and could only be introduced in the Charter if it resulted from an agreement of all the Members here, and was treated as an Amendment.

You have, Mr. Chairman, stated that we should consider this commentary of the French Government in a spirit of harmony and of confidence, but I wish to recall that such confidence has not always existed in other respects; more particularly in a certain Amendment which the Chilean Delegation have moved to Article 14 of the Draft Charter, the French Delegation were opposed very strongly and did not consider that simple confidence would be enough for understanding the point of view expressed by the Delegation.

Secondly, although the French Delegate considers his solution was given merely in the form of a commentary, it could only be

dealt with properly by this Commission in the form of an Amendment, and should be dealt with as such.

When you refer to delay you refer to something entirely indeterminate, and that delay the French delegation would claim in order to harmonise their resolution with the clause in Article 14.

To sum up my point of view, I suggest, Mr. Chairman, that the French commentary and observation should be dealt with as an Amendment to Article 14, and I for one am opposed to such Amendment.

CHAIRMAN (Interpretation): If I understood correctly what the French Delegate has said, it is this: That he will foresee the time when the French legislation will be modified in the way contemplated before the signature of the Charter.

Therefore I do not see how we can talk about an Amendment to the Charter. On the other hand he has declared that he cannot take the responsibility of having his legislation amended before the signature of the tariff agreement. Therefore, at the time when the tariff agreement will be signed it will be up to the French Delegation either to make a reservation or to bring to note in any document an explanation of its attitude at a time when the tariff agreement is settled, promising on the other hand to have the legislation moved at a time when the Charter will come into force.

Therefore I think this is the only practical way in which we can deal with the present situation.

Does any other Delegate wish to speak on this?

Mr. SHACKLE (United Kingdom): I would merely like to say I support your suggestion.

CHAIRMAN: The Delegate of France.

M. BARADUC (France) (Interpretation): Mr. Chairman, I would just like to tell you that you have correctly interpreted our point of view, but in view of the discussion which has taken place here this afternoon, the French Delegation will make it its business to solicit its Parliament and its Government to bring about the necessary changes in the legislation as soon as possible, and even, perhaps, even if I cannot give any definite undertaking in that respect, to have it modified before the signature of the Tariff Agreement.

CHAIRMAN: The Delegate of Chile.

M. ANGEL FAIVOVICH (Chile) (Interpretation): I am sorry, Mr. Chairman, but I still feel that there may be some misunderstanding concerning this problem. If what the French Delegate wanted to say was that France will have to adjust its national legislation to the clauses of the Charter, I do not see the purpose of his declaration, since all countries who are signatories of the Charter and of the Tariff Agreement will have to act alike. If, on the other hand, what the French Delegate had in mind was to state that after the signature of the Charter and the Tariff Agreement France may need an additional delay in order to harmonise its legislation with those international instruments, I stated, and I state again, that it implies a preferential treatment in favour of the French Government which can only be granted by way of an amendment in the Charter itself.

CHAIRMAN: The Delegate of France.

M. BARADUC (France) (Interpretation): Mr. Chairman, I want to make more precise what I have just stated. The French Government understandsperiectly well that it cannot sign the Charter

without having put its legislation in order in conformity with the Charter. The only thing I wanted to point out was that the French Government will have some difficulties in putting its legislation into accord with the Charter before the Tariff Agreement, which is to be signed in a very short time, is completed. That is all I wanted to say.

CHAIRMAN: Well, I think this discussion has proved rather useful because we now know that there is no question of any preferential rights being reserved to the French Government. If there has been any misunderstanding in the minds of any of the Delegates, that is cleared away by the declaration of the French representative; and we are carried a step further by his promise to do his utmost to be, if possible, in possession of the revised legislation even when the Tariff Agreement is signed. After all, it is not the signature but the coming into force of the Agreement that is the legally decisive thing.

The Delegate of the United Kingdom.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, might I add one small comment? The Charter, as it is now drafted, makes no provision for signature. It is perfectly evident that there will have to be signature if only to attest an agreed text. If I understand all precedents rightly, there is no necessity for a country, the moment it signs an agreement, to have brought its legislation into conformity. It is when it ratifies or -in modern parlance- when it accepts, that it is expected to have brought its legislation into conformity.

CHAIRMAN: We pass on to the next item - the proposal of the

United States Delegation for a slight but rather important amendment of paragraph 1 of Article 14. You will see it on page 3 of Document W/150. They propose to strike out the term "national treatment" and to say explicitly "all matters referred to in paragraphs 1, 2, 3 and 4 of Article 15". When I said that it has considerable importance, I did not mean that it altered the fundamental idea of the text, but simply that it made the text very much clearer.

CHAIRMAN: Any delegation wishes to speak about this amendment?

M. STANISLAV MINOVSKY (Czechoslovakia) (Interpretation): Mr. Chairman, the United States amendment which you have just read out, refers to paragraphs 1, 2, 3 and 4 of Article 14. You will remember that in Article 15 a certain number of amendments have been submitted which appear on page 8 of W/150. Consequently, I assume it would be preferable to dispose of those amendments on Article 15 before considering the United States amendment on paragraph 1 of Article 14. If this procedure will not be followed, the Czechoslovakian delegation would have to reserve their right to come back to Article 14 after Article 15.

CHAIRMAN: I can assure the Czechoslovak delegate that we all wish to come back to the exact terms of Article 14 after we have discussed Article 15. What I meant was simply whether we want to get rid of the word "national treatment" and replace it by the matters referred to in such and such paragraph of Article 15 which will be drafted and agreed upon at a later date. I hope this is satisfactory. Does anybody else wish to speak on the United States proposal? May I take it then that we are generally in agreement with that proposal? Agreed.

The next point is the middle of page 3. The Australian delegation proposes an amendment. It wishes to insert, after the word "shall" the words "except as otherwise provided elsewhere in this Charter", and the document 150 gives the comments and arguments of the Australian delegation. You have already read it. Does the Australian delegation wish to speak?

Dr. H.C. COOMBS (Australia): At the risk of wearying the Commission, I feel it necessary to take the opportunity of introducing this very modest amendment to emphasise the point regarding the attitude of the Australian delegation towards this group of Articles as a whole. As you know, the Australian government has, in the past, relied upon a system of commercial policy which did not conform to the principles embodied in these Articles, and it is the opinion of my government that the departure from practices in this respect represented a major change of policy and, from their point of view, a major sacrifice of principles to which they have held very firmly in the past. It is not our intention here to question the major principles involved in this Article, but I would like to draw the attention of this Commission to the fact that my government is willing to accept these principles which date back historically to an agreement entered into between the United States government on the one hand and certain governments of the British Commonwealth on the other. The agreement was concerned with the mutual aid and exchange during the war, and an Article of thatAgreement provided that there should be, in the future, provision for agreed action between the United States government on the one hand and the governments of the British Commonwealth concerned on the other, open to participation by all other countries who, like mine, have agreed to action directed towards the expansion by appropriate international and domestic measures of production, employment and and exchange and consumption of goods, and elimination of all forms of discriminatory treatment of international commerce and the reduction of tariff and other trade barriers. You will have noticed that the purposes towards which the agreed action referred to should be directed, are of three kinds. Action directed towards expansion

of production, employment, and exchange and consumption of goods, the elimination of all forms of discriminatory treatment, and the reduction of tariff and trade barriers. A point I want to emphasise, Mr. Chairman, is that, from the point of view of the Australian delegation, those purposes are inter-related, and it is not our intention to accept the obligations implied by any one of them unless there is a substantial evidence that the other purposes are receiving attention which gives us reason to anticipate that agreed action would be taken and will prove affective, and consequently it will not be possible for a final judgment to be made by the Australian government as to whether the acceptance of the general most-favoured-national principle, as replacing the preferential basis on which the whole of this commercial policy has been constructed in the past, can in fact be accepted until we have made fairly substantial progress, not merely in the discussion of the Charter but in other parts of the work and in other parts of the international and domestic policy. As I pointed out, it is not our intention to raise any of these matters of principle in the discussion of this particular Article, but merely be improve the present draft on the assumption that it will prove possible for us to make the major change of policy to which I have referred. With reference to the particular amendment which appears on page 3 of the annotated agenda, we have little to add to the note which appears there which makes it clear that it is not the intention of the most-favoured-nation treatment required by Articles 14 and 15 to override specific exceptions provided for in other Articles of the Charter. We therefore suggest the inclusion of the words "except as otherwise provided elsewhere in this Charter".

Mr. R.J.SHACKLE (United Kingdom): Mr. Chairman, I think it is quite obvious that the terms of the Australian amendment would involve no change of substance whatever. It is, as I say, purely a drafting clarification. At the same time I think it is desirable, because the words of Paragraph 1 of Article 14 are certainly very wide: "With respect to customs duties and charges of any kind. . . and with respect to all rules and formalities in connection with importation or exportation. . .". They are clearly very wide words. I do not believe it was the intention of those who drafted those words to catch within them certain matters provided for elsewhere in the Charter, such as quantitative restrictions. The fact remains that the very wide net they have spread is capable of catching those particular fish. I think it is very desirable to make it clear that those fish are not caught.

CHAIRMAN: May I take it that the Commission ---- The Delegate for Belgium.

M. Desclée de MAREDSOUS (Belgium) (Interpretation): I am not so convinced, Mr. Chairman, that this is a mere change in the drafting of Article 14. I feel that, inasmuch as this amendment may refer indirectly to such clauses as Article 28, it may also entail quantitative restrictions and it might, in so doing, introduce new escape clauses in Paragraph 1 of Article 14.

CHAIRMAN: If I may express my own view it is simply this: that all the clauses of the Charter are of equal value and for that reason it would not be necessary to adopt the Australian amendment. On the other hand, as we, during

the discussions, come up against this misunderstanding that there is a kind of priority between the different Articles, I think it is advisable to say expressly what we all agree to, that this Article covers its ground only insofar as it is not contrary to other equally valid stipulations of the Charter, so I think for practical reasons it would be advisable to adopt it.

CHAIRMAN (Interpretation): I would like to make a correction: I have no right to accept or refuse: I would simply consider that this addition would be in order.

Mr.C.DESCLEE DE MAREDSOUS (Interpretation): Mr. Chairman, I wish to repeat that this amendment is either superfluous or else it is necessary and if it is necessary we should read it and understand it in the light of the commentary which the Australian delegation themselves have given on page 3 of document T/W/150 where it says, for example, "Article 28 provides for the possibility of discrimination in certain circumstances" and then it goes on to say "The words which it is suggested should be added to Articles 14 and 15 are designed merely to remove any possible doubt on this question." If you read Article 28, which I have mentioned before, you will notice that this Article 28 refers exclusively to Section (c) and not at all to Section (a).

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, may I make this observation? I think you have ruled on previous matters that the titles of Articles of this Charter have no legal force. A fortiori, the section letters have no legal force. Section (a) is not a watertight compartment, Section (b) is not a watertight compartment, nor is Section (c), nor any other Section. It therefore follows that one has to cross-refer from every Article of this Charter to every other and I do not think we can admit that because Articles have certain sections they are to be interpreted irrespective of the Sections which appear in any other Articles.

Dr. COOMBS (Australia): Mr. Chairman, I do not think there is any need for us to discuss this question at great length here. I can assure the delegate of Belgium that we are not seeking in any way to alter the purport of this Article. Our intention is to make it quite clear that, if the Charter in another part permits action in

certain specific circumstances, the general rule embodied in Article 14 should not be taken to over-rule the specific approval embodied in another part of the Charter. Whether the particular amendment we have suggested is necessary is a matter which probably a lawyer could determine a good deal more readily than I could, and I, for my part, at any rate, am perfectly content, having made the point, for it to be left to a drafting committee who could seek appropriate advice on the matter as to whether the particular words we suggest are in fact necessary; and if the decision is that they are not, then we are so much the happier.

CHAIRMAN: I have already said that, although in my mind this is not necessary, it is a good amendment, and I have the feeling that the Commission generally agrees to the amendment submitted by the Australian delegation, and before referring this to a drafting committee, or to a Legal Adviser, I would like to know whether the Commission is prepared to accept it as a useful addition to the text.

Mr. WINTHROP BROWN (United States): I think my delegation would prefer to see the matter referred to the drafting committee. In fact perhaps there may be a point there, and we might have a suggestion as to how it could be met; but we do not quite agree with the language as suggested and we think it may be a little broader than is needed.

Dr. J.E. HOLLOWAY (South Africa): On the substance of the Australian amendment we are in full agreement with Australia. I think though, that the lawyers should be brought into this position. Our understanding of the Charter is that the specific exception always takes precedence over the general rule, but if in one general rule we put that in and we do not put it into others, there may be doubt about that, and I think it is purely a matter for the lawyers to decide what that means.

Mr. J.J. DEUTSCH (Canada): I agree with the suggestion that the drafting committee should examine the necessity for the inclusion of the Australian amendment. We prefer to keep a general rule such as this as clear-cut as possible and not cluttered up with any exceptions and things of that kind. This is a general rule. We should try to keep it as clear and as simple as possible without any exceptions. Therefore I would like the sub-committee really to examine the necessity for including this.

Dr. CUSTAVO GUTIERREZ (Cuba): The Cuban delegation at this moment has not made a full judgment about the inclusion of this amendment and is not in a position to accept it here in the Commission now. We should prefer to pass it to the sub-committee.

CHAIRMAN: We will send the question to the ad hoc sub-committee we are going to set up, advising the sub-committee to seek legal assistance.

We pass on to the examination of paragraph 2. There you have in the New York text some specific comments. There is a reservation by the Chinese delegate who wished to reserve the right of his Government in case of absolute need to resort to preferences in the future, and the Chilean delegate made another proposal, and so on. But I propose to pass over these just now and go on with the full New York text of this paragraph and then afterwards we shall take the different reservations.

I beg to draw your attention to the United States proposal on page 4 of document 150. You will see that they combine here Article 17 with Article 15 in bringing in the words "or internal taxes". I wonder whether the United States delegation wants to comment more upon this proposal.

MR. W.G. BROWN (United States): Mr. Chairman, the concept which we have been proceeding on is that preferential agreements of the certain kind now in force should be subject to negotiation. There are a few preferential internal taxes - we have some, and some other nations have some. Our suggestion is simply that they be placed on the same basis of being negotiable as internal tariffs.

M. C.D. de MARBEDSOUS (Belgium) (Interpretation): Mr. Chairman, the Belgian delegation cannot accept the amendment proposed by the United States delegation to paragraph 2 of Article 14, because it is a new step backwards in comparison with our initial objectives, among which the total suppression of all preferential duties was contemplated. We had expected to be part of the Preparatory Commission in this idea.

Moreover, it changes one of the basic principles on which we had started our tariff negotiations, and on which all our preparatory work is being conducted.

We have not presented demands or requests as far as preferences in matters of duties and taxes or internal taxes are concerned, because paragraph 1 of Article 14 and Article 15 altogether put a definite end to all differences or discriminations in matters of interior taxes as soon as the Charter comes into force.

CHAIRMAN (Interpretation): The delegate of France.

M. BARADUC (France) (Interpretation): Unless I have not properly understood the meaning of the amendment submitted by our United States colleagues, I wish to state that I agree entirely with what has been said by the Belgian delegate. It seems to be difficult to accept the idea that Article 14 should recognise internal preferential tariffs, whereas Article 15 states very clearly that such taxes should be suppressed.

CHAIRMAN (Interpretation): Are there any further remarks?

MR. A. VAN KLEFFENS (Netherlands): I fully concur with what my Belgian colleague has just been saying.

MR. J.P.D. JOHNSEN (New Zealand): I would like to support the suggestion made by the delegate of the United States, Mr. Chairman. New Zealand is one of those countries that has an internal tax. It is really in the form of deferred customs duties.

I think it is only right in the case of a tax of that nature, which is negotiable until such time as it has been negotiated, that it should be permitted to continue in operation, just as an ordinary customs duty should be. For that reason, I support the amendment suggested by the United States.

CHAIRMAN (Interpretation): Are there any further remarks? Then it seems that as opinions are divided, I would like to come to the common opinion before sending it out to the sub-committee.

DR. G. GUTIERREZ (Cuba): Mr. Chairman, this matter is so inter-related with Article 15 and with Article 24, that the Cuban delegation thinks it is rather difficult to name an opinion on the separate issues of the amendment, so we would really prefer very much that the whole matter be sent to the sub-committee.

CHAIRMAN: Does the delegate of the United States wish to say more about it before we send it to the sub-committee?

MR. W.G. BROWN (United States): I do not think so, thank you, Mr. Chairman.

CHAIRMAN: We now take the reservations I have already alluded to. The Chinese reservation will be found at the bottom of page 10. It is to reserve the right, in case of absolute need, to resort to preferences in future. I believe I remember that he made this suggestion only as a suggestion, and I would like to know whether he can see his way now to modify it or explain it further.

MR. K.S. MA (China): Mr. Chairman, we have decided to withdraw this reservation so as to bring ourselves in line with other Member countries in the spirit of the Charter as best we can.

CHAIRMAN: Thank you.

CHAIRMAN: Then the next specific comment on page 10 of the New York Draft was the reservation of the Chilean Delegation, but that reservation was further explained by the proposal they have submitted together with the Delegates of the Lebanon and Syria, and that was discussed in three long meetings of the Executive Committee and disposed of.

I remember - I was not present, but I think I remember having read - that these Delegates reserved their position; but I wonder whether it would further any useful purpose to go back upon the discussion in giving any decision.

Any comment?

The Delegate of Chile.

Mr. FAIVOVICH (Chile) (Interpretation): The Chilean Delegation have already stated they want to maintain their reservation of this clause and now accept the final Draft which will be submitted in the Report of the proper Sub-Committee.

CHAIRMAN: The Delegate of Lebanon.

Mr. HAKIM (Lebanon): Mr. Chairman, the maintenance of our reservation to Article 14 depends on whether a satisfactory solution could be found to the question of regional preferences somewhere else in the Charter, and particularly in Article 38.

Therefore I would say now that the Delegation of Lebanon would maintain this reservation to Article 14 until the question of regional preferences is satisfactorily resolved under Article 38.

That solution is satisfactory.

CHAIRMAN: We pass on now to further consideration of the text of paragraph 2. You will see in 2 (a) that there is a reference to Annexes giving lists of countries under "common sovereignty or

relations of protection or suzerainty; or between two or more of the territories listed in Annexure A to this Charter". And that Annexure you will find on page 53 in the New York paper. We should state whether we have any observation to make on either of those two.

Let us start with Annexe A on page 53 of the New York paper. We slightly re-drafted it in New York, but I think that is what the Delegate said and what we are considering.

I take it there is no observation on Annexe A of the New York text?

Approved.

And then we have a paper submitted by the Delegation of France giving a list of territories under French sovereignty.

We have considered that list. Does the Delegate of France wish to say anything about it?

Approved.

Mr. WINTHROP BROWN (United States): I wonder if the Delegate for France could elaborate a little bit on this footnote No. 2 which appears in paper W.49, and tell us exactly what it means.

CHAIRMAN: Reading:-

"(2) Recent changes in the political status of these territories are likely sooner or later to involve modifications in their customs codes such that it would be impossible at the present time to consider consolidating the duties in the tariff which may result from the tariff negotiations."

Does the Delegate of France wish to speak?

Mr. BARADUC (France) (Interpretation): The reservation made by the French Delegation is appertaining mostly to those parts of

the French Empire whose status has been changed.

They are no longer overseas territories, but some of them have become French and therefore are treated on the same level concerning customs questions as Metropolitan France itself.

However, negotiations are proceeding at this very moment concerning these territories. Therefore, replying to a question put by the Chairman, the French Delegation would say that this reservation does not imply the request of any explanation whatsoever, but is just to state that at present negotiations were going on in order to determine more precisely the status of those different territories.

CHAIRMAN: Does that satisfy the United States Delegation?

Mr. Winthrop BROWN (United States): I take it, from what the French Delegate said, that that would not mean that these territories were excluded from the scope of the present tariff negotiations.

M. BARADUC (France) (Interpretation): In no way.

CHAIRMAN: Finally we have to deal with the General Comment on Page 10 of the New York Draft. The two Delegates referred to are the Delegates of Australia and India. In the last line it states that another Delegate agreed - that was the Delegate of South Africa. These three Delegations suggest that Articles 14 and 24 should be interpreted in such a way that "so long as a preference remained accordable in one part of a preferential system specified in paragraph 2 of Article 14, that part of the preferential system according the preferences should be at liberty to extend the same, or a lesser measure of preference to any other part of the same preferential system which at present did not enjoy it". The Delegate of Australia.

Dr. H.C. COOMBS (Australia). Mr. Chairman, it is not the wish of the Australian Delegation to maintain the reservation referring to the extension of preferences to areas which do not at present enjoy them. The position is somewhat more difficult from our point of view, however, in relation to what has been referred to as "accordable preferences".

I think I can explain this from our point of view by telling the Committee that under existing agreements the Australian Government did undertake to extend certain

preferences, which it grants to the United Kingdom, to the Colonial territories of the United Kingdom on request. Such requests have, I believe, on occasion been received, and the preferences have been granted. In other cases, they have not been received, but the attitude of the Australian Government is that if a request were received, the preference would be granted.

It is obviously rather difficult for Australia, in these circumstances, to suggest that action should be taken which would relieve us of the responsibility which we freely undertook. I it is the decision that these accordable preferences, as we have referred to them, should not be saved in the same sense as existing preferences, we would naturally be prepared to accept that; but I want to make it clear that, as far as we are concerned, we are not seeking to be relieved of an obligation which we freely entered into in the past.

CHAIRMAN: Are there any further remarks on this question?

Mr. S. RANGANATHAN (India): Mr. Chairman, I wish to say that our Delegation does not wish to pursue this suggestion further.

Dr. J.E. HOLLOWAY (South Africa): We are in complete accord with the Delegation of India.

CHAIRMAN: May I express the hope that the position of Australia in this matter may be cleared up before we terminate our work here: at any rate, before we take this Article in the second reading, and that perhaps the whole reservation may disappear.

We have now dealt with Article 14, and the remaining work will have to be done by the ad hoc sub-Committee.

The Delegate of Australia.

Dr. H.C. COOMBS (Australia): Before we leave Article 14, Mr. Chairman, I have one or two minor points to which I would like to refer in the hope that the Drafting Committee will be able to look into them. They are not matters, generally, concerning which we have listed specific amendments; but we believe they are worthy of investigation.

First of all, with regard to the preservation of existing preferences and the effect of paragraph 2 of Article 14 in precluding the establishment of new preferences or the increase of existing preferences, there are one or two minor complications of an essentially administrative character which I think need to be looked into. I will give an example which affects our own practices--it may illustrate the type of thing which I have in mind.

It is the practice in Australia to take out from particular tariff items for short periods of time--sometimes longer than others--particular classes of goods which currently are not being produced in Australia, or, in the case of a preferential item, in the countries entitled to those preferences, and the goods concerned are admitted free of duty, or at particularly low rates of duty; and in some cases they are admitted on much narrower margins of preference than apply to the article generally.

This procedure is implemented by what we refer to as a bye-law. It does not represent a change in the tariff, but takes out for purposes of avoiding unnecessarily high duties goods which it is not at the moment practicable to produce in our own country, to avoid their being subjected to unduly high rates of duty. As the circumstances which made it necessary or desirable to deal with them under the bye-law change, the bye-law is removed and they go back into the normal tariff classification to which they belong. In such an event as

that, as goods pass back from being dealt with under the bye-law to the substantive tariff item to which they belong, it will normally be the case that they will then pay higher rates of duty, and probably higher margins of preference, than they did when they were dealt with under bye-law.

It would be argued that that procedure would not, in fact, conflict with our second paragraph of Article 14, but I would like the Sub-Committee to examine that case. That procedure would clearly mean that on one day a wider margin of preference existed in practice than existed on the previous day, and that would not constitute a breach of the Article. It would merely mean that it would not be practicable to admit the goods under by-law at low rates of duty and narrow margins of preference when circumstances warrant such a procedure. I think there is another possibility that the Commission should have a look at, and that is the question of dealing with the preferential rates of duty which exist within the British Commonwealth preferential area, at any rate where some countries have a multiplicity of rates, some applying to one country entitled to preference, and another higher or lower rate applicable to another. I think it may be desirable to take this opportunity to simplify some of those multiple customs tariffs and to substitute a single preferential rate. If that were done, however, the normal practice would be to choose the most representative preferential rate, the one under which the bulk of the trade was admitted. That may involve, in some cases, the application of higher kinds of preference to a country whose trade was insignificant since it would then come under the preferential rate applicable to the country from which the bulk of the trade came. I mentioned those as illustrations of what I might call minor administrative difficulties associated with the original application of this law. We are anxious that there should not be any misunderstanding of the motives or intentions of the countries concerned, and yet it will be desirable for certain administrative practices to continue, and we would like to submit this to the Sub-Committee.

There is another matter which my delegation wishes to raise. The Australian delegation has submitted, in connection with Article 24, certain amendments to Article 24(b). My attention has been drawn to the fact that it might be desirable for parts of the provisions that we have embodied in sub-paragraphs 4 of that amendment, to be included not in 24 but in 14. This may be overcome by the United States proposals for a rearrangement of the whole section, but it may not, and I would, therefore, ask that the Sub-Committee, when it is dealing with this question, should look also at the suggested amendment to 24 and see if part of that would be more properly dealt with as part of Article 14.

CHAIRMAN: The Delegate of France.

M. BARADUC (France) (Interpretation): Mr. Chairman, there is no answer to the explanation which has just been given by Dr. Coombs, but the French Delegation would like to suggest that we might find a clearer drafting of Paragraph 2. The drafting itself is meant, first of all, to do away with any possibility of confusion between two central ideas, the preferential system itself and the margin of preference on the other hand. Therefore we would suggest that the Commission should send to the Sub-Committee, to be studied, the following draft:

"The stipulations of Paragraph 1 of the present Article shall not be interpreted as necessitating the elimination of preferences in respect of customs duties or other charges imposed on imports as they are defined hereunder:

(a) Preferences in force , and so on; (b) and (c).

"The margin of preference in those preferential systems referred to above shall not be higher than the level established by negotiations as provided for in Article 24, and in any case will not be higher than the margin existing between the preferential tariff and the tariff applied to States who are beneficiaries of the Most-Favoured-Nation clause at the date of reference established for negotiations."

This is just a matter of clarifying the text itself and I hope, Mr. Chairman, that the Drafting Committee will take our new proposal into consideration.

I should add that the last part of the sentence takes into account the decisions which have just been taken.

CHAIRMAN: (Interpretation): It will be referred to the Sub-Committee.

CHAIRMAN: The Delegate of New Zealand.

Mr. J.P.D.JOHNSON (New Zealand): Mr. Chairman, the New Zealand Delegation is in full accord with what has been said by the Delegate of Australia and we support fully the suggestions which have been made by him.

CHAIRMAN: The Delegate of India.

Mr. S. RANGANATHAN (India): I just want to ask one question: is it the intention to have a separate sub-committee for each of these three Articles, or to have one joint committee for them all?

CHAIRMAN: I would like to answer that when this Meeting breaks up. My original idea was that we would not need any sub-committees on Article 14, but I was too optimistic. As Articles 14, 15 and 24 hang very closely together, I think we shall find we need a very small committee to deal with the whole set of problems, but let us decide that when we continue the discussions.

We now have to decide whether we shall take Article 15, as our Agenda prescribes, or whether you prefer to take Article 24 first. My own feeling is that we all have this complexity of Articles in our minds and whether we deal with one or the other first or last does not really very much matter. So it would perhaps be as well to go on in accordance with our Agenda and deal with Article 15, but there may be other opinions and other reasons for taking Article 24 first. I should like to have the opinions of the Commission.

The Delegate of the United States.

Mr. Winthrop G. BROWN (United States): Mr. Chairman, I would respectfully suggest that we proceed to consider Article 24 next, in view of the fact that Article 24 deals primarily with the methods of dealing with preferences and tariffs which we have been talking about in Article 14. All through the discussion we have just had, there have been continual references to Article 24. There has been a suggestion that part of Article 24 could be included in Article 14 and I would suggest that the continuity of our discussion would be greater if we went on directly to Article 24 now. There are some special problems in Article 15 which do not fall quite so directly into the context of our present discussion and which might more happily be taken up a little later.

CHAIRMAN: Does the suggestion of the United States delegate meet with the approval of the Committee? Are there any objections?

We therefore pass on to Article 24, document W/150, page 11. It starts with a general note about the Cuban reservation, but that, I take it, has already been dealt with under Article 14, because the Cuban delegate referred to Articles 14 and 24.

Has the delegate of Cuba in further remarks to make.

DR. G. GUTIERREZ (Cuba): The sub-amendments have been presented to the Secretariat for distribution among the members, and they will be sent to the sub-committee. We do not want to take the time of the Committee, but will only explain that our amendments are endorsed to make consistent both Articles 14 and 24.

CHAIRMAN: Then we pass on to paragraph 1 of Article 24. There we have a proposal by the United Kingdom delegation only dealing with the very first lines of paragraph 1, and we might perhaps dispose of that at once.

MR. R.J, SHACKLE (United Kingdom): Mr. Chairman, I need not say very much in explanation of this amendment. It is a purely verbal amendment. The text is "reciprocal and mutually advantageous negotiations", but as negotiations as such, they are not advantageous. It is purely in order to secure that verbal sufficiency that we suggest this amendment.

It is true that the first of the paragraphs in the United States amendment, which follows immediately below, is directed to the same object. I think we still have a slight preference for our own wording, but it is a mere nuance.

CHAIRMAN: Does the amendment by the delegate of the United Kingdom meet with any objection?

DR. G. GUTIERREZ (Cuba): Mr. Chairman, as the delegate of the United Kingdom has said, it is very much like paragraph 1 of the amendment presented by the United States delegation, and I wonder if they should be considered together by the sub-committee .

CHAIRMAN: That is alright, only I always like to be able to give the sub-committee as much guidance as possible and that is why I would like to know whether, generally, this Committee agrees with the United Kingdom amendment, leaving it to the sub-committee then to vote on the British and United States draft.

However, as we have also the United States proposal, I might perhaps not insist too much upon the delegates making their choice just now. Let us go on to the examination of the United States proposal. You will see that that covers the whole of paragraph 1 with sub-paragraphs (a) and (b) and (c), but we should not forget that we have an important proposal by the Australian delegation on sub-paragraph (b).

As far as I can see, the United States proposal is mainly drafting amendments, but I should like to ask the United States delegate whether he would care to explain them.

MR. W.G. BROWN (United States): Mr. Chairman, you have correctly interpreted our amendment. They are mainly drafting and clarification suggestions.

May I call the attention of the committee to one error in the typing, for which we are responsible. It is in the sixth line of paragraph 1. Brackets appear around the words "and other charges" at the end of the line, indicating that they should be omitted. We did not intend to suggest the omission of those words, so will the delegate please delete the square brackets which appear around those words. Then, they remain consistent with the words of

Article 14.

CHAIRMAN: You have seen both the United Kingdom and the United States drafts concerning the beginning of paragraph 1. I would be happy if we could indicate to the sub-committee which of the two alternative drafts meets with the particular favour of our committee.

MR. G.W. BROWN (United States): Mr. Chairman, may I indicate why our delegation has a slight preference for our language in achieving the object of what both the United Kingdom and ourselves have in mind, That is, of making it clear that it is the results of negotiations that should be advantageous and not the negotiations themselves.

It seems to us that the way we have suggested it makes it clear and states more directly the purpose of negotiations, because it leaves the phrase "negotiations directed to the substantial reduction of tariffs and other charges on imports and exports and the elimination of the preferences referred to in paragraph 2 of Article 14 on a reciprocal and mutually advantageous basis". In other words the purpose of the negotiation is a little bit more clearly stated in our draft, we think.

Mr. COOMBS (Australia): Could I suggest that since the purpose of these two Amendments is the same, it would be probably easier for the Sub-Committee itself to consider the relative merits of the two ventures from a purely verbal point of view, and we might refer to that immediately.

CHAIRMAN: Yes.

The Delegate of the United Kingdom.

Mr. SHACKLE (United Kingdom): I would like to say I do not think really there are two pins to choose between the United Kingdom and the United States Amendment, and as it would mean a lot of work on Sub-Committees, some of which would not be necessary, perhaps this is a case where we might simply accept the U.S. Amendments as they stand, With the exception of a little difficulty, as the Australian Amendment will have to be considered, I would have thought we might possibly adopt the U.S. Amendment straightaway and save the Sub-Committee some work.

CHAIRMAN: That means that the Delegates who have spoken are in favour of the U.S. re-draft of the New York text.

The Committee will base their work upon the U.S. re-draft of paragraph 1.

Then we come to 1 (a). We have there a proposal also by the United States, and you have before you - there is no other proposal - it is not very different from the New York Draft. Does any Delegate want to maintain the New York Draft?

I take it that as there is a silence with regard to the maintenance of the New York Draft, it implies general agreement with the U.S. re-draft of paragraph 1 (a).

Agreed.

Then we pass on to paragraph 1 (c) - we pass by (b).

Mr. MA (China): Mr. Chairman, what happened to (b)?

CHAIRMAN: We shall take that afterwards. Leave out the U.S. proposal, and take (b) as a separate item.

It is only to say whether the Committee agrees to the very slight Drafting Amendment to (c) that the United States strike out the superfluous words "or consultation"; "consultation" and "binding" is the same thing, and it seems superfluous to have two expressions for the same item.

The Delegate of Australia.

Mr. COOMBS (Australia): We have certain comments to make as to (b) and (c) and in view of that I think perhaps it might be desirable to deal with them together or in the order as they appear.

CHAIRMAN: Then we pass on to point (d).

You have before you the United States proposal, which really is only a drafting amendment of the New York text, and you have on page 12 of Doc. 150 a proposal by the Australian Delegation. And I should to be complete also mention that a certain point of paragraph (b) is the object of a reservation by the Delegates of India, New Zealand and the Union of South Africa.

Perhaps the Australian Delegate would be kind enough to explain his point.

Mr. COOMBS (Australia): Mr. Chairman, as I think I explained to the Committee earlier in our present meeting, it is the view of the Australian Delegation that neither of the Rules omitted in (b) or (c) is necessary.

This Article contemplates negotiations directed towards the

substantial reduction of tariffs and the elimination of tariff preferences. For these negotiations to proceed it is necessary only that a certain minimum set of understood Rules should be agreed upon.

We agree it is desirable that the negotiations should work towards agreement that is reciprocal and on a mutually advantageous basis. Negotiations should be conducted on a consultative basis so far as the commodities themselves are concerned, and the resulting agreement should be multilateral in its application, so far at least as the present countries represented on this Committee are concerned.

We dislike the inclusion of these Rules because we believe that they call into question the basic Rule, which is that the agreements should be mutually advantageous. It seems to us that to include Rules such as Rule (b), "Where the negotiations affect only the m.f.n. rate, any negotiated reduction in that rate shall operate automatically to reduce or eliminate any margin of preference applicable to the product", may or may not be consistent with an agreement which is mutually advantageous. In fact, in our opinion it would not be consistent with such an agreement; but whether that was so or not, we believe that the very statement of Rules of this character does tend to interfere with the bargaining procedure of such agreements, and to imply that certain values should be attached to concessions, whether the Bargaining committees agree that those concessions carry those values or not; consequently, and similarly, in relation to Rule (c), it is said that the binding of low tariffs, or tariff retreatment, shall in principle be recognised as a concession equivalent in value to the substantial reduction of high tariffs, or the elimination of preferences.

We do not wish to call the general idea behind that into

question, it is clearly desirable; but whether in fact the binding of a low tariff or a tariff retreatment is equal or equivalent in value to a substantial reduction of another high tariff item, is something which only the parties themselves can judge. Sometimes such a binding will be of very great value, particularly, for example, if there is a high degree of probability that the country concerned will take advantage of an unbound situation to increase it. But if that is not probable in the nature of the circumstances, obviously a lower value for negotiation purposes would be attachable to it.

I have had very limited experience of these tariff negotiations, but it does seem to me, when I think of men with the skill and experience of Mr. Hawkins, and Mr. McCarthy of my own Delegation, being told summarily by this Conference that the binding shall be regarded as equivalent to something or other - it savours somewhat of teaching your Grandmother to suck eggs.

In other words, the values attachable to any concession are something which can be judged by the people who are engaged in the bargaining, and they do not need to be told exactly how to deal with them, and any attempt to lay down such a system of values is capable of interfering with a fair assessment of the exchanges between the parties.

Perhaps my point on this may be illustrated if I draw attention to the fact that in view of the wording of (c) as it at present stands, it might not be unreasonable to add an additional sentence which would say that the binding of high tariffs shall not be regarded as a concession at all.

However, Mr. Chairman, we do not need to be told that, nor do I suggest that anybody else in this Conference needs to be told that. Consequently we have very grave doubts as to whether any practical value is obtained by the inclusion of Rules (b) and

(c), and in the case of (b) we are definitely of the opinion that there are serious disadvantages to the conduct of negotiations in the existence of such a rule.

Rule (c) is not of such importance from that point of view, because I believe that the negotiating parties can be trusted to take such notice of the Rule as it is entitled to, and consequently we do not propose to worry very much about the inclusion of (c); as a statement of a general point of view we are not opposed to it, in fact we favour it; and therefore we are content to let it go, although we do think it is superfluous.

So far as (b) is concerned, we cannot accept it in its present form. We would say, briefly, the Rule should be omitted completely. But we understand that for historical reasons there are difficulties for some of the parties concerned in its complete omission.

We have, therefore, sought to set down the basis on which we were, in practice, approaching this problem in our consideration of the current negotiations, and to set out what appeared to us, in the present context, to be a reasonable approach to the way in which negotiated reductions in Most-Favoured-Nations rates and, where they are associated, preferential rates, should be dealt with, and we have set that out in the suggested amendment which appears on page 12 of the annotated Agenda.

I would like to make it clear that our distinct preference would be for the elimination of this rule altogether, but since there may be difficulties in that elimination being acceptable to other parties vitally concerned, we are prepared to accept a rule of the kind set out in (b), in the hope that, without proving a burden and handicap to the conclusion of mutually advantageous agreements, it will satisfy the particular requirements of the interested parties.

Dr. H.C. COOMBS (Australia): Mr. Chairman, could I draw the attention of the Committee to the typographical error in sub-paragraph (iii) of the amendment. In the third line of sub-paragraph (iii) as it at present reads: "such reductions may be effected in either as may be agreed between/Members concerned". That should read: "in either or both".

Mr. J. TORRES (Brazil): We feel that there is a certain purpose and utility in maintaining those two sub-paragraphs. They explicitly state two principles which should be stated in the Charter. It is true that, to negotiators, these things do not look very much as a rule we should give to them, however I do not think there should be any harm in stating them very clearly and very explicitly. Only the other day, in the course of negotiations, we had one negotiator tell us that the Charter was one thing and the tariff negotiations another thing. I wonder whether, if we omit these two sub-paragraphs, we should not give more ground to such confusion. We, of Brazil, have of course a rather low tariff, and when we make a binding we want it to be clearly understood that it is a very, very substantial concession. Therefore, Mr. Chairman, our position is that these two sub-paragraphs should be kept and not omitted.

Mr. J.J. DEUTSCH (Canada): Mr. Chairman, the Canadian delegation at London took a very strong objection to the rule in paragraph (b) as it now reads. We objected to the present wording on two grounds. One is that the rule itself was not desirable, and secondly, the meaning of the words as now written is not explicit enough. Clearly, when both the preferential rates and the most-favoured-nation rates are the subject of negotiations, it is impossible to achieve an automatic reduction of the margin.

preference simply by operating on the most-favoured-nation rate. That is a physical impossibility. We should not have a rule whose meaning is indeterminate in this way in a Charter. For that reason we press very strongly for the change in the wording which would make the meaning clear. We think that the Australian elaboration of the rule does make the meaning clear, and we think that the interpretation of the Australian wording is clear and we would agree with the general principles which that wording wishes to convey.

Consequently, we support, in principle, the Australian amendment.

CHAIRMAN: The Delegate of Cuba.

Dr. Gustavo GUTIERREZ (Cuba): Mr. Chairman, we are very sorry indeed that we cannot accept the Australian amendment, especially in regard to (i) and (ii) of sub-paragraph (b).

When we started these tariff negotiations, we really thought that the reduction or elimination of any margin of preference could operate automatically between the different nations. But we have experienced more than once that Country A., having a large amount of business with Country B., have undertaken very important negotiations to reduce their preferences and they have received offers themselves, and made counter-offers, for the reduction of such preferences. At the same time, for example, Country A. has made offers of tariff reductions to Country C., but Country C. does not offer anything to Country A., absolutely nothing; in one case because it would mean a substantial reduction of the fiscal taxes; in some other cases simply because there is a prohibition on the importation of a commodity which is of primary importance to Country A.

But then afterwards it comes that, with the automatic operation of the reduction of preferences, Country C receives all the benefits of the long negotiations between Countries A and B. Besides that, some countries have not offered anything to other countries.

So we are at this time in a different position from that in which we were when we started these negotiations, and we simply cannot accept sub-paragraphs (i) and (ii), which would mean increasing more and more the automatic

operation of their reduction of preferences in such a way that one, two or three countries who are represented at this table do not offer anything to the rest of the countries and receive all the benefits of the mutual negotiations between the other two groups of countries.

That is why we have brought this matter to the attention of the Conference in our paper. We consider it is a very serious matter, but we have asked for a modification of sub-paragraph (b), to read in this form:

"All negotiated reductions in Most-Favoured-Nation import tariffs shall operate" - not automatically - "to reduce or eliminate margins of preference, as far as the Member that enjoys the preference and will be affected by such reduction agrees. No margins of preference shall be increased, after the negotiations are completed."

Then, by another amendment to Article 24, which would be a new paragraph, we have taken into consideration the question of the case in which some countries do not offer anything at all to the one that is making the reduction of its preferences.

M. Desclée de MAREDSOUS (Belgium) (Interpretation): Mr. Chairman, the discussion which has been taking place shows the utmost importance of the amendment which is being discussed and the fact that we seem to have progressed very little since we started our discussions in London. We do not seek to establish equal conditions in the negotiations which are being conducted, but to restore international competition in trade.

In order to achieve this aim, it is not only necessary to reduce duties, but also to unify them and to consolidate them as much as possible, and I am anxious to hear what the United States representative - who had already, in London, explained his position to us - has to contribute to this discussion at the present stage.

CHAIRMAN: (to the Delegate of the United States): Are you prepared to fall in with the wishes of our Belgian colleague?

Mr. Winthrop G. BROWN (United States): Mr. Chairman, I think the importance which the United States attaches to the so-called automatic rule for determining the negotiations for the elimination of preferences is very well known. The Belgian Delegate has referred to the number of times and the extent to which we have held forth on this subject at previous meetings, and I hesitate to take up the time of the Delegates to reiterate all the arguments which we have advanced in support of this clause (b).

We feel that one of the major objectives of this Conference, and of future negotiations which may be undertaken, is the elimination of discriminations in international trade, along with the reduction of the barriers to such trade. We feel that the explicit statement of a rule to that effect as governing the negotiations is a highly important element in the Charter.

MR. W.G. BROWN (United States); On the other hand, we recognise that we would prefer to see the tax remain as it is. On the other hand we do recognise that some delegations find an extreme difficulty with the tax as it now stands, both in substance and in form.

I am afraid I cannot share the view of the Canadian delegate that it is impossible to eliminate a preference by the use of the automatic rule when both rates are involved, and I confess that I do not find the obscurity in that clause of the Charter, as drawn, that some of the other delegates do.

Nevertheless , we appreciate the spirit in which the Australian delegation has approached this problem and the suggestions they have made both for a clarification and, perhaps, some modification of the rule. We could not accept the Australian proposal as it stands, but we do feel that it provides a basis for discussion which we would be very glad to consider and discuss further with the other delegations concerned. Perhaps that discussion could more profitably be conducted, as it will involve drafting, in the sub-committee.

CHAIRMAN: The delegate of New Zealand.

MR. J.P.G. JOHNSEN (New Zealand): Mr. Chairman, as one of the countries that reserved its position in respect of paragraph (b), I would just like to say that we had great difficulty in accepting paragraph (b) on the grounds that where we had agreed to a principle of negotiating on a mutually advantageous basis, we felt that it was not necessary to lay down any specific rules.

For that reason, we think that the exposition given by the delegate of Australia covered the position very well, and certainly reflected our own views on the matter.

We are also of the opinion that, apart from what the delegate of the United States has said, there is a difficulty in interpreting the rule as it stands, and if the rule is to remain in the Charter, we think that some attempt should certainly be made to explain it in material language.

We think that the approach which has been made by the Australian delegation to the matter is a reasonable one, and we think it should provide a good basis on which to work. For that reason we would like to support it.

MR. R.J. SHACKLE (United Kingdom): Mr. Chairman, I was only going to say, that we, the United Kingdom delegation, think that it would be desirable to have a more clear expression of statements on the lines of the Australian amendment.

DR. J.E. HOLLOWAY (South Africa): Mr. Chairman, the Australian delegation is opposed, rather uncompromisingly, to rule (b) as it stands in the New York draft. I want to state that we are in full agreement with everything that Dr. Coombs has said.

CHAIRMAN: Well, I think that the other sub-committee, when having before them the minutes of this discussion, will have sufficient guidance to arrive at a satisfactory conclusion. My own impression, after having listened to the discussion, is that we are not very far from such happy results.

If there is no further question about paragraph 2, we will pass on to paragraph 3. You will find in the New York paper that two delegates reserved their position and suggested the insertion of the words "and particularly with regard to Members in legitimate need for protection" after the phrase "having regard to the provisions of the Charter as a whole". These two delegates were the representatives of Brazil and of Chile.

CHAIRMAN: Does the Delegate of Brazil maintain that reservation?

Mr. TORRES (Brazil): Yes, Mr. Chairman. I suppose that you would probably like us to say a word or two on why we have suggested that drafting, or why we maintain it.

Well, the reason is that we look at the negotiations between two Member countries as something that must necessarily take into account the stage of economic development of the two countries; and that possibly a country well-developed should notexpect from a country still in need of developing industries the degree of concessions that the country so developed can give. It is difficult to visualise how it might be a mathematical equivalent. Therefore we have suggested that Amendment to particularise the situation of the country in need of protection for legitimate and economic industries.

We, however, have no pride of authorship, and are happy to see that apparently the American Amendment has taken that into account; and if the understanding is that their drafting covers our point, we are perfectly willing to withdraw our reservation under the condition that the American Amendment is approved.

Mr. GUTIERREZ (Cuba): Mr. Chairman, I wonder if we should not work here for a favourable labour standard. If we hold to the principle of 8-hours a day, we should adjourn, because it is more than 6 o'clock.

CHAIRMAN: I do not remember when I could work only 8 hours.

Mr. MA (China): I would support the Cuban Delegate's proposal.

CHAIRMAN: Allright - but at any rate we must decide now what kind of a Sub-Committee we should set up.

I have said before that I had thought we might have different

Sub-Committees for 15 and 24, but the more I listen to the discussion the more I feel that we must ask the same Delegations to take the trouble of looking into the whole complex of problems.

I would suggest the following Sub-Committee, and in making this suggestion I would add that it may be that after the discussion to-morrow on Article 15 it might be advisable to add one or two; but we have the general Rule of Procedure that any Delegation having a particular interest in a question dealt with in the Sub-Committees has always the right to attend the meetings and express his view, so that I hope we can, provisionally at any rate, agree on a Sub-Committee composed as follows:-

Australia, Cuba, France, Norway, United Kingdom, United States. That makes six.

The Delegate of the Netherlands.

Mr. VAN KLEFFENS (Netherlands): Mr. Chairman, since there are matters at stake which we consider as absolutely vital, I would suggest that either the Belgian Delegate or the Dutch Delegate be added to the number of countries represented.

CHAIRMAN: I have, of course, not the slightest objection, but I would like to draw the attention of the Netherlands Delegate to the fact that the sub-committee is composed with a view to doing very strenuous work, and the more members, the less progress will be made in that work. As the members of any Delegation have the right to attend and to express their views on any particular point, I think that would cover all reasonable demands, and it would make it easier for the sub-Committee to do their difficult work, although I am, of course, in the hands of the Committee--I cannot propose anything.

The Delegate of France.

M. BARADUC (France) (Interpretation): Mr. Chairman, in suggesting the sub-Committee you have nominated France and I wish to thank you. Since, however, on matters raised in Articles 14, 15 and 24 of the Draft Charter the French Delegation has always acted in close harmony with the Belgian and Dutch Delegations, the French Delegation is perfectly willing to give its place on the sub-Committee to one or other of the two Delegations mentioned.

CHAIRMAN: The Delegate of the Netherlands.

M. van KLEFFENS (Netherlands): I would like to thank my French colleague for his French courtesy in offering me his place. I feel that as a low tariff country typical of its kind, there is something to be said for his giving place to one of his Benelux partners, and perhaps I might suggest that the Belgian Delegate should profit from this courtesy of the French Delegation.

CHAIRMAN: The Delegate of Belgium.

Baron P. de GAIFFIER (Belgium) (Interpretation): I wish to thank my French and Dutch colleagues for their courtesy and their generous offer, and I would like to recall the fact that when Article 15 was first discussed, the Belgium Delegation stated their interest in the problem, and that it was understood that when a Working Party was set up to consider Article 15, a representative of Belgium or the Netherlands would be appointed to serve on that sub-Committee.

CHAIRMAN: The Delegate of Brazil.

M. J. TORRES (Brazil): Mr. Chairman, may I raise a question? I would like to know whether this Committee is supposed to take charge of all Chapter V or only these Articles.

CHAIRMAN: Only these Articles. The sub-Committee is finally constituted, with the small alteration that France renounces in favour of Belgium.

I have an announcement to make: that at the meeting tomorrow at 2.30 we shall start, as we did today, in Executive Session. That is in order to dispose of the Sixth Report of the Tariff Working Party. You received that Report this morning, so you will have had it for the required twenty-four hours. Afterwards, when we have finished discussing Article 24, we will then take Article 15. We will try to get through that in the course of tomorrow, but you know that the Steering Committee has to reserve the day after tomorrow, in case we cannot get through it tomorrow.

I want to mention the possibility of the ad hoc sub-Committee coming together and, at any rate, having a start on the work tomorrow morning; or perhaps the tariff negotiations will keep most of the members busy. I will not ask for a decision on that

point now, but the Delegates will all be here in the morning, and if one or two of them feel that they ought to start, they could get in touch with the others and the Secretariat would provide the necessary room.

The Delegate of China.

Mr. K.S. MA (CHINA): Mr. Chairman, we have no objection to not being included in the sub-Committee on the condition that all these sub-Committee meetings would be previously made known to us, so that we may have the chance to participate and present our views.

CHAIRMAN: When the sub-Committee has started work, it is the rule that the Agenda of the Conference every morning contains information with regard to the meetings of the sub-Committees; but it may not always be possible to do it, so please excuse if sometimes there is no previous announcement in the morning Agenda. The simplest way --if there is any doubt in the mind of a Delegate as to whether a sub-Committee is sitting or not-- is to telephone to Mr. Lacarte's office and ask him. But, as I say, he will do what he can to have the meetings of this sub-Committee included in the general Agenda. As you have already seen, in some cases the different sub-Committees of Commission A have been included in that Agenda.

The Delegate of China.

Mr. K.S. MA (CHINA): Mr. Chairman, I do not want to lay any difficulty in the way of the Committee. On the other hand, we, of course, would not like to miss any of the meetings, because we consider these Articles to be very important.

CHAIRMAN: I would like to say that most of us would like to be present in the room.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, I wonder whether it might not be as well to say here and now that the sub-Committee will meet at 10.30 a.m. on Thursday. I say Thursday rather than tomorrow, because perhaps by then we will have completed discussion on Articles 24 and 15. I think the sub-Committee will be in a position to start when we have completed the discussion of those two Articles. Could we say 10.30 on Thursday morning definitely?

CHAIRMAN: There is no objection on the part of the Secretariat, I hear, so we say definitely 10.30 on Thursday morning. The room will be announced.

The Delegate of Brazil.

M. J. TORRES (Brazil): Mr. Chairman, I know that you do not favour, as we all do not, the constitution of big sub-Committees with more than six, but in view of the concern of the Chinese Delegate in the matter to be dealt with by this sub-Committee, and in view of the fact that we may balance the sub-Committee a little more, may I suggest that China be included as a member of the sub-Committee?

CHAIRMAN: In practive it won't make any difference to the delegate of China and he will get special information with regard to the meetings, so I think he would accept the suggestion of the Brazilian delegate in order to clear away all possibility of the Chinese delegate not being informed.

The meeting rose at 6.25 p.m.
