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

VERBATIM REPORT.

TWENTY-FOURTH MEETING OF THE TARIFF AGREEMENT COMMITTEE  
HELD ON FRIDAY, 19 SEPTEMBER 1947 at 5.P.M. IN THE  
PALAIS DES NATIONS, GENEVA.

Hon. L.D. WILGROSS (Chairman) (Canada)

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CHAIRMAN: The Meeting is open.

The first item on our Agenda today is the Note to be inserted as a Final Note in Annex I to the General Agreement on Tariffs and Trade. The revised United States Note is given in Document W/320, Revision 1.

I have now been requested by the Delegation of the United Kingdom to circulate an alternative United Kingdom proposal, which is given in this White Paper (indicating paper). I wish to apologise to the Committee for the fact that there has not been time for this tentative United Kingdom proposal to be translated into French, but I hope the Committee will agree to consider it just in the English text.

Does any Member of the Committee wish to speak on this subject?

Mr. R. J. SHACKLE (United Kingdom): Mr. Chairman, I would like to say a word or two about this proposal we have put forward. What worries us about the earlier versions of the Note which have been suggested - even in the revision - is that it does seem to give the blank cheque you have talked about so often to the authorities in the zones.

Our feeling is that the proper principle is to move towards the application of the principles of the General Agreement in the zones, with the necessary qualifications, and our idea of what would be the immediate desirable step would be that the authorities of the zones should apply that treatment to the commerce of the contracting parties to the extent that those contracting parties themselves apply treatment in accordance with the General Agreement to the commerce of the zones themselves.

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That is not a new idea; its principles already exist in the Italian Peace Treaty too. That is the principle which we would desire to see incorporated here and that is the scheme which is written into this paper we have circulated.

CHAIRMAN: Are there any other speakers?

The Delegate of the United States.

Mr. J. M. LEDDY (United States): Mr. Chairman, I am glad this paper has been put forward by the Delegation of the United Kingdom, because it provides us with an opportunity of making it clear to this Committee that we are in complete sympathy with the objectives of this proposal and the principles on which it is based. However, we are presented with what I consider to be a purely practical difficulty; that at the moment we are, in effect, three Governments. We have a Military Commander in Japan; we have a Military Commander in Germany, and we have the Government in Washington, and the Delegation here.

In order for us to agree with this particular form of words, we would have to discuss it with all those parties. We are entirely willing, and it is our intention, between now and the time of the Havana Conference, to see what we can work out, particularly with the other Occupying Powers, on principles and provisions along the lines of this draft, but at the moment we are not in a position to be able to agree to put provisions of this kind in the Trade Agreement or the Protocol of Provisional Application.

If the Committee desires, we would be glad to have the acting Chief of our Delegation provide the Committee with a written statement as to the intentions, the general objectives, of our Government, but I am afraid that, as to the inclusion of these

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particular provisions in the Agreement itself, we should have to have possibly several weeks before we would be able to say what specific provisions we would be able to agree upon.

I therefore hope that the Committee will be able to include in the Agreement the provisions along the lines inserted in Document E/PC/T/W/340, with this statement on behalf of my Delegation as a part of the record of our discussions here.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. SHACKLE (United Kingdom): Mr. Chairman, I would like to thank the United States Delegate for his statement. I am wondering whether the actual wording suggested in this paper W/340, Rev. 1. is not perhaps a rather unnecessary negative, in view of what he has said. I have no very precise alternative wording to suggest. The sort of thing I should think we might perhaps write in is as follows:-

"Pending further study of the question of the application of the provisions of this Agreement in respect of the occupied areas of Germany, Japan and Korea, those provisions will not apply in respect of those zones. It is understood, however, that such study will be undertaken as soon as possible."

And then we might possibly add this: "This object would be facilitated by the attendance of representatives of the zones in question at the World Conference on Trade and Employment, to which they have been invited in the capacity of observers."

I do not know if something on those lines could be agreed upon, but it seems to me it would not put such a negative complexion on the matter as the present draft Note.

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CHAIRMAN: The Delegate of Australia.

DR. COOMBS (Australia): Mr. Chairman, we have given a good deal of thought to this question since the United States Delegate explained the circumstances he wished to provide for in putting forward this Note.

As a result of that thought, we have come to the same conclusion as before; that is, that it is preferable not to have any Note referring to this matter in the Agreement at all. Our reasons for this are that we do believe the determination of this question is properly one for the Peace Treaties with the countries concerned, and, whilst we find ourselves in sympathy with the purport, for instance, of the United Kingdom proposal, we recognize that it is not possible to adopt a principle of that sort here. I believe it is a question which would be more properly dealt with as part of the Peace Treaties settlement.

So far as the United States proposal itself is concerned, it gives us some concern, because it would appear to give legal sanction to any discriminatory practice which a contracting party which is also an Occupying Power pleases to adopt in its trading relations with the country which it occupies.

We are aware that a good many of the transactions conducted between the Occupying Powers and the countries which they occupy are of a relief character and we would not expect that trade would be in any sense completely non-discriminatory, but there does seem to us to be a fairly important difference between recognizing the realities of the situation in that way and, on the other hand, setting up precisely an acceptance of the principle that the rules of the Charter do not apply to them, and that is what this, in effect, does.

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It does appear to us that nobody is likely to question the discriminatory character of the sort of transactions which the United States Delegate has described. Everybody knows that you cannot conduct an occupation and trade with an occupied country on the same sort of basis as with another country. Therefore it seems to me that countries are not going to raise difficulties about it unless they believe that what is justified by the emergency character of the situation is being exceeded, and it does not seem to us to be unreasonable that the Occupying Powers should be prepared to explain why and in what circumstances they are departing from the rules as laid down in the Charter if they are called upon to do so.

It seems to me that if we make no reference to this at all, it is clear that the Agreement does not apply to the occupied countries themselves, since they are not parties to the Agreement, but it would appear that in certain respects, at any rate, it imposes limitations on the contracting party who is also an Occupying Power.

Our answer is that those minor departures from those obligations, in the interests of sensible administration of the occupation, are not likely to be questioned, but, on the other hand, if there is a major departure from non-discriminatory rules, it is proper that they should be questioned and that they should be prepared to answer.

Therefore, Mr. Chairman, we believe the best thing to do is to make no reference to this question. That leaves it to be settled in its proper place by the Peace Treaties. It does not bring the occupied country itself under the rules of the Agreement

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and it leaves the contracting party at least subject to questioning and the obligation to explain, which I believe are proper obligations for it to accept.

CHAIRMAN: The Delegate of the United Kingdom.

MR. SHACKLE (United Kingdom): Mr. Chairman, in regard to Dr. Coombs's statement, there is one observation I would like to make and one question I would like to ask.

The observation is that we do not know how long it will be before the Peace Treaties are concluded with Germany and Japan, but I would apprehend it may be quite a long time.

The question I would like to ask is this: is it right to assume that, because a particular contracting party, which happens to be an Occupying Power is a party to the General Agreement, therefore any kind of obligation is incumbent on that party in respect of the occupied zones? It seems to me the contracting parties are parties in respect of their own territories and I should have thought it was an assumption of a rather doubtful character that any kind of obligation would extend to them, qua Occupying Powers, in respect of the zones which they occupy, but I should like to hear other views on that point.

CHAIRMAN: The Delegate of Australia.

DR. COOMBS (Australia): Mr. Chairman, in relation to the two points which the United Kingdom Delegate has raised: his first point was to express a doubt as to when the Peace Treaties will be concluded with these countries. It is clear that it is at least doubtful when they will be concluded; because of that we would not preclude a further study of this question and a possible determination of the principles which should be applied in the

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interim at Havana, or elsewhere for that matter. But that is not the point we are dealing with.

What is proposed here is not a set of principles to cover the relationships of Members who are also Occupying Powers with the countries which they occupy, but a statement that nothing shall cover them. That is surely a very different point. To have time to study and determine a set of rules to govern this situation would be a different matter. That is not what we have got. We have got a suggestion that it is understood there shall be no obligations on contracting parties which are also Occupying Powers.

The other point was whether a contracting party which is also an Occupying Power has any obligations because of participation in the Agreement. It is clear that the obligations accepted by participation in the Agreement are obligations towards other contracting parties, but, as the United States Delegate pointed out the other day, the function of being an Occupying Power apparently requires the contracting party concerned to engage in State-trading activities, and also, because of the relief character of a good many of their transactions, to discriminate in those State-trading activities at least in favour of the country which they are occupying.

Clearly such discrimination in favour of one country means discrimination against others; i.e., against other Members or other contracting parties, and the nature of the Article dealing with State-trading, I think, does preclude such discrimination, or at least subjects it to control. Therefore it does seem to me it is possible, at any rate, for a contracting party which is also an Occupying Power, to use that situation to the detriment of the commercial interests of other contracting parties.

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As I pointed out, however, we recognize that to some extent that situation may be unavoidable. What we are reluctant to do, however, is to give it the formal blessing of this Committee and to place the contracting party who is also an Occupying Power in the position of being beyond question in respect of such transactions.

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CHAIRMAN: The Delegate of Norway.

MR. J. MELANDER (Norway): Mr. Chairman, this problem, is of course, of a certain importance, not only to Norway but to most other countries represented here, and it is clear, I think, that one might have some problems to solve as between those of the contracting parties represented here which are Occupying Powers and those which are not Occupying Powers.

It seems to be that the principles underlying the United Kingdom Draft ought to be the lines on which we ought to approach this problem, and I very much appreciate the statement made by the United States Delegate to the effect that the United States Delegation would take steps to study this problem. On the other hand I think that there is very much to be said for the Australian standpoint: to accept now the text of the Note suggested by the United States in document W/340, Rev. 1, would perhaps not be quite suitable. That is rather too negative a solution.

In view of the fact that it seems to be improbable that we shall be able to agree on a solution more or less on the lines of the United Kingdom proposal, perhaps adjusted in view of the studies made by the United States Delegation, I think perhaps that the best solution would be to drop this point and not to include any Note here under this General Agreement, on the understanding that in the meantime the parties to this General Agreement, particularly the United States Government, as mentioned by the United States representative here, would study the problem further and that at a later date, perhaps at the Havana Conference, one might consider what sort of a solution we ought to give to this problem.

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I think it is a bit premature to try to lay down any positive rules right now. The discussion which has taken place here I think would make it clear that this Conference has not really settled one way or another these points and consequently I do not think it ought to be to the prejudice of the interests of the United States or other Occupying Powers that we have nothing in the Agreement on this subject.

CHAIRMAN: The Delegate of the United Kingdom.

MR. R. J. SHUCKLE (United Kingdom): Mr. Chairman, my thought has been moving on almost exactly the same lines as those Mr. Melander has indicated. I am wondering if we really need have any provision or statement to the effect that the provisions of the General Agreement do not apply to these territories. On the other hand, if we say anything - and it might be well to say something - might it not be to the effect that the Committee note the statements made on behalf of the Occupying Powers and hope to give study to this question in the early future, adding, possibly, with a view to its being brought up at the Havana Conference. If we were to have a sentence of that kind, possibly in the Final Note, I should think that it might meet the case.

I should not think that any serious position would arise in regard to Article XXVI, the provisions regarding international responsibility. I should not have thought that anyone would think that those provisions were intended to apply to the position of Occupying Powers in these Zones.

CHAIRMAN: The Delegate of Belgium.

M. Pierre FORTHOUME (Belgium): Mr. Chairman, as there seems

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a considerable opinion here for having no mention whatever of this question in this Agreement, and as on the other hand we do realise that some Delegations would like to have some mention made of the problem, I wonder if we should not remember that we are "contracting parties" and contract the text of the American proposal to its first sentence, dropping the second one "It is therefore understood that until otherwise agreed..." etc. and have the Final Note:

"With regard to the status of areas under military occupation, it is anticipated that this question will be given further study."

CHAIRMAN: The Delegate of the Netherlands.

MR. G. A. LMSVELT (Netherlands): Mr. Chairman, if you are going to insert a Note, as has been suggested by the Delegations of the United Kingdom and the United States, my Delegation would prefer the kind of positive statement which has been suggested by Mr. Shackle. Its effect, just for the Netherlands, is that in course of time the normal principles of trade would be applied in the Occupied Zones. Trade with Germany has been of the greatest importance always to the Netherlands. Before the war, Germany and the Netherlands were each other's best clients. So the fact that trade has been abnormal now for over two years after the war is of great detriment to the interests of the Netherlands.

But as it seems to be out of the question that a proposal as suggested by the United Kingdom can be agreed to at this moment by the Delegation of the United States, we have to fall back on Mr. Leddy's suggestion: but if possible we would prefer to have this note in a more positive form, not as negative as it

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is in the form before us at the moment.

CHAIRMAN: The Delegate of China.

H. E. MR. WUNSZ KING (China): Mr. Chairman, having listened to so many statements, I seem to be able to agree with almost all of those views.

To start with, as I said the other day, we have a good deal of sympathy with the United States Delegation in regard to its formula because I am personally inclined to the view - and I say this is my personal view - that those Occupying Powers, having assumed such heavy responsibilities, certainly expect to have a certain amount of latitude, and freedom of action in handling trade and other matters in so far as the occupied areas are concerned. But at the same time I am also inclined to think that there is a very strong assumption in regard to this matter that in handling those matters, Occupying Powers also have the obligation to see to it that the legitimate interests of other countries are not prejudiced thereby.

While it seems to me that we are more or less agreed that a large number of aspects of these matters should be left to be decided by the Peace Conference, it is also reasonable that there should be some sort of interim arrangement, seeing that, as Mr. Shackle has rightly pointed out, the holding of these conferences may still be a remote event. But I am wondering whether any of my colleagues here have got the full powers from their Governments to deal with those questions which are essentially questions of peace settlement. I myself have not got the full power in that sense.

Of course it remains that there will be questions

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in regard to the handling of trade and economic matters in occupied areas and there must be some sort of a body for dealing with those questions. Therefore, to answer one of the questions put by the United Kingdom Delegate, I am wondering whether the proper organ for the study and proper settlement of this interim arrangement would not be, for instance, in the case of Japan, the Far Eastern Commission of Washington.

Well, I do not know what has been arranged or what is being arranged in regard to those matters as far as Germany is concerned, but as for Japan I am quite sure that it is the Far Eastern Commission in Washington that is the proper body to deal with studying those questions political.

Even if there is no organ at all, there would still be the ordinary and normal diplomatic channel through which those questions can be dealt with.

I feel very strongly on this point, not only because I myself have not got the full power to deal with those questions, but I feel sure there are those who are not represented here in Geneva but who are interested in those questions. I do not have to enumerate all those countries. I might mention, for instance, Poland in the case of Germany, and the Republic of the Philippines in the case of Japan, and they are not represented here at all. Of course they may have the position of observer here, but that is not a fully authorized member.

And, after all, I am wondering whether the Havana Conference is the proper organ in some respects, because, in regard to this matter, it is not only the economic aspects of the problems which are important; there are also other considerations which are very important considerations too.

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Well, as I say, I am not authorised to deal with them, but since we are on the subject I might be permitted to mention only one of those considerations: We all have sympathy with the Occupying Powers, that they should be enabled to handle trade matters in the occupied areas in such a manner as to be able to relieve some of the heavy burdens. Well we are all agreed on that and we do not quarrel with any of the Occupying Powers on that point, but it may also be that, that being so, they might quite unwittingly develop those ex-enemy Powers in such a way and to such a point that they might in the future, either the near future or the remote future, again constitute an economic menace to all other countries. I am referring to this point only by way of illustration, because there are many other considerations which may be even more important than this particular point.

Now I am referring to these points simply to illustrate that we, all the Delegations here, are not authorised to deal with these questions, and I am wondering whether when we go to Havana we are authorised to do so or not. I have many doubts upon that point. So I think it would be better, in the opinion of the Chinese Delegation, to have the whole matter drop.

As to the United Kingdom's tentative proposal, I have not had time to study it very carefully, but a glance at it leads me to believe that there is very much in it which is acceptable to us. For instance, that the idea of initiating procedure of consultation is a helpful improvement on the United States text.

And there are other points which we should like to have time to examine more carefully. I am not at all sure whether, at the time when Peace Treaties are drawn up, those countries which have suffered in the hands of ex-enemies will or will not be prepared to give reciprocal treatment to the goods coming from that direction

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I do not know. I have an open mind. But there are certainly precedents in the past which suggest that, at least for a certain number of years, the goods and merchandises of the origin of the ex-enemy countries are not entitled to reciprocal treatment from the ex-Allied Powers. I do not know. I have an open mind on that. But we have to examine this point. And in view of the fact that the United States Delegation needs considerable time to study the United Kingdom proposal, I would suggest that the whole matter be dropped.

CHAIRMAN: The Delegate of Brazil.

Mr. E.L. RODRIGUES (Brazil): Mr. Chairman, the Brazilian Delegation considers that the principles of the General Agreement on Tariffs and Trade should be as far as possible applied to the Occupied Zones. However, we feel that this question deserves further consideration. Because of this we are in full agreement with the final note suggested by the United States Delegation.

Mr. R.J. SHACKLE (United Kingdom): I wonder whether possibly a statement for the record of this Committee would suffice to cover the case. The statement I had in mind was something like this: "This Committee recognised that the question of applicability of the provisions of the General Agreement in relation to the areas under military occupation are outside its competence. It noted, however, that further study was proposed to be given to this question and it welcomed that statement".

CHAIRMAN: Are there any comments on the most recent proposal of Mr. Shackle?

The Delegate of the United States.

Mr. J.M. LEDDY (United States): The principal difficulty in regard to this tariff proposal is that it does not make clear the point of the obligations the contracting party has with respect to his trade with areas under military occupation. That is, I think, probably the main problem at the moment. As I made clear in my opening statement, we have welcomed the paper put forward by the United Kingdom. We were in sympathy with it and we expected in the next weeks, between now and the Havana Conference, to see what could be done about agreeing upon arrangements

in accordance with the principles of that paper. We offered to provide the Committee with a written statement along that line by the acting Head of the Delegation. As a matter of fact, this problem is not outside the competence of this Committee. It just so happens, unfortunately, that we are not prepared at the moment to commit the Government to a particular set of words because of the time factor, and the time factor alone. We have to go through three separate sets of administrative machinery, and it is not our inability to recommend a particular set of words to the Government; it is our inability to get a reply in time to enable us to sign the Agreement by October 15. That is essentially the main difficulty. As I explained, we have a Military Commander in Tokyo who is advised by a group of several Governments, and we have a Military Commander in Berlin who has relations with other Occupied Zones, and it is partly a question of red tape. For that reason, we should prefer to have an interpretative note in the Agreement. This is, after all, an interpretative note which would indicate that the provisions did not bind a contracting party in respect of its trade in such areas, but I realize that this note itself has an excessively negative appearance. Perhaps that might be changed in some way, but we do feel that some sort of a note along these lines would facilitate a solution of the problem.

Now Dr. Coombs has suggested that there should be no blanket exception. I suggest there is no blanket exception in this Agreement at all. All the exceptions are subject to challenge under the Nullification and Impairment procedure, and if a country considers that the policies applied by the United States in its trade with an occupied area are impairing or nullifying the benefit of trade provisions must apply.

Now, in order to make that clear, I would suggest that the second sentence might read this way: "It is understood that, until otherwise agreed, the provisions of this Agreement shall not require its application to any area or any part thereof, etc. etc."

CHAIRMAN: The Delegate of Australia,

Dr.H.C. COOMBS (Australia): Mr. Chairman, I feel that the statement that the United States Delegate has made does not establish the position he suggest that it does. He says there is nothing in this Note that would prevent a country exercising its rights under the Complaint procedure, but in the face of such a complaint it is pointed out that the complaining party has agreed that it is understood that the provisions of this Agreement shall not require the application or shall not bind any contracting party with respect to its trade with such areas. That, surely, is a serious weakness in any right of complaint? We would suggest that to make the position quite clear - if the United States Delegate thinks that it is impossible to drop this note or any reference to it - if he does feel so strongly about it, that we add at the end a further statement that any contracting party which is also an occupying authority will confer with any other contracting party who believes that its interests are adversely affected by any action taken by the contracting party who is also an occupying power which he believes to be in conflict with the obligations of that contracting party under this Agreement, with a view to satisfactory agreement.

CHAIRMAN: The Delegate of France,

M. ROYER (France) (Interpretation): We have tried for the last six months to convince the United States Delegation of the

difficulties which always arose from having too rigid an attitude and too rigid provisions, and therefore we are somewhat amused now to see that the United States Delegation has been caught at its own game and that now, in respect to its trade with its occupied zone, it has, in fact, to go against the provisions of the Charter and the provisions of the General Agreement. It is difficult to lay down too rigid provisions in the General Agreement to take care of all the situations which are now prevailing in the world.

Therefore, I think that we have to consider the case of the occupied zone with the greatest modesty and just state that they cannot fit in the general framework of the Charter and of the General Agreement.

As regards the French Delegation, we would like to state that France could not commit itself to the undertakings defined in the United States proposal, and this is not from ill-will on the part of the French Delegation, but is due to the simple fact that we are unable to state whether the commercial operations carried out with our Zone are carried out in accordance with or against the provisions of the Charter and of the General Agreement. Therefore, it seems to me that there are only two alternatives, either to insert a note to explain that the words "territories/<sup>for</sup>which they have international responsibility" do not apply to the military zones of occupation, or to adopt the solution proposed by the United States Delegation and say that this situation regarding the case of the military zones of occupation is outside the scope of this Agreement for the time being.

Nevertheless, I think that regarding the notes presented by Dr. Coombs I should like to state that this Agreement is only an Agreement which will be applied provisionally, and that once we know what has come out of the Charter at the Havana Conference we may be able to study this question again; but it would be wrong for the time being to commit the Contracting Parties further than is necessary, that is to say, that it would be wrong to commit them regarding territories for which they are not supposed to have international responsibility, and this would be prejudging this issue.

CHAIRMAN: The Delegate of Belgium

M. FORTHOMME (Belgium): Mr. Chairman, it seems to me that we are getting nowhere on agreement at all on any kind of text which really has even a shade of meaning. I would therefore second the suggestion which the French Delegate made in the last part of his speech, which is somewhat on the lines of what I suggested before: just to put in a note which will take up the reason why the United States Delegation thinks the question should not be treated here; that is, the time question, and simply say the question is reserved for further study. Full stop. I think that is the only thing we shall be able to agree upon.

CHAIRMAN: The Delegate of the United States.

MR. J.M. LEDDY (United States): Mr. Chairman, it is entirely because of the softening influence of the French Delegation that we have agreed to make a provision whereby France and other countries which have balance-of-payments restrictions can discriminate against any country for a period of years.

With respect to the suggestion of the Delegate of Australia, that the nullification or impairment clause would not apply; in the event that this Note were included in the Agreement, I should like to read the clause aloud:-

"If any contracting party should consider that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired or any objective of the Agreement is being impeded as the result of the application by another contracting party of any measure, whether or not it conflicts with the provisions of this Agreement; or the existence of any other situation, the contracting party may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to the other contracting party or parties which it considers to be concerned. Any contracting party thus approached shall give

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sympathetic consideration to the representations or proposals made to it."

I think that certainly takes care of the consultation point.

It is not that we disagree in any way with the idea that the principles of the Charter or the principles of this Agreement should govern either the policies of the occupied areas or the policies of the United States with respect to their trade with such areas. It is simply a question of time as to the determination of the particular form that particular obligation should take, and we have put our proposal forward purely as a stop-gap proposal pending the settlement of the question.

The difficulty I have with the formula proposed here is that it does not make clear that the trade regulations of the occupied areas and the trade regulations of the Occupying Powers with respect to those areas are, in fact, outside the binding obligations of the Agreement. This does not, however, prejudice the generality of the application of the nullification or impairment clause, except a specific statement that the nullification and impairment clause would not apply.

We are perfectly willing - in fact, we are anxious - to seek some satisfactory arrangement of this question within the next seven weeks, given the time to do so.

CHAIRMAN: The Delegate of China.

H.E. Mr. WUNSZ KING (China): Mr. Chairman, whilst I still firmly believe it would be wise to drop the whole thing, I would support the views expressed by Dr. Coombs, that, in case the United States Delegation is keen on the insertion of such a Note, a specific provision should also be inserted by which the interests of the other contracting parties would be amply safeguarded. But in this connection I cannot over-emphasize the point that if any interim arrangement of this matter is to be made at all, it should be made quite clear that this is to be done without prejudice

whatsoever to the attitude which all the contracting parties will take at the time of the Peace settlements.

However, in view of the serious divergencies of views, and in view of the fact that a number of tentative proposals have been and are being made, it seems to me that Oriental wisdom would still dictate that the whole thing might be dropped.

CHAIRMAN: The Delegate of Australia.

Dr. H.C. COOMBS (Australia): Mr. Chairman, I quite agree with the United States Delegate that nothing can take away the rights of complaint and consultation which are given to the contracting parties in the clause which he read to the Meeting, but I would point out to the United States Delegate that that clause, as it stands, would give the United States the right to complain to Australia if, by imposing quantitative restrictions during a period of acute balance-of-payments problems, it adversely affected the interests of the United States.

We would not question the right of the United States to make such a complaint, nor our obligation to consult with them on it. But it would appear to us to be a very significant factor in that consultation point that what we were doing was specifically provided for in the Agreement. We would not say that would be the end of the discussion. But if the United States made a complaint that we were doing something which was inconsistent with the Charter, then we believe that would be on quite a different plane.

Our objection there is that, instead of leaving this matter to be dealt with by the right of complaint and consultation, as provided for in the Agreement, when the Occupying Power could give such explanation as justified the action it had taken, what is proposed is to make specific provision excluding these things from the operation of the Agreement. In such a situation, if we complain to the United States that the Occupying Power in Japan or Germany is doing something which is contrary to our interests, we are putting them in

precisely the same position as we ourselves would be if we received a complaint that something we had done to protect our balance-of-payments, consistent with the provisions of the Charter, was detrimental to their interests. It does seem to me it substantially changes the situation.

We would suggest, if the United States Delegate has so much confidence in this complaint procedure, that he relies upon it, that he relies upon his rights of explanation under it to deal with any problem which may arise between his country and any other country in connection with the status of his country as an Occupying Power. As he suggests it is only a question of weeks before we have this thing settled, why is it necessary, for so short a time, so specifically to cover possible departures from the terms of the Agreement?

We would prefer, as I say, to leave the thing out altogether, so that countries who feel themselves aggrieved have the right to complain and the countries against whom they feel they have a complaint have an obligation to explain. However, we were prepared to make what seemed to me a pretty substantial concession when we actually put in a statement that this Agreement will not apply to these circumstances, but we want now specifically to refer to the right of other people to complain and to have an explanation.

From our point of view, that is definitely better than to have to rely upon the normal complaint procedure in the Agreement when that right would be so substantially reduced by the existence of this Note. If we put the consultation right in, together with the Note, then, in our opinion, it does at least indicate that in the opinion of the Committee the exemption of the Occupying Power from the obligations which it accepts under this Agreement in this respect is qualified by any obligation to listen to complaints and to offer explanations.

I do not feel, Mr. Chairman, that I would be in a position to agree to anything beyond that so far as my Government is concerned.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, I have made one further attempt to find a formula which would reconcile the different views. It would run like this: "It is recognized that in present circumstances the provisions of the General Agreement are not capable of full application to the trade of the contracting parties with the areas under military occupation. This question is reserved for further study without prejudice to the applicability of Articles XXII and XXIII in this matter." (Article XXII, of course, is Consultation; Article XXIII is Nullification and Impairment).

I wonder if that might possibly meet the various views.

I would call attention to the point that "trade of the contracting parties with the areas" would cover trade between the contracting parties and, as we say, the occupied zone. The expression is usually "the trade of the contracting parties with the zones."

CHAIRMAN: The Delegate of the United States.

Mr. J.M. LEDDY (United States): We would be willing to try out something like that on our people.

Dr. H.C. COOMBS (Australia): I would, too.

CHAIRMAN: Are there any other comments on the proposal of the Delegate of the United Kingdom?

Dr. G.A. LAMSVELT (Netherlands): Mr. Chairman, would you perhaps read the text again.

CHAIRMAN: "It is recognized, in present circumstances, that the provisions of the General Agreement on Tariffs and Trade are not capable of full application to the trade of the contracting parties with the areas under military occupation. This question is reserved for further study without prejudice to the application of Articles XXII and XXIII in this matter."

The Delegate of China.

H.E. Mr. WUNSZ KING (China): This formula is acceptable to the Chinese Delegation on the assumption that "further study" includes study and examination by the Peace Conference or Peace Conferences.

CHAIRMAN: The Delegate of France.

M. ROYER (France) (Interpretation): Mr. Chairman, I should have to consult our authorities in Paris before being able to approve this text.

CHAIRMAN: The Secretariat will prepare this text and have it distributed in mimeographed form during the course of this Meeting. Then I propose we leave the matter in abeyance until the Delegations which are most concerned let us know what the status of the proposal is, in which case we could take the matter up again at a subsequent meeting.

The next item on our Agenda consists of the Annexes to the General Agreement on Tariffs and Trade. We have not yet been through the Annexes. There are a number of points surrounded by square brackets and it is important that we should give final approval to these Annexes.

The Annexes will be found on page 66 et seq. of document T/196.

Annex A - List of Territories referred to in paragraph 2 (a) of Article I. Are there any comments on the List of Territories?

The Delegate of France.

M. ROYER (France) (Interpretation): Mr. Chairman, I wonder if, as we had envisaged it at one time, it would not be preferable, instead of stating here in Annex A: "India (as at 10 April 1947)" to put "India and Pakistan." I would like to have the opinion of the Indian Delegate on this subject.

CHAIRMAN: The Delegate of India.

Mr. B.N. ADARKAR (India): Mr. Chairman, our object in inserting these words: "(as at 10 April 1947)" was to secure recognition for the preferences existing between the United Kingdom on the one hand and India and Pakistan on the other. Since India now has a

different meaning from India on the 10 April 1947, it seems necessary to retain this expression "as at 10 April 1947." Otherwise the preferences existing between the United Kingdom and Pakistan may not be recognized.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R.J. SHACHELLE (United Kingdom): Mr. Chairman, I do not know that there is really any great substance in this point, but I think it is more correct to refer to India as at 10 April 1947, because this is a definition of an area preferential system which existed at the date when these negotiations were undertaken. As a definition of that area this is perfectly correct and I do not think we need to take account of the subsequent changes. I do not think that actually to write in "India and Pakistan" would make any substantive difference, because all the areas set out in this Annex would be covered in either case, I think.

I would consider the object of this Annex is to define the area and I still feel that to refer to the position just as it was at the start of the negotiations is perhaps the correct way.

CHAIRMAN: Does the Delegate of France maintain his suggestion?

M. ROYER (France): No, Mr. Chairman.

CHAIRMAN: Are there any other comments on the List of Territories?

Are there any comments on the next paragraph?

Are there any comments on the third paragraph, on Page 66?

In the last paragraph but one, the words "and hams" are in square brackets.

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MR. R. J. SHACKLE (United Kingdom): I think before we can take out our instruments and remove the square brackets we shall have to await the conclusion of the Tariff Negotiations as between the United States and the United Kingdom. That is my impression. I think at the moment the square brackets should stand, but shall be removed as soon as those negotiations are completed.

CHAIRMAN: So the Legal Drafting Committee will have to study the square brackets. Any other comments on that paragraph?

The last paragraph of this Annex. There we have an alternative text in square brackets. The Committee will have to decide which of the two texts they wish to have for this sentence. I am sorry: the square brackets should be removed if we agree with this last sentence. Are there any objections to the removal of the square brackets?

MR. J. P. D. JOHNSEN (New Zealand): Just one point, Mr. Chairman. That reference to Article I may require amendment.

CHAIRMAN: Yes. The Legal Drafting Committee will look after these Article numbers.

Are there any objections to the removal of the square brackets?

Agreed.

Annex B. Any comments?

Agreed.

Annex C. Any comments?

Agreed.

Annex D. Any comments?

MR. J. M. LEDDY (United States): Mr. Chairman, this paragraph allows the replacement of the internal tax preference by a

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tariff preference and, so far as we are concerned, we would be able to do that when we accept the Agreement but not during its provisional application. I do not quite know what the legal position of this paragraph is in the Agreement and we should just like to take one more look at it before passing it finally.

CHAIRMAN: I hope the Delegation of the United States will be able to accept this Annex on third reading.

M. ROYER (France) (Interpretation): Mr. Chairman, it seems that there is a mistake in the French text. "(Territoires douaniers)" in the French appears in the plural, but "(customs territory)" in the English text is in the singular.

CHAIRMAN: The singular, I take it, is correct.

Annex E. Any comments?

Agreed.

Annex F. Any comments?

Agreed.

Annex G. Here we have square brackets round the words "Australia 15 October 1946". Can those square brackets be removed?

MR. C. E. MORTON (Australia): I have no opinion, Mr. Chairman, but I should hope to know a little later in the afternoon.

CHAIRMAN: Thank you. There are similar square brackets round "Syro-Lebanese Customs Union 30 November, 1939". Would the Syro-Lebanese Delegates tell us if we can remove those square brackets.

MR. J. MIKLOUI (Lebanon) (Interpretation): Mr. Chairman, if you will allow us, my Syrian colleague and myself will let you know later on.

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M. ROYER (France): (Interpretation): Mr. Chairman, I would like to know how the Customs Union of Syria and Lebanon wished to be referred to. In one case it is referred to as Syro/Lebanese Customs Union and in another case as Lebanon and Syria Customs Union. In French the official name will be "l'Union Douaniere libano-syrienne." That is Lebanese/Syria Customs Union.

MR. J. MIKLOUI (Lebanon) - no interpretation.

CHAIRMAN: Is the Chairman of the Drafting Committee quite clear on that?

M. ROYER (France) (Interpretation): Yes, I am quite clear.

CHAIRMAN: Then there are square brackets round "Southern Rhodesia 1 May 1941".

MR. R. J. SHACKLE (United Kingdom): Mr. Chairman, there again I am afraid I must enquire, but I will do it as promptly as possible.

CHAIRMAN: I therefore suggest that we take up Annex G later on in the afternoon after the Delegates have made their enquiries. Then the last thing is Annex H. Will the representative of India tell us how we should divide the percentage 3.3 which is now given to India and Pakistan together, in order to show separate percentages for those two countries in case one should accept the Agreement before the other?

Mr. B. N. DARRAR (India): Mr. Chairman, we are afraid it will be practically impossible to provide information on this point while we are here. If the Committee would agree we would try to work out these percentages, but it seems very doubtful

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whether we shall have the necessary material for the purpose even in India, because the record of the trade between India and Pakistan is very incomplete indeed. Their internal trade was recorded only in a few items. In the circumstances, all that will be possible will be to make an estimate, and I am afraid that will take time.

CHAIRMAN: I fully appreciate the difficulties involved, but it will be necessary for us to establish two separate percentages before the Final Act is signed. It is quite appreciated that these two percentages cannot be exact, but I would ask the Delegate of India if his Delegation could not consult with the representatives of Pakistan with a view to dividing this percentage of 3.3 in a manner which would roughly correspond to the actual facts of the trade of the two countries and be acceptable both to India and to Pakistan. That would enable us to put in this table the two percentages which are necessary if we are to give effect to the provision of the Agreement for its coming into force. Would that be possible?

MR. B. N. ADARKAR (India): Mr. Chairman, we shall do our best.

CHAIRMAN: Are there any other comments with regard to Annex H?

M. ROYER (France) (Interpretation): Mr. Chairman, I would like to make two comments. It seems that these figures have been calculated on the value of trade and not on the volume of trade, and therefore we ought to state it in the heading.

Secondly, I see that Benelux is referred to here as one unit. I do not know if this is correct already regarding the Agreement and it is possible that these three countries might wish

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to ratify the agreement separately. Therefore I wonder if it would not be better to divide these three countries.

Furthermore I see that France is referred to as "France" here and it would be best to refer to France as "The French Union" because the figures given here relate to the French Union.

CHAIRMAN: The Delegate of Belgium.

M. Pierre FORTHOUME (Belgium): It is perfectly true that Belgium, the Netherlands and Luxemburg are not an economic union. On the other hand, as this figure relates, not only to the trade of Belgium, Luxemburg and the Netherlands, but also to the overseas territories of those economic entities, I do not see any advantage in splitting it up. Furthermore we should not split it up because provisional application of this agreement would coincide with the putting into force of the Benelux Tariff and it will be apparently necessary for all the members of Benelux to sign the Protocol of Provisional Application at the same time in order to give effect to the obligation to put it into force provisionally. Therefore I suggest we might change this wording simply to "Belgium, Netherlands, Luxemburg and overseas territories depending from those countries" or something like that.

CHAIRMAN: Overseas territories are covered by the Note which appears at the end of this paper. That Note was put in in order to avoid having to repeat "and dependent territories" in each case. I am wondering if it perhaps might not be better in the case of Benelux to use the words "Customs Union" and say "Belgium, Netherlands and Luxemburg Customs Union".

DR. LAMSVELT (Netherlands): Mr. Chairman, overseas countries are not members of the Customs Union. It is not yet in being.

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It is going to develop into a Customs Union, and overseas territories are not in it.

CHAIRMAN: Then perhaps it would be simpler to say "Belgium, Netherlands, Luxemburg." Is that agreed?

DR. LAMSVELT (Netherlands): I agree, Mr. Chairman.

CHAIRMAN: The Delegate of Czechoslovakia.

MR. O. COUFAL (Czechoslovakia): Mr. Chairman, I should like to make two remarks on this Annex H.

I presume that in the headings reference should be made to Article XXVI and not to Article XXIV.

Also with regard to the percentage given opposite the name of Czechoslovakia, I should like to state that during 1938 a part of Czechoslovakia was already occupied by Germany and consequently the percentage would have been greater had it not been so. But we will leave it at that.

CHAIRMAN: We are quite aware of the circumstances to which the Delegate for Czechoslovakia has called attention, but I am very glad that he has been able to accept the figure given here. This table of course is for only one purpose, that is for giving effect to the entry into force and to Article XXVI and therefore these percentages have not such very great significance beyond that.

MR. O. COUFAL (Czechoslovakia): We realise that, Mr. Chairman.

CHAIRMAN: The Delegate of India.

MR. B. N. ADARKAR (India): Mr. Chairman, it would help us considerably in working out these percentages if we could have it agreed in this Committee, provided it is acceptable to India and

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to Pakistan, that for the purpose of calculating these percentages, the regional trade between India and Pakistan should be ignored; because if the trade between India and Pakistan is to be taken into account, that will affect the total of world trade possibly and it might make some fractional difference in the other percentages. So, if it is acceptable to India and to Pakistan, the Committee might agree to ignore for this limited purpose the regional trade of India and Pakistan.

CHAIRMAN: It was of course our understanding that the trade between India and Pakistan would not be taken into account because India and Pakistan were not in existence in the periods on which these figures were based. The only suggestion which the Tariff Negotiations Working Party thought of in connection with this percentage 3.3 is that it should not be in any way increased, because that would upset the whole table, but that India and Pakistan should agree amongst themselves on the basis of dividing this percentage of 3.3 between the two territories, so that if one country accepts the agreement before the other, we will know which figure to use. So it is simply a case of deciding on what proportion of the 3.3 should be allotted to India and what proportion of the 3.3 should be allotted to Pakistan. Of necessity it will have to be very rough, in the circumstances, but we think the most competent persons to do this are the two countries concerned.

Are there any other comments?

MR. C. E. MORTON (Australia): Mr. Chairman, reverting to Annex G, Australia is agreeable that the square brackets should be removed from the name of my country and the date 15 October 1946, as, in the event of Australia accepting this agreement, that will be the date operating as the base date.

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CHAIRMAN: Thank you. Will the Syrian and Lebanese Delegations also inform us during the course of the afternoon as to their date?

We have already examined Annex I during the course of second reading, so I do not think it necessary for us to go over Annex I in detail.

The Delegate of Brazil.

MR. E. L. RODIGUES (Brazil): Mr. Chairman, we have recorded a reservation to the Charter, Article 20, paragraph 5 (b), and we did not maintain the reservation on Article XIV paragraph 5 (b) because we thought, and we still have the same opinion, that the latter article would be superseded by the Charter as amended in Havana. But now we have in Annex I, on page 67 of document T/196, a reference which reads: "The preferential arrangements referred to in paragraph 5 (b) of Article XIV are those existing in the United Kingdom on 10 April 1947, under contractual agreements with the Governments of Canada, Australia and New Zealand, in respect of chilled and frozen beef and veal, frozen mutton and lamb, chilled and frozen pork, and bacon." I feel that this Annex could not stand if the Article XIV paragraph 5 (b) would be superseded by the Charter as drafted in Havana. But if I am not correct, then I have to maintain in the Agreement the same reservation which we made on the Charter. I was trying not to do that in order to avoid difficulties for the Agreement, and because I felt there was no necessity for doing so; but if this reference in Annex I can change the situation, I feel I have to maintain the reservation even to this Agreement.

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CHAIRMAN: I thought the question of reservations had been cleared up, and I intended to make a reference to it at the conclusion of this meeting. But I am wondering if the point just mentioned by the Delegate of Brazil is not covered by the tentative decision which we took yesterday, that Article I should now be made a part of Part II, which is the Part which will be superseded by the provisions of the Charter. Annex A is referred to in paragraph 2 (a) of Article I and is therefore to be considered an integral part of Article I and therefore if it is included in Part II of the Agreement it would be subject to the Supersession Provisions of the Agreement.

MR. E. L. RODRIGUES (Brazil): Mr. Chairman, this was, of course, my interpretation, and because of this we had not maintained our reservation to Article XIV paragraph 5 (b). But I should like to be sure, and after your words I think I can take it for granted that both references, the reference to Annex A in paragraph 2 (a) of Article I and the reference to paragraph 5 (b) of Article XIV in Annex A on page 67, will not mean that this Annex A would be something which would not be affected by this supersession by the Charter.

CHAIRMAN: Mr. Leddy.

MR. J. M. LEDDY (United States): Mr. Chairman, I think the difficulty of the Delegate of Brazil is taken care of, regardless of the disposition of Article I in this Agreement, because if the Charter should prohibit the preferential arrangements in question they have to be dropped regardless of what is in the Agreement. So I think it is quite clear that, wherever it goes, this provision is fully safeguarded in respect of that provision in the Charter which will come up for consideration by the Havana Conference.

I do have a couple of small points on Annex H which I should like to bring up. They are just small points:- the reference to "the Territories of the Signatory Governments to the General Agreement on Tariffs and Trade" should be a reference to "the Governments Signatory to the Final Act". Secondly I think it would be better if, instead of referring to the latest twelve months for which figures are available, the Secretariat could insert the months concerned - I mean the particular year. Would that be possible?

CHAIRMAN: Mr. Leddy is quite correct in pointing out that "the General Agreement on Tariffs and Trade" should be replaced by "the Final Act". I take it that is agreed by the Committee.

With regard to the other point, my information is that the Secretariat have not always used the same twelve months in working out these percentages. That is, they took the average of the year 1938, and the latest twelve months for which they had figures available. In the case of some countries the twelve months were a more recent twelve months than in the case of others, because later figures were available. So that it would be difficult to change that wording if we were to be accurate.

CHAIRMAN: Are there any other comments on the text?

I think we should now take a final look at the Preamble to the General Agreement of Tariffs and Trade, because there may be points in the Preamble on which Members of the Committee wish to make some changes.

Paragraph 1 of the Preamble - which is given on page 3 of Document E/PC/T/196.

Mr. R.J. SHACKLE (United Kingdom): There are the square brackets.

CHAIRMAN: Naturally the square brackets around Burma, Ceylon and Southern Rhodesia will be deleted.

Dr. G.A. LIMSVELT (Netherlands): Could we insert the word "The" before "Kingdom of the Netherlands".

CHAIRMAN: That has already been done. It was a typing error.

Are there any other comments? Paragraph 1 is agreed.

Paragraph 2. Are there any comments?

Agreed.

Paragraph 3. Are there any comments?

Agreed.

Paragraph 4. Are there any comments?

Agreed.

We now come to the Report on the sub-Committee on the relationship of specific duties to depreciated currencies. The sub-Committee has prepared a draft text of a note in the appropriate Schedules and also the text of a paragraph in Article II for the Committee if it is decided that such a provision should be incorporated in the Agreement. I will call upon Mr. Morton, Chairman of the sub-Committee, to explain the proposals of the sub-Committee.

Mr. C.E. MORTON (Australia): Mr. Chairman, as instructed by the Tariff Agreement Committee at its Twenty-third Meeting, the sub-Committee on Schedules met this morning to draft a text of a model note which could be used in Schedules to cover any adjustment of specific duties and charges rendered necessary pursuant to a depreciation in a country's currency.

The Members of this sub-Committee were the representatives of Australia, Belgium, Canada, Czechoslovakia, France, the United Kingdom and the United States of America.

The Committee reached agreement on the text which has now been circulated in document E/FC/T/208.

It will be noted that the Committee has not only drafted a model note which might appear in individual Schedules in those cases in which a contracting party considered it appropriate, but has also drafted, along the same lines, a text which might be incorporated in Article II if it were to be considered that provisions relating to this matter should appear in the General Agreement, rather than in individual Schedules. The sub-Committee felt that it was for the Committee to determine whether these provisions should appear in one place or in the other. It appeared that the choice between inclusion in the General Agreement itself, and insertion in the individual Schedules could be made only when it was known whether such a provision was considered necessary in a few Schedules or in a considerable number. In the latter event, the Tariff Agreement Committee might consider it desirable to include the provision in the text of Article II itself, in order to generalise what might be considered to be a concession or minor escape clause. The suggestion was made in the sub-Committee that, during the discussion of this matter this afternoon, an attempt might be made to ascertain how many Delegations considered such a provision necessary in their Schedules. In the

light of this information, the Committee would be in a better position to decide where a provision of this nature should be located.

In connection with the text proposed for possible inclusion in the appropriate Schedules, the question arose whether the text as now drafted covers satisfactorily the case of any country participating in the present negotiations which is not a Member of the International Monetary Fund, and which has, in its Customs Tariff, a sufficient number of specific rates of duty to warrant an interest on its part in such a provision. It was felt that the case of such a country would have to be covered in some other manner than by the inclusion of the present note and that a special provision would have to be made in each such case which would take account of the status of that country's present and prospective exchange rate. It is believed that the number of such countries does not exceed one.

In connection with this model note, it will be noted that the words "Contracting Parties" are capitalized and that accordingly the concurrence regarding adjustment which is envisaged would require a simple majority vote as indicated by Article XXV.

Concerning the text suggested for possible inclusion in the General Agreement itself, in the event that a provision of this sort is considered necessary for a great number of Schedules, necessary drafting modifications have been made to generalise its application.

A paragraph has been added to cover the position in which Contracting Parties not members of the International Monetary Fund would be placed after special exchange agreements have been made. A similar provision was not required in the model note since that note relates to the results of the present negotiations which will have been completed before any special exchange agreements are negotiated.

CHAIRMAN: I want to thank Mr. Morton for the explanation he has given of the recommendations of the sub-Committee. Before opening the general discussion on these recommendations, I think it would facilitate the discussion if we first of all acted on the suggestion of Mr. Morton and ascertained which countries would desire to have a note of this kind in their Schedule. I therefore propose to call a roll call of the signatories to the Final Act, and I would ask each country which desires to have a note of this kind in the Schedule to answer "yes" and those which do not desire to have a note of this kind to answer "no".

Australia	-	Yes
Belgium, Luxemburg, Netherlands	-	Yes
Brazil	-	Yes
Burma	-	Yes
Canada	-	Yes
Ceylon	-	Not present
Chile	-	Yes
China	-	No
Cuba	-	Abstain
Czechoslovakia	-	Yes
France	-	Yes
Lebanon and Syria	-	Yes
India	-	Yes
Pakistan	-	Probably yes
New Zealand	-	It would depend on what specific items might be in our Schedule. Probably no.
South Africa	-	No.
United States	-	I was afraid of this, Mr. Chairman. We have no interest in putting it in our Schedule to protect the incidence of the duties.
United Kingdom	-	I think I had better say yes, <u>ad referendum.</u>

CHAIRMAN: I think it is easier if I read out the names of the Delegations that said they did not require a note of this kind in their appropriate Schedule - China, New Zealand, subject to reservation, South Africa and the United States.

The discussion is now open on the recommendation of the sub-Committee.

CHAIRMAN: The Delegate of the United States.

Mr. J.M. LEDDY (United States): I think in view of this that as every country seems to want a note to this Schedule, there is no point in repeating it. In most of the countries feel that they must have the note, we must have it, of course.

Therefore, I think that we might just as well begin by discussing the General Note for inclusion in the Agreement rather than the model note for the Schedule. In view of the fact that it will apply to every country we must have an opportunity to discuss the question of their relation to the Schedule with each of the negotiating teams. I do not think they will have much difficulty in that.

CHAIRMAN: I think that the Committee is in accord with the conclusions which Mr. Leddy has derived from the expression of views of the Delegations as to whether or not they want a note in their Schedule, and therefore we can take up the second part of the proposal of the sub-Committee. It relates to a text for incorporation in the Agreement as part of Article II.

Are there any comments?

Mr. E.L. RODRIGUES (Brazil): Mr. Chairman, I am prepared to accept this list as a compromise, but I should like to suggest a slight change in regard to the second line on page 2. Instead of "accepted" I should like the word "recommend". It is understood

that the specific duties and charges included in the Schedules are expressed in the appropriate currency at par value as recognised by the International Monetary Fund at the date of this Agreement. The reason for that is that Brazil has not a definitive par value, having a provisional one. Within a few months perhaps we will have it. It will be the same because the same rates have prevailed since 1938. It is a matter of prudence to have our case covered by this text and I should like to ask the Members of the Committee to be good enough to make this slight change.

CHAIRMAN: The Delegate of Brazil has proposed that the word "accepted" should be replaced by the word "recognised". Are there any objections?

Mr. LEDDY (United States): Mr. Chairman, I would prefer leaving the word "accepted" rather than adding "or provisionally recognised". I would also suggest that in the first two lines of the next paragraph we should change the words "consistently with" to "with the approval of the International Monetary Fund."

CHAIRMAN: Is the Delegate of Brazil in accord with that suggestion?

Mr. RODRIGUES (Brazil): Yes, Mr. Chairman.

CHAIRMAN: May we add the words, after "accepted", "or provisionally recognised." Is that agreed?

(Agreed)

Mr. LEDDY (United States): Mr. Chairmen, I suppose it is a fact that these specific duties in every country's Schedule are at the parity accepted by the Fund? I think that will probably have to be looked into.

CHAIRMAN: I will ask Mr. Morton if he can answer that question.

Mr. C.E. MORTON (Australia): What is the implication of that question, Mr. Chairmen? I do not see how that could be otherwise than expressed in the currency of the particular country. It has now been stated that the rate applicable to that country is the par rate as recognised by the Fund. The Schedule simply says ten shillings in the £.

Mr. LEDDY (United States): Your Schedule?

Mr. MORTON (Australia): Any schedule. There are cases when a certain country demands payment of a duty in the currency of another country; for instance, a very sound currency, like the dollar.

Mr. LEDDY (United States): There have been cases in the past, Mr. Chairman, where specific duties have been expressed not in the unit of currency which is the value of the commercial transactions or the current par value; they have been more or less arbitrary specific duties. I think we had perhaps better examine the Schedules closely to see that this language is appropriate, that it does apply to all the Schedules concerned.

CHAIRMAN: I think Mr. Leddy has raised a point that does require looking into, but I doubt if we have facilities for it now. Is the Chairman of the Sub-committee satisfied that the wording of this proposed Article covers all such cases and would not give rise to any difficulties?

M. FORTHOMME (Belgium): Mr. Chairman, it seems to me that this draft would cover the situation, because if a specific duty is expressed in some unit, such as a gold unit or any unit which is an arbitrary one which has no reference to any existing or actual currency in use, these duties still have to be paid, in the final resort, in some sort of currency which is in use. Generally you find there is some kind of co-efficient established by that country for the reduction of the specific duties expressed either in gold units or in dollars of a hundred years ago. You multiply that by 2,444 in order to get present day dollars, and that co-efficient will express the value of the duties in the currency in use in the country imposing them.

If there is a devaluation of the currency of the country, that country will probably have recourse to the contracting parties in order to be able to modify the co-efficient it is applying. Therefore I think this text would apply even in that case.

Mr. LEDDY (United States): Mr. Chairman, I agree with the Delegate of Belgium that it certainly should apply. I merely questioned whether there are any cases of the kind I mentioned. If there are any cases of that kind the language does apply, because it says the duties are expressed in the currency at the par value. I think perhaps we may need to change that.

Mr. FORTHOMME (Belgium): Would you say "are assessed"?

CHAIRMAN: The Delegate of India.

Mr. B.N. ADARKAR (India): Mr. Chairman, I am wondering whether it is necessary at all to have the first paragraph; it does not seem to add anything to the meaning of the subsequent paragraphs, because in most cases the specific duties and charges are expressed in a currency and what actually happens when the value of that currency changes is that the value of the goods which are assessed changes and therefore the change in the par value of the currency is really relevant to the second paragraph and not to the first.

Therefore could we not say: "with regard to the specific duties and charges included in the Schedules annexed to this Agreement, it is agreed that in case the par value of the currency in which the specific duties and charges are expressed is reduced, with the approval of the International Monetary Fund, by more than 20 per cent, such duties and charges may be adjusted to take account of the reduction in the par value of the currency."

CHAIRMAN: The Delegate of India has made what seems to be a practical suggestion. It also has the advantage of saving words by combining these two paragraphs.

Does anybody see any objection to the suggestion of the Delegate of India?

Mr. FORTHOMME (Belgium): Mr. Chairman, it seems to me the only thing is that it does not indicate what the initial par is and that the initial par should be a par acceptable to or recognized by the International Monetary Fund. I think this is a very important provision, so important that we have added the final paragraph, saying that similar provisions shall only be available to any contracting party not a member of the International Monetary Fund except by special agreement.

Therefore I do recognize that the Indian Delegate's formula saves words, but I am afraid it skips one of the most important points.

CHAIRMAN: The Delegate of India.

Mr. ADARKAR (India): Mr. Chairman, that point would be taken care of by adding some words after "by more than 20 per cent." We could say: "the par value at the date of this Agreement."

CHAIRMAN: The Delegate of Belgium.

Mr. FORTHOMME (Belgium): Mr. Chairman, I do not wish to seem obstinate, but now we have added that to the sentence are we not going to have a very long and cumbersome sentence, which is practically as long as the three sentences we have now? I think we have the advantage of the first principle in the first paragraph, the second principle and the third principle in the same paragraph.

Mr. SHACKLE (United Kingdom): Mr. Chairman, if the last paragraph is to be confined to any actual case, if there is any actual case, then I am afraid the first paragraph may be a simple untruth, may it not, because its currency cannot be expressed in a par value approved by the International Monetary Fund.

CHAIRMAN: I think the Drafting Committee could cover that and put in the word "similar".

Could we perhaps go back to M. Forthomme's suggestion of the changing the word "expressed" to "assessed", or perhaps I might make an alternative suggestion: that at the top of Page 2 we should change the words "in the appropriate currency" to "in an appropriate currency." I think either of those suggestions might get over the difficulty to which Mr. Laddy called attention.

The Delegate of Belgium.

M. FORTHOMME (Belgium): I wonder if it might not be better to say: "It is understood that the specific duties and charges... are expressed directly or in the final analysis in the appropriate currency at the par value...."

Mr. SHACKLE (United Kingdom): Mr. Chairman, it does seem to me that the first paragraph as it stands will need so many alterations and amendments that I am beginning to think it would be better to adopt the suggestion of Mr. Adarkar.

CHAIRMAN: Perhaps if I read over Mr. Adarkar's suggestion again it may not sound so bad - or so long - as it sounded at first.

"With regard to the specific duties and charges included in the Schedules, it is agreed that, in case the par value of a currency in which the duty is expressed is reduced with the approval of the International Monetary Fund by more than 20 per cent of the par value recognized by the International Monetary Fund, the specific duties and charges may be adjusted....."

M. FORTHOMME (Belgium): Mr. Chairman, I find two things; first of all, that draft drops the date at which this par value was recognized, or the date when that par value was existing, the second is that it does not meet M. Laddy's objection, which still remains: "expressed in the appropriate currency." I honestly think the present text should cover any case, including the case in the mind of Mr. Laddy.

CHAIRMAN: Could M. Forthomme make any suggestions with regard to the first paragraph? We will deal with this paragraph by paragraph.

M. FORTHOMME (Belgium): "It is understood that the specific duties and charges included in the Schedules are related (directly, perhaps) to the currency of the country concerned at the par value accepted."

CHAIRMAN: The Delegate of the United States.

Mr. LEDDY (United States): I think, in order to meet Mr. Shackleton's point, we might add this: "It is understood that the specific duties and charges included in the Schedules relating to the contracting parties which are Members of the International Monetary Fund are assessed in the appropriate currency at the par value or provisionally recognized by the Fund at the date of this Agreement." That covers all contracting parties which are members of the Fund, and the second and third paragraphs provide for a similar procedure for the Contracting Parties as a whole.

Mr. MORTON (Australia): I do not like the use of the word "assessed" in relation to specific duties. The word "payable" would be better.

Mr. LEDDY (United States): "Levied" or "payable."

CHAIRMAN: Is that generally agreed?

Mr. JOHNSEN (New Zealand): I would like to hear that again, Mr. Chairman.

CHAIRMAN: I will ask the Secretary to read it.

(Read by the Secretary): "It is understood that the specific duties and charges included in the Schedules relating to contracting parties which are Members of the International Monetary Fund are levied in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement."

M. ROYER (France) (interpretation): I do not agree with the word "levied." The proper words here would be "expressed in terms of."

CHAIRMAN: The Delegate of New Zealand.

Mr. JOHNSEN (New Zealand): There is just one difficulty I have, Mr. Chairman, in interpreting the proposal: that is, the duty is actually payable in most cases, I think, in the currency of the importing country. But I recognize that it is necessary to establish some relationship between that currency and other currencies and I think this paragraph should be clearly expressed, to avoid any confusion in that respect.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. SHACKLE (United Kingdom): Mr. Chairman, this point strikes me; I rather think "expressed" is the appropriate word. It is clear that what we are dealing with is the unit of money used to express the rates of the tariffs. Surely it is a question of the currency in which the tariff rates are expressed. "Expressed" is the only right word.

If there are any peculiar cases of duties which are expressed in gold units, or something of that kind, I should feel that would be a case so special that some special arrangement would have to be devised, something to take care of that special case.

Mr. MORTON (Australia): Mr. Chairman, the paragraph as it reads in the text is correct in all details and the word "expressed" is the correct word to use, provided that what we say is understood to be the case. As Mr. Shackle and Mr. Leddy said, there may be cases in which what we understood to be the case is not so; those cases must be taken care of specially, in another Article.

CHAIRMAN: I would suggest that we therefore keep as closely as possible to the text originally suggested by the Sub-committee. That would imply leaving the word "expressed." I am wondering if the Committee would wish to add the words suggested by Mr. Leddy relating to contracting parties which are members of the International Monetary Fund.

Mr. SHACKLE (United Kingdom): Mr. Chairman, I should like to support the words suggested by Mr. Leddy. I think they are necessary in order to make the first paragraph consistent.

M. FORTHOMME (Belgium): Where would they come in?

Mr. SHACKLE (United Kingdom): After "Schedules."

CHAIRMAN: Is it agreed that we add those words after "Schedules."

(Agreed)

The paragraph will now read: "It is understood that the specific duties and charges included in the Schedules relating to contracting parties which are members of the International Monetary Fund are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement."

Is that agreed?

(Agreed)

We now come to the second paragraph. Before dealing with this paragraph, I should like to ask the Chairman of the Subcommittee if it is, in fact, proposed that we should have three paragraphs covering this particular provision. This provision will be included in Article II, which already has, I think, seven paragraphs, and I am wondering if we could not combine all these into one paragraph.

Mr. MORTON (Australia): Certainly Paragraphs 1 and 2 can run together, Mr. Chairman. There would certainly be some virtue in retaining the third paragraph separately.

CHAIRMAN: I am wondering if it would be desirable to have a connecting word between the first and second paragraphs, such as "accordingly."

Is the addition of the word "accordingly" agreed?

(Agreed)

The next point we have to take up is the suggestion of Mr. Leddy to replace the words "consistently with the Articles of Agreement of the International Monetary Fund" by the words: "with the approval of the International Monetary Fund."

Mr. MORTON (Australia): That change was made to "consistently" at the suggestion of the United States Delegate, Mr. Chairman.

Mr. LEDDY (United States): I think this is really more accurate now, because a Member may not change its par value by as much as 20 per cent - let alone more than 20 per cent - except with the approval of the International Monetary Fund. I think that would be strictly accurate.

CHAIRMAN: Is it agreed we should say: "with the approval of the International Monetary Fund.?"

M. FORTHOMME (Belgium): Mr. Chairman, I think there is no purpose in changing the present drafting, because, as Mr. Leddy has just pointed out, you cannot depreciate your currency by more than 10 per cent without the approval of the Fund, according to the Articles of the Fund. When it is more than 20 per cent, the procedure for getting approval is considerably longer than when it is less than 20 per cent. Therefore, whichever you put in, it is practically the same thing.

CHAIRMAN: Are there any other suggestions with regard to Paragraph 2?

Mr. L.E. COUILLARD (Canada) (interpretation): Mr. Chairman, in the French text there is a mistake; where it says "granted in the Schedules" the word "Schedules" has been translated in the singular: "Liste."

M. ROYER (France) (interpretation): Mr. Chairman, I have made no comment on the French text, but I think this text will have to be re-drafted completely.

CHAIRMAN: Yes, we will leave that to the Legal Drafting Committee.

Are there any other comments on Paragraph 2?

(Agreed).

We now come to the third paragraph and I would ask Members of the Committee for any suggestions which would enable this paragraph also to be combined with the two preceding paragraphs, so that we should have one paragraph covering this provision; otherwise we should have difficulty, I think, in putting this into Paragraph 2.

M. FORTHOMME (Belgium): Perhaps we could put the words: "further agreed."

Mr. SHACKLE (United Kingdom): Mr. Chairman, I would venture to suggest that we should retain these two paragraphs and treat them as sub-paragraphs (a) and (b).

I think it is desirable to keep the sub-paragraphs, because the first case covers the case of members of the International Monetary Fund and the second covers the case of non-Members. I think we should preserve the distinction. Therefore I think (a) and (b) could cover the case.

CHAIRMAN: I think Mr. Shackle has found the right solution. Are there any other comments on what is now paragraph (b)?

Mr. J.P.D. JOHNSEN (New Zealand): I should imagine that it would be necessary that in sub-paragraph (b) there should be some provision for contracting parties which were not a member of the Fund but might subsequently become a member. I presume that it would be desired to cover such cases. I suggest that after the words "contracting party" in line 4 we might put "becomes a member of the Fund or enters into....."

CHAIRMAN: The Delegate of New Zealand has suggested that after the words "contracting party" in the fourth line the words should be added: "becomes a member of the Fund or.....".

Is that agreed?

MR. R. J. SHACKLE (United Kingdom): Mr. Chairman, I think that the word "similar" might perhaps cover this slight difficulty. It is evident that in the case of a contracting party which becomes a member of the Fund after the date of this Agreement, the par value will be accepted. So clearly to say "at the date of this Agreement" would not apply to this case. On the other hand the word "similar" would probably allow that difference without having to go to the bother of writing something in about a mythical date.

(After interpretation)

Mr. Chairman, on second thoughts I think it must be so, because exactly the same arises in the case of a country which makes a special exchange agreement. That would be subject to those provisions in any case.

MR. J.P.D. JOHNSEN (New Zealand): I am not quite sure what Mr. Shackle's suggestion was.

MR. R. J. SHACKLE (United Kingdom): I did not suggest anything. I was only saying that I think the word "similar" would cover this question of the different dates.

CHAIRMAN: I think Mr. Shackle is opposing your proposition. Are the words suggested by the New Zealand Delegate approved?

M. ROYER (France)(Interpretation): "The above mentioned provisions will apply mutatis mutandis" etc.

MR. J.P.D. JOHNSON (New Zealand): I take it, Mr. Chairman, that in any case Article XXVIII will apply. It would not wipe out the case of the modification of Schedules on or after January 1951 by agreement with the other contracting parties.

CHAIRMAN: Are there any other comments regarding this paragraph? Is this paragraph agreed with the addition of the words suggested by the New Zealand Delegate?

Agreed.

I would now like to ask the Chairman of the Sub-Committee if they have considered in which part of Article II this new Article should come.

MR. C.E. MORTON (Australia): Mr. Chairman, we were not anticipating that it would proceed beyond the status of a note to the Schedule.

CHAIRMAN: Shall we leave it to the Legal Drafting Committee to find the proper place in Article II?

M. PIERRE FORTHOMME (Belgium): I suggest that it should come after paragraph 2.

M. ROYER (France)(Interpretation): Paragraph 7.

CHAIRMAN: I should think that after paragraph 7 would be the best place, as suggested by M. Royer.

After paragraph 6. Between paragraphs 6 and 7.

Is that agreed?

We have now disposed of the question of depreciated currencies.

The Delegate of France suggested yesterday that the French Delegation may wish to propose a modification of the Protocol of Provisional Application. I would like to ask the Delegate of France if he would consider that any advantage would be derived from dealing with that now, or waiting until the third reading. I take it that it is a consequential change upon the tentative decision reached yesterday to transfer Article I to Part II.

M. ROYER (France) (Interpretation): Mr. Chairman, the amendment which I would have to propose to the Protocol of Provisional Application would be a very simple one. It would consist in changing in the tenth line of the English text on page 83 of document T/196 the words "Parts I and II of the General Agreement on Tariffs and Trade" and replacing them there by "Part I and Article II of Part II and Part III of the General Agreement on Tariffs and Trade" and substitute in (b) "Articles III to XXIII of Part II of that Agreement".

As we said yesterday we are ready to accept the transfer of Article I on the Most Favoured Nation clause from Part I to Part II because that would meet the desire and the wishes of those Delegations which wished to see Article I in a place in the General Agreement where it would be superseded by the corresponding Article of the Charter once the Charter is adopted in Havana. But nevertheless we will have to put into force the General Agreement on Tariffs and Trade and this can only be done if we know that all the contracting parties will apply the principle of the Most Favoured Nation clause not only to the items listed in the Schedules but also to the whole of the exchange of goods with us. And therefore the best solution would be to say that they have made a decision to apply the principles of new Article II

here just in the same way as they have decided to apply the rest of the Articles.

When we started our discussions here the Most Favoured Nation clause was written, if I may say so, in golden letters and was the outstanding feature of the discussions, and therefore it would seem somewhat curious if we were now to depart from that principle and not apply it. As Mr. Wilcox said, this General Agreement must be an example for the whole world, and therefore it seems that we have to follow the principles which we have set out ourselves in the Charter and insert it in the Agreement. If we were not to apply the principles of the Most Favoured Nation clause here, then we would not be doing what we asked others to do and we would just be applying the principle of "Do as I say but don't do as I do."

CHAIRMAN: Are there any comments on the proposal of the Delegate of France?

MR. J.M. LEDDY (United States): I do not want to cause confusion in the ranks of the Legal Drafting Committee but I have what I think might be a simpler way of expressing what the Delegate of France has proposed and that is, in the Article on Supersession, Article XXIX, simply say "Article I and Part II of this Agreement shall be suspended and superseded by the corresponding provisions of the Charter". I think that amounts to the same thing as the proposal he has just made, leaving Article I where it is.

M. ROYER (France) (Interpretation): Mr. Chairman, if Article I remains where it stands now, I quite agree that Mr. Leddy's suggestion amounts to the same thing as mine.

CHAIRMAN: This is a very important point. I wonder if members of the Committee have any views to express on the various ways of accomplishing what M. Royer has in mind?

MR. J.M. LEDDY (United States): Mr. Chairman, I should say that this proposal to move Article I to Part II originated with us and was put forward on the assumption that it did not make any substantive changes to its actual applicability to the 1 January.

CHAIRMAN: Are there any other comments?

DR. G.A. LAMSVELT (Netherlands): Mr. Chairman, my Delegation would be very glad if Article I could stand in its place. So, if the Delegate of the United States withdraws his suggestion, we would applaud.

M. PIERRE FORTHOMME (Belgium): I think that that suggestion would be approved as it keeps Article I in Part I but at the same time provides for its supersession in the same way as Part II would be superseded. I think it is a very neat way of meeting both the Australian case and the French case, which is very much our case too.

CHAIRMAN: The proposal just made by Mr. Leddy is a very simple one. The only change it would involve in the text is to add in paragraph 2 of Article XXIX the words "Article I and" before "Part II", so that it would read: "Article I and Part II of this Agreement shall be suspended and superseded by the corresponding provisions of the Charter." There would not, I take it, be any need to make any consequential changes in Article XXX dealing with Amendments, because Article I would remain in Part I and therefore that provision would be covered. The Delegate of the Lebanon.

MR. J. MIKLOUI (Lebanon) (Interpretation): Mr. Chairman, I would only point out that this new proposal of the United States Delegate satisfies us in the same way as did his former proposal.

CHAIRMAN: Are there any other views on this suggestion? Any objections?

Well, I think we can tentatively agree that "Article I" should be added in paragraph 2 of Article XXIX before the words "Part II". There will, therefore, be no need for any subsequent changes in the Protocol of Provisional Application.

The only other matter I wish to bring to the attention of the Committee is document T/207 which, in accordance with the decision taken at our meeting of September 17, reproduces the text of the remarks of Mr. Ledy on the subject of reservations. I take it that this clears up this difficult question and the course of the discussion in the Committee has shown that the view of the Committee is that there neither can be nor is there any need for reservations.

Now we will return to Annex G. The Syrian and Lebanese Delegations informed us that they can remove the square brackets round "Syro-Lebanese Customs Union 30 November 1939".

I wonder if the United Kingdom Delegation can tell us that the square brackets can be removed which are round "Southern Rhodesia 1 May 1947".

MR. R. J. SHACKLE (United Kingdom): Mr. Chairman, I am sorry to say that in the absence of the Southern Rhodesian representative, I am unable to answer this question and I can only send a wire to London asking for a reply as early as possible.

CHAIRMAN: I thank Mr. Shackle and I would ask him to notify the Secretary when he has received a reply.

M. PIERRE FORTHOMME (Belgium): Mr. Chairman, I am not quite sure if my memory is right or wrong, but it seems to me that when we were discussing this Annex, the preferential arrangement between the Syro-Lebanese Customs Union and Trans-Jordan dated from somewhere in 1940.

MR. J. MIKLOUI (Lebanon) (Interpretation): Mr. Chairman, if I might take a minute of the Committee's time, I would like to specify that the following dates have to be applied in this case to preferential arrangements: - Regarding the preferential arrangement between Palestine and the Lebanese-Syrian Customs Union the date is 1939 and this preferential arrangement was ratified on 30 November 1939. As to the preferential arrangement between our Customs Union and Transjordan, this was ratified on the 10 May 1923 and modified on the 27 February 1924 and this arrangement is still in force.

CHAIRMAN: Are there any other comments?

Tomorrow we will meet at 10.30 to consider the Report of the Legal Drafting Committee on Part III of the Agreement. No comments?

M. ROYER (France) (Interpretation): Mr. Chairman, we are going to work all the evening so as to try to give the Secretariat the final document before midnight. The greater part of Part III has already been handed over to the Secretariat and we certainly shall do our best this evening so as to give the rest of the articles to the Secretariat before midnight.

CHAIRMAN: I thank the Chairman of the Sub-Committee for the assiduity with which he and his Committee have applied themselves to their task.

The meeting is adjourned.

(The Meeting rose at 7 p.m.)