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ECONOMIC AND SOCIAL COUNCIL

PREPARATORY COMMITTEE

of the

INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report

of the

SEVENTH MEETING

of the

PROCEDURES SUB-COMMITTEE

of

COMMITTEE II

held at

Church House, Westminster, S.W.1.

on

Wednesday, 6th November, 1946,

at

3.0 p.m.

CHAIRMAN: Dr. A.B. SPEEKENBRINK (Netherlands)

(From the shorthand notes of  
W.B. GURNEY, SONS & FUNNELL,  
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Westminster, S.W.1.)

THE CHAIRMAN: Gentlemen, I open this meeting. I think we have now two matters to discuss. Later on, we shall have to discuss the question of Article 18 and so on. As we are still busy with Article 8, I would ask the Rapporteur how far he has gone with regard to the ultimate redraft of Article 8, paragraphs 1 and 2, so as to get a definite decision on that if possible.

THE RAPPORTEUR (Mr Laddy): We have prepared revisions of Article 8, paragraph 1, and of Article 9, paragraph 1, in so far as these provisions relate to the matter of public works and governmental purchases for public use. We have also prepared a revision of Article 8, paragraph 2, in the light of the discussion at earlier meetings and a draft of a provision which could be inserted as paragraph 3 of Article 33 to take account of the suggestions made with regard to new preferential arrangements. I believe these documents have been distributed and I think we could probably take up first the provisions of Article 8, paragraph 1, and Article 9, paragraph 1, relating to public works and governmental purchases for governmental use. I think it would be better to start with Article 9, paragraph 1, regarding the deletion from that provision of the commitment regarding governmental purchases for governmental use, because it affects the form of Article 8, paragraph 1.

THE CHAIRMAN: May I take it every member has had time to read through this document prepared by the Rapporteur? I think we should follow the advice of our Rapporteur and start with Article 9, paragraph 1. I will ask our Rapporteur to report the changes he proposes should be made in this Article.

THE RAPPORTEUR (Mr Laddy): The decision of the Committee, as I understood it, was to revise paragraph 1 of Article 9 so as to omit any commitment to grant national treatment in respect of governmental purchases for governmental use. It was pointed out at the meeting by the Delegate of the United Kingdom that a simple deletion of the words in the first paragraph of Article 9 relating to such purchases would not be enough, that it would probably be necessary to have a specific exception. Upon examination of the draft, we

came to the same conclusion, that the phrase appearing about the middle of the paragraph "including laws and regulations governing the procurement by governmental agencies of supplies for public use" would need to be changed into a specific exception, and we have changed it to read "except laws and regulations governing the procurement by governmental agencies of supplies for governmental use". That change from "public" to "governmental" I would like to discuss in a moment. The need for this is, I think, made clear by the fact that the preceding language is a broad general commitment and, if the sentence should stop after the words "other use", there would still be ambiguity as to whether or not the commitment for national treatment in respect of governmental purchases was included. That is the reason why we have made it a specific exception.

With regard to the question of "public" as against "governmental" use, in the light of the discussion which took place here earlier, we came to the conclusion that "public use" was probably too broad and what we had in mind was purchases of supplies for use by governmental agencies not for resale. The word "public" might be construed to mean supplies bought for resale to the public. So we suggest that that change should also be made.

THE CHAIRMAN: Before we begin to discuss this, I would like to make one remark. As the paragraph has been phrased now, it sounds rather definite. It sounds as though the question of public works and so on has been deleted altogether. So I think in any case we should have to make a note here that we will refer to that question later on when we have discussed the question of state trading. I do not know whether we should put in here the phrase "except as covered by article" so and so. I think that is something to be decided later on. So the deletion is provisional at this moment and not definite, because that is a question to be discussed and decided upon later.

MR SHACKLE (UK): I should like to say one thing, and that is that I feel rather doubtful about the use of the word "governmental" in the phrase "for governmental use". It does seem to me we get back there to the ambiguity from which we started, namely, what is covered by the term "governmental". In a way, it seems to me that if you talk about

"procurement by governmental agencies of supplies for governmental use", you are in a sense arguing in a circle, because governmental agencies may have different sorts of functions and it might be argued that the word must have the same connotation in the two places and therefore, whatever the work which the particular governmental agency may be doing -- whether it be a government department of the ordinary kind or whether it be a post office which has telegraphs and telephones, or whatever it may be -- ipso facto anything it does is for governmental use, so that, so to speak, you have a definition which would ~~define~~ not define anything. It does still seem to me that it might be rather better to bring in the test of resale in so many words and to say something like this: "procurement by governmental agencies of supplies which are not intended for resale". One could embroider on that, if necessary, and say "which are not intended for resale whether in their original state or after processing". I feel that, if one puts it that way, although there are more words in it, you have then a definite line drawn, whereas, if you say "governmental", you do not have a definite line.

MR MCKINNON (Canada): Mr Chairman, I have been considering a suggestion such as Mr Shackle has just made, as to whether or not we could not again revert to a reference to resale. I personally would prefer to have it in, but I do recall that, when the phrase was suggested some days ago, Mr Hawkins thought that by implication it might cause confusion in respect of the provisions of Articles 26 or 27, in that it might convey the impression that goods under this Article, being not for resale, might be subject to national treatment and, therefore, on a discriminatory basis which might conflict with the whole conception of Articles 26 and 27. We did not argue that point at that time. It struck me when he made it, just hearing it stated, that "there might be some substance to it, but that, if it is not going to delay too long to re-open it, I would like to endorse Mr Shackle's suggestion that we attempt in some way to get in a reference to the fact that these goods, whether you call it "governmental use" or "public use", are not for

resale.

MR SHACKLE (UK): Mr Chairman, might I just say on that that it was my idea that, if we did include an amendment of this kind in Article 9, then in Articles 26 and 27, we should make a corresponding amendment so that those Articles would cover goods which are for resale. In that way, I think you could get a clear division between the two sets of Articles. This would relate to goods not for resale, and Articles 26 and 27 would relate to goods for resale.

THE CHAIRMAN: May I ask Mr Hawkins to comment upon the remarks that have been made and to say whether it would perhaps be wise to put it the other way round and say "other than the goods mentioned in Articles 26 and 27"?

MR HAWKINS (USA): I do not see any objection to including the phrase "not for resale". I suppose it would read something like this "laws and regulations governing the procurement by governmental agencies of supplies for", and that refers to governmental use and not for resale. I think that would be all right. The choice is between "public" and "governmental" in that context. It seems to me slightly to favour "governmental" for this reason, that it sounds as though they were not for resale to the public. There is not much danger of that, but still it is a possibility.

MR McKINNON (Canada): One of my colleagues suggests that it might be worth examining whether or not, having excluded them by specific reference, we should impose the condition in respect of such goods in the last sentence. I know that is not the intention and I myself think it does not have that effect, but I want to raise the point since it has been put to me. "The provisions of this paragraph shall be understood to preclude the application of internal requirements restricting the amount or proportion of an imported product permitted to be mixed, processed, exhibited or used". I do not think one cuts across the other, but I just thought I would like to raise it.

THE CHAIRMAN: Has our Rapporteur anything to say on this?

THE RAPPORTEUR (Mr Leddy): I think the last sentence refers to the quantitative limitations relating to mixing, processing and exhibition

and not to governmental purchases at all.

THE CHAIRMAN: Gentlemen, I would first like to have your decision as to whether we can agree with Article 9 till the last sentence, commencing "The provisions". Is that agreed?

MR SHACKLE (UK): I am sorry to interrupt again, but it is with reference to the phrase which Mr Hawkins suggests - "for governmental use and not for resale". I am wondering whether, once we have introduced this test of resale, we gain anything by adding "for governmental use". It does seem to me that the term "governmental" is, so to speak, vague in itself, because the conception of what is governmental is a thing which changes from time to time. In the past, the functions of governments have been, so to speak, administration as traditionally understood, but we have seen of late years governments enter upon all kinds of activities which were not regarded as governmental in past times. They now run post offices; they run telegraphs and telephones; they run railways and so on, and some of them even engage in complete monopolies of foreign trade. So that the term, as it seems to me, becomes enormously extended, and one cannot really say what it covers. I should have thought, if one introduced this definite test of resale, it would be better to leave out the word "governmental", on the ground that it is so completely ambiguous.

THE CHAIRMAN: At first sight, I should have thought there was some sense in having the words "governmental use" included, because we here come to the very difficult question of state trading, nationalised industries, and so on. In my reading of "governmental use", I should say that it has something to do with what ~~they~~ we call public works and so on, done by the government. If you take nationalised industries, in my opinion, that would not be a question that would be covered by the term "governmental use", and "not intended for resale" would simply strengthen the position with regard to these commodities. That is my view, at first sight; I do not know whether I read the sentence clearly. I would be in favour of having something included such as "of supplies for governmental use". I will ask Mr Hawkins to comment

on that.

MR HAWKINS (USA): I would prefer to keep the words "for governmental use", but I have not any very conclusive reasons for doing so, except that I do not see clearly the difficulty described by Mr Shackle. It may be that I have not understood him well. I cannot imagine what difficulties of interpretation would arise under it.

MR SHACKLE (UK): My idea was that, if you have an exact test, it is perhaps superfluous to reinforce it by an unprecise one.

THE CHAIRMAN: What is the Rapporteur's idea?

THE RAPPORTEUR: I think if you say "procurement by governmental agencies of supplies not intended for resale", the question arises as to what you mean by "not intended for resale". To whom?

MR SHACKLE (UK): Any resale.

THE RAPPORTEUR (Mr Leddy): Any resale to other agencies of the government. Frequently one agency will purchase for another, and you will have some sort of resale.

MR SHACKLE (UK): If you do not qualify the word "resale", you will cover resale to anybody and everybody.

THE RAPPORTEUR (Mr Leddy): Yes, which you do not necessarily want to do. I think if you have both phrases you make it clear that what you are talking about is the use of supplies for the government itself and not for use by the general public -- not to be sold to the general public.

THE CHAIRMAN: May I comment on the remark just made by the Rapporteur?

If we were simply to say "not intended for re-sale" or "not for re-sale" that would not cover the position in my country. The position in my country is this. We might perhaps buy through one agency and re-sell to another agency simply to make a debit and credit balance. So we would defeat our own purpose here if we do what is suggested.

MR SHACKLE (U.K.): Mr Chairman, it strikes me, with regard to the ambiguity which has been mentioned by you and by the Rapporteur, that it would be got over if, after the words "re-sale", we added "to the public", so that it would then read, "which are not intended for re-sale to the public".

THE CHAIRMAN: What about nationalised industries in that connection?

MR SHACKLE (U.K.): I think "processing" would clearly cover some kinds of industrial process, but you could elaborate it further and say "after processing or manufacture", or "for use in the manufacture of other goods", perhaps.

MR HAWKINS (USA): Mr Chairman, it seems to me if we leave out "for governmental use" we rather lose the purpose of the provision. I am not at all sure that all the drafts so far suggested would not be all right; I do not think that much difference is present in the texts; but I think, whichever form we choose, we must have a reference to governmental use.

THE CHAIRMAN: If I have gathered the feeling of the Sub-Committee correctly, I think we are all in favour of including the words "for governmental use", with the exception of Mr Shackle, so I would ask him whether he insists on leaving out those words or whether he can agree to it as it is now, "for governmental use and not intended for re-sale".

MR SHACKLE (U.K.): I do not want to insist on my point. I do say that I think there still remains a doubt as to the meaning of the word "governmental", and for that reason I doubt whether it is of much value to have it in there. I should have thought one could cover the matter more precisely by, as it were, elaborating the matter of re-sale; but I do

not feel more strongly about it than that.

MR HAWKINS (USA): This is another point - one raised by the Canadian representative. I do not think there is any conflict between the exceptions in the last sentence, but we could avoid any possibility of it by taking the exception out and making a separate sentence.

THE CHAIRMAN: That is another point. I want us first to decide on this one. I move that we all agree to accept the first part of Article 9, paragraph 1, and make a note of the remark made by Mr Shackle for the guidance of the Drafting Committee, so that his point is not lost sight of. May we for the time being, then, agree on this part of it?

MR SHACKLE (U.K.): I take it that we are not agreeing to questions which fall within the competence of the Technical Sub-Committee? I am thinking of these words "sale, transportation or distribution or affecting their mixing", and so on. As I understand it, that is before the Technical Sub-Committee and not before us, so I take it that in agreeing to this wording we are not prejudicing the discussion in the other Sub-Committee?

THE CHAIRMAN: That is right.

MR MCKINNON (Canada): Do not you think the last half hour's discussion has revealed that the more we attempt to refine this the more trouble we make for ourselves? For instance, the latest suggestion has got the word "intended" in. I can think of a government buying a great quantity of very important capital goods and later re-selling them. They could always say they had not intended to re-sell them when they bought them but that there was not anything else they could do with them. It is just another instance of the confusion we get into when we attempt to differentiate between public use and governmental use. Although I think we are all agreed that the first draft of the Rapporteur did almost exactly what we wanted, in a sense the more we attempt to touch up every little refinement of wording the more difficult the sense becomes, and I wonder if it would not be still better to go back to what was the original Canadian suggestion, that is, to drop all reference to this from the charter, just as we moved to drop all reference to public contracts from the preceding article? Mr Shackle on that point has suggested that if we

do so these goods may be still caught under the more general wording of the first sentence. Well, if they are, what about it? We are finding great difficulty in specifically excluding them, and it seems to me that we are not taking very much more chance if we accept the possibility that they may be included.

THE CHAIRMAN: Before I ask Mr Hawkins to comment on this proposal, may I say this? I think Mr McKinnon's remark raises a very important point of principle. My own opinion has always been that, whatever we do here, we shall never be able to cover every contingency and possibility in a draft. Economic life is too varied for that, and there are all kinds of questions which are bound to arise later on. The important thing is that once we have this agreement laid down we have to act in the spirit of it. There is no doubt that there will be certain difficulties, but if we are able to cover 75 or 80 or 85 per cent of them I think it will be sufficient. Perhaps I am too optimistic, but I think that is the only way this whole charter will be able to work later on, and, basing myself on that supposition, I think that there is a gain in having in here the words "for governmental use and not for re-sale".

MR MCKINNON (Canada): I think we should leave out the word "intended".

THE CHAIRMAN: Leave out "intended"?

MR HAWKINS (USA): I was rather inclined to agree with Mr McKinnon's views but not so much so that I think we can spend much more time on this. My position would be that I agree either to drop it, as he suggested, or take the present draft as it is.

THE CHAIRMAN: I think we would gain by making clear what we mean by this clause. I think probably the best thing to do now is simply to raise hands and say what we prefer. The first proposition is to drop it entirely. Those in favour of that?

MR ADARKAR (India): We are speaking of Article 9?

MR MCKINNON (Canada): It is on the assumption that we are also dropping the one out of Article 8. My proposition was always to drop both.

THE CHAIRMAN: Again I ask the question: Who is in favour of dropping it altogether?

MR ALAMILLA (Cuba): I shall have to oppose it if the suggestion is to take it out completely.

THE CHAIRMAN: Will those in favour of dropping it out please raise their hands? (Show of hands). There are five in favour, and there seems to be one really opposing it. Now, who is in favour of having the new draft, "for governmental use and not for re-sale"?

MR ALAMILLA (Cuba): I do not care which it is, but I must have in the words "re-sale".

THE CHAIRMAN: Those in favour? (Show of hands). There seem to be two in favour of this. I do not know how to get out of this!

MR SHACKLE (U.K.): Is not there, on the whole, a balance of advantage in saying "for governmental use and not for re-sale"? After all, one knows there will be a definite difficulty for some countries over those purchases if government departments are required to give no preference to home supplies. I do not feel strongly about it, but I should have thought we would be putting our necks out less if we accepted this form of amendment.

MR HAWKINS (USA): I would move that we accept it as re-drafted.

MR McKINNON (Canada): I would say this: rather than have a division in the Sub-Committee I am quite prepared to take the last draft, "for governmental use and not for re-sale".

MR ALAMILLA (Cuba): I should explain to the Committee that I am opposing the deletion of this on these grounds. In the constitution of Cuba there is a provision that in cases where goods are offered at the same time by nationals and by other countries, the Cuban product should be preferred, therefore I would have to oppose the deletion of that clause. It says in this text, "shall be accorded treatment no less favourable than that accorded like products of national origin".

MR McKINNON (Canada): It says "except" there.

MR ALAMILLA (Cuba): I oppose taking out the whole exception; but, of course, if the exception is left in, I am content either with the words "for governmental use" or "for governmental use and not for re-sale". Either

one of them is perfectly satisfactory to me.

MR ADARKAR (India): When I indicated that the Indian delegation would agree to the deletion of this particular phrase from both clauses and both Articles, Article 8 and Article 9, what I understood was that by deleting the clauses here we should be dealing with it elsewhere under state trading, in accordance with your original proposal, Mr Chairman; but if the proposal is that we just delete them here and say nothing about governmental purchases for governmental use, then I would certainly strongly support Mr Shackle's suggestion that we stick to this formula, "except laws and regulations governing the procurement by governmental agencies of supplies for governmental use and not for re-sale to the public".

THE CHAIRMAN: I think we have reached common agreement to leave it as it is. Of course, it is a clear-cut exception - "for governmental use and not for re-sale".

MR ALAMILLA (Cuba): I am satisfied.

THE CHAIRMAN: Then is it decided that we adopt this revised draft and make a note with regard to Mr Shackle's arguments for the guidance of the Drafting Committee when they look into it again more closely?

(Agreed.)

Before we return to Article 8, there is just the last sentence of Article 9. Now, my first opinion would be that it is a question for the Technical Committee to deal with. I left that out on purpose. There were certain remarks made to the effect that some confusion might be caused - I think Mr McKinnon put that argument forward.

MR MCKINNON (Canada): I accepted the Rapporteur's interpretation that that last sentence related back to the major portion of the Article rather than to the exception.

THE CHAIRMAN: Gentlemen, I think that if we report that to the other Sub-Committee, with the remark made just now by Mr McKinnon, and advise them to make a separate paragraph of this last sentence, we have done everything we ought to do here; otherwise we are doing the work of the Technical Sub-Committee, and that is not in our terms of reference.

MR VIDELA (Chile): The Technical Sub-Committee agreed this morning to meet tomorrow at 3 p.m., therefore if I may have a copy of what we agree here I will be able to present it to the Sub-Committee at that time.

THE CHAIRMAN: Yes; and would it help you if the Rapporteur were there to explain it?

MR VIDELA (Chile): Yes.

THE CHAIRMAN: Then I will ask Mr Leddy if it would be convenient for him to attend the meeting of the Technical Sub-Committee tomorrow at 3 o'clock for that part of the discussion.

THE RAPPORTEUR (Mr Leddy): Yes.

THE CHAIRMAN: We have now to return to Article 8(1), and again I would like to ask the Rapporteur to explain to us how it should now read.

THE RAPPORTEUR (Mr Leddy): Our understanding with regard to Article 8 was that the Committee had agreed to drop two things: firstly, any most favoured nation commitment relating to the awarding of public works contracts; secondly, any most favoured nation commitment relating to governmental purchases for governmental use and not for re-sale, which was obviously provided for in Article 9. The first agreement is taken care of rather simply by deleting the last sentence of the first paragraph of Article 8. The second agreement required some minor technical rewording, simply because, even though we have excepted governmental purchases for governmental use from Article 9, they are still referred to in that Article. The language of Article 8 originally read, "most favoured nation treatment with respect to all matters relating to internal taxation or regulation referred to under Article 9". We have simply changed that to read, "and with respect to all matters affected by the provisions relating to national treatment in Article 9". In the revised wording the "governmental purchases for governmental use" would not be affected by the provisions relating to national treatment, and therefore would not be subject to most favoured nation treatment under Article 8.

THE CHAIRMAN: Gentlemen, do we agree to the proposal of the Rapporteur?

(Agreed.) Then we are finished with Articles 8 and 9, and the only possibility of referring to them again is in Geneva, when we discuss state trading!

MR ALAMILLA (Cuba): I do not want to have to make a reservation, but when you use words of that sort I feel I ought to say that we may not want to wait until then.

THE CHAIRMAN: You have the chance to refer to it again, of course, when this comes before the main Committee, but I sincerely hope you will not find it necessary to take advantage of that opportunity.

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Gentlemen, we have still paragraph 2 of Article 8 to deal with. I understand that our Rapporteur has done some very useful work in getting out a new proposed draft of Article 8, paragraph 2, which is now before you. The first question I have again to ask is: Have you had an opportunity to study it so that we can discuss it now? May I take it that we can discuss it now? There is one small change in the fourth line, where you will find the word "importations". It should be "importation"; the "s" should be deleted. I will again ask the Rapporteur to explain this draft to us.

THE RAPPORTEUR (Mr Leddy): I should say that fortunately there was no work to be done on this. This text with minor changes is the same as that agreed to by the Sub-Committee at an earlier meeting, on the understanding that one or two points that were bothering the Delegate for Cuba would be discussed with him and with the Delegate from Canada. Upon examination of the text and further consideration, I think they both agreed that it was all right, that the points they had in mind were taken care of. There are two minor changes. With regard to the language in brackets under 8:2 (a) "in respect of which preferences were in force at that date", it is suggested that that phrase be deleted since it refers back to this whole question of establishing a date to serve as a basis for the negotiations in the spring, whereas the Committee had agreed earlier, I believe, that that question should be taken up elsewhere, possibly as a part of the procedural details rather than be incorporated in any way in the charter. The second change is a very minor one under (c). It has been agreed that the exception should read "preferences in force on June 30th, 1946, between neighbouring countries". We simply made it July 1st, because we had July 1st, 1939, in (a). It was a matter of consistency of dates. One further suggestion that might be made is that, in order to put the exception under (c) on the same footing as the exceptions under (a) and (b), the word "exclusively" should be inserted in (a) at the

appropriate place, probably before the word "between", so that it will read "preferences in force on 1st July, 1946, exclusively between neighbouring countries".

THE CHAIRMAN: Gentlemen, before I ask you to open the discussion on this proposed redraft of Article 8 (2) (and I shall take it paragraph by paragraph, the first part of paragraph 2 and then (a), (b) and (c), in order to see that we agree on it), I think we will ask the Rapporteur to explain the last part of this note to us: that is the proposed new paragraph to be inserted after paragraph 2 of Article 33, because it has a definite bearing on this whole thing.

THE RAPPORTEUR (Mr Leddy): The provision on page 4 of the draft before you has an error in it in the last line but one. It should read "Any such exception shall be subject to approval by the organisation" -- the words "the organisation" have been omitted from this copy. At an earlier meeting, the Delegate from India proposed that there should be provision of new preferential arrangements somewhere in the charter. It was felt by other members of the Committee that any new preferential arrangements could be authorised by the organisation under Article 55, paragraph 2, under which the organisation may establish procedures for waiving any of the obligations of the charter. The Delegate from India felt nevertheless that something should be put in the charter which would recognise that in exceptional circumstances such preferential arrangements may need to come into force, and other members of the Committee, as I understand it, tentatively agreed with that, provided that it was understood that approval of any such arrangements would be under Article 55, paragraph 2. The language before you is our attempt to set forth that understanding. It would be placed in Article 33, paragraph 3, which contains certain exceptions from all the provisions of chapter 4, including those relating to advantages accorded for the purpose of facilitating frontier traffic and customs unions. The provision is simple. I do not think it requires any further explanation.

THE CHAIRMAN: I want to say that I asked our Rapporteur to mention this -- it was discussed at length at previous meetings in order to show that it has been agreed on. I propose that we discuss this proposed new paragraph to be inserted after paragraph 2 of Article 33 and not confine our remarks and obligations solely to Article 8.

MR VIDELA (Chile): I have a note here (perhaps I am wrong) that Committee II referred Article 33 to the Technical Sub-Committee.

THE CHAIRMAN: No.

MR VIDELA (Chile): Is that wrong?

THE CHAIRMAN: Article 32 was referred to the Technical Sub-Committee, and Article 33 to the Sub-Committee on Procedures.

MR VIDELA (Chile): Then I am wrong.

M. LECUYER (France) (Interpretation): Have we adopted the proposed redraft of Article 8, paragraph 2? I thought you said that we should, first of all, consider the proposed new paragraph to be inserted after paragraph 2 of Article 33?

THE CHAIRMAN: No, I did not say that. I said that we should now try to agree upon paragraph 2 of Article 8, referring at the same time to paragraph 3 of Article 33. If you agree, I propose that we now take the first part of Article 8, paragraph 2, down to (a). Is that adopted? (Agreed). Then we come to (a). Are there any remarks or is (c) adopted with the change proposed by the Rapporteur?

MR SHACKLE (UK): I think there is a very small drafting question left over, about the use of the expression "a commonwealth of nations". I would say that we in the United Kingdom delegation are quite content to leave that as it is drafted. There are possibly some obscure questions which only Constitutional Lawyers versed in the complexities of the British Commonwealth of Nations could answer, but we are quite content to leave that as it stands at present.

THE CHAIRMAN: Is that adopted? (Agreed). Then we come to (b): "Preferences in force exclusively between the United States of America and the Republic of Cuba". Is that adopted? (Agreed). Then we come to (c): "Preferences in force on 1st July 1946 exclusively between neighbouring

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countries". We have to add the word "exclusively".

MR SHACKLE (UK): Mr Chairman, on that (I apologise for mentioning again a point which I think I mentioned at the last meeting), I still have a feeling that it might be better to be specific in this exception. I understand that it is a case of preferences between Chile and Peru and between Chile and Argentina. Might it not be better actually to specify those preferences rather than to use this phrase "between neighbouring countries"? I have the feeling that, if we use this phrase, even with the limiting date, it does seem to give some kind of approval to the idea of a general exception from the most-favoured-nation treatment as between neighbouring countries, just because they are neighbouring. I think that would be an unfortunate implication, and, although I do not wish to press the point strongly, I would have felt happier if it had been possible to write in the specific exception for the particular preferences we have in mind.

THE CHAIRMAN: If I understand Mr Shackle correctly, he would prefer to have added the sentence which is in (a), namely: "Each member to which this provision applies shall provide a list of such territories, which lists shall be incorporated in an annex to this Charter". Is that right?

MR SHACKLE (UK): No, because this is not a case of common sovereignty. It is a case of preferences between three independent but bordering sovereign states. I think there would have to be a separate paragraph, but my suggestion was that we should actually mention Chile and Peru and Chile and Argentina by name there, instead of saying "between neighbouring countries".

THE CHAIRMAN: May I ask another question? When in the main Committee II we discussed Article 33, mention was made of a kind of customs union or preferential treatment between India and Kashmir, between South Africa and India and Australia and certain islands. Is that something we can cover with the words when we discuss territorial application only, or have they some reference to these neighbouring countries here? We have to be clear on that before we simply mention only a few countries.

MR ADARKAR (India): We would prefer to leave (.) as it is. We are not quite sure about the legal and constitutional implications of subparagraph (a) and, in order that any difficulties that may arise in regard to the interpretation of that paragraph may not exclude certain preferences, we should prefer that (.) should remain as it is -- not with specific reference to the preferences which exist between Chile and Peru and Chile and Argentina.

THE CHAIRMAN: The question arises whether at a later date we should have a list of these preferences in force as we have under (a) (I am repeating my former question to Mr Shackle) in order that we know where we are with these things.

MR ADARKAR (India): I should prefer a list.

MR SHACKLE (UK): May I say I should be prepared to withdraw my suggestion for amending (c)?

MR MCKINNON (Canada): By "neighbouring" do we mean "bordering"?

MR SHACKLE (UK): Not if you mean Australia and Papua.

MR MCKINNON (Canada): It might be a substantial point when we come to interpret this clause. "neighbouring" might well not necessarily be bordering or entirely contiguous.

THE CHAIRMAN: Therefore, I think at a later date we ought to have a list of these territories otherwise we shall always be getting into difficulties as to what is neighbouring and what is bordering, and how far it is to be stretched -- is it 20 miles of sea or is it 100 miles of sea; I do not know.

MR HAWKINS (USA): I do not think we need worry a great deal because the limiting factor here is actually in force now. The question whether you want to include "neighbouring" or "contiguous" is not important, because the important fact is that you have the limiting factor actually in force. If my original suggestion had been adopted and we had qualified this by long-standing and important preferences, it would have been a little safer. But that is withdrawn. I think the real point here is that preferences actually in force justify their inclusion whether neighbouring or contiguous.

THE CHAIRMAN: What is your objection to having a list of these preferences? It must be very easy. Every country concerned can send in a list.

MR VIDELA (Chile): Perhaps here there is a mistake of procedure. You were not in the chair the other day; Mr Coombs was in the chair. I have the records of the other meeting, and on page 34 you will see that after some 30 pages devoted to a discussion on this, we agreed. "(The Chairman) I presume that is satisfactory to the Chilean delegate, since it is his own phrasing. (Mr Videla: Chile): I was only going to say that when the United States delegate made his proposal I felt that we should be on the same level as other people in regard to preferences, but after what he has just said I realise that that may not be the best thing, and I am very willing to agree to his proposal." This wording is not my wording. I presume they have deleted part of my speech, but I do not mind. The Chairman said: "Is there any further comment on this, or may I take it as agreed? ... Then I take it as agreed." Therefore, it seems to me that we are wasting time here and that it is not useful to revert to the same discussion after it has been approved, because, if this question is again re-opened, I will re-open the whole Article. I have in mind that there is a Sub-Committee of IV ~~from~~ which has not yet met on the question of the preferences under letter A.

THE CHAIRMAN: Perhaps that might answer that. I think I put it quite clearly that we have adopted it. After that, we had a lengthy discussion and I myself made some remarks; and then we came to Article 33 and a new paragraph to be inserted. Then we adopted the procedure of agreeing it again paragraph by paragraph.

MR VIDELA (Chile): The United Kingdom delegate has withdrawn his proposal, I think?

MR SHACKLE (UK): Yes, I have.

MR VIDELA (Chile): Then perhaps we can go ahead.

MR HAWKINS (USA): I think we might meet your point here for present purposes by inserting after paragraphs (a) and (b) in parentheses "to be specified". Then all those who have claims coming under those paragraphs, particularly paragraph (c), will indicate that they have certain preferences in force and had them in force on July 1st, 1946, with neighbouring countries. Anyone who had preferences in force on July 1st, 1946, would automatically be specified under this paragraph.

THE CHAIRMAN: I am prepared, in order not to lengthen our discussion, to have this Article adopted as it is. It is quite obvious that, when we come to the definite drafting stage, members will want to know where they are, so it will crop up anyway in Geneva once we have had our negotiations. All these preferences have to be mentioned when you have negotiations, so I am prepared to adopt it now.

THE CHAIRMAN: The only question still to be asked is whether we should add here "neighbouring member countries". That is again a difficult point but perhaps we should leave it out. Everybody has to refer to these things again in the main Committee. Well, gentlemen, is 3 adopted?

MR VIDELA (Chile): What is the final draft?

THE CHAIRMAN: "Preferences in force on 1 July 1946 exclusively between neighbouring countries"; so we have made a change after the agreed text.

MR LECUYER (France) (Interpretation): I should like to draw your attention to the fact that we have discussed only the English text. Translations always involve certain difficulties and there is sometimes a risk of modifying the text while doing so, therefore if you will permit me I shall contact the secretariat and refer to you, Mr Chairman, any difficulties that might arise.

THE CHAIRMAN: Yes. Now, it is my pleasant duty to congratulate you all on reaching agreement on Article 8 and part of Article 9. I think we have earned some tea, so we will adjourn for a quarter of an hour.

(The Committee adjourned for 15 minutes.)

We have now before us Article 18. When we discussed this part of the charter in the main Committee the Chairman made a summary of the basic points which needed further consideration by the Sub-Committee. I referred to them yesterday; they are enumerated on page 16 of document E/PC/T/C.II/7 of 26 October 1946. These are the basic points to be discussed, together with other drafting points and other observations which delegates may desire to make here. The question is whether it would not be wise to read this through first and see whether there are any points already covered; and in that way we shall be able to approach this problem with fresh minds. First of all there is (a): "whether the negotiated reduction to be required would differ according to (i) the stage of economic development of the country concerned, (ii) the level of its tariff in operation". We have to look into that still. Then (b): "whether preferences subject to negotiation should be those existing at the time of negotiations or those existing at a prior date 1 July 1939 or 1 July 1946". I think we have covered that already in drafting Article 8.

Then (c): "whether, in order to reduce margins of preferences, only the most-favoured-nation rate, or both the most-favoured-nation and the preferential rates, might be reduced". We have still to discuss that. Then (d): "whether preferences subject to negotiation should be limited to tariffs or include those based on price arrangements in granting of contracts and quota arrangements". We still have to discuss part of that, because I do not think we can discuss the granting of contracts in this way. Then (e): "whether preferential arrangements, which had already been agreed upon but had not actually been effected, might be implemented or extended". I think we have taken care of that and will take further care of it when we discuss Article 33. Then (f): "whether provision should be made for the establishment of new preferences as a step in the direction of the formation of a Customs Union". This again is Article 33 and Article 55. Finally (g): "whether an escape clause should be included, so as to make possible remedial action in cases where industries were seriously injured because of reduction or elimination of preferences". We have still to go into that as well.

I propose, gentlemen, that we start with Article 18, paragraph 1. May I, in the light of the remarks made before, ask Mr Hawkins and perhaps also the Rapporteur whether they have anything to suggest with regard to paragraph 1 of Article 18?

MR HAWKINS (USA): I have no comment to make on paragraph 1. I think it is simple and self-explanatory.

THE CHAIRMAN: I think, then, that we may take the first paragraph, up to a. Are there any remarks?

MR SHACKLE (U.K.): I have one very small point here. In the fourth line we have the words "substantial reduction of tariffs". In the Canadian amendment to Article 8 which we have already adopted we speak, I think, of "tariffs and other charges on importation". We perhaps should bring the wording into line with that.

MR ADARKAR (India): I suggest that there might be some general discussion on the principle involved in this proposal to negotiate substantial reductions in tariffs on imports and exports; because, as the Indian

delegation has stated on previous occasions, some reservation is necessary on this point to safeguard the position of developing countries. The sort of reservation that I have in mind is some such addition as the words, "subject to the provisions of the charter dealing with industrial development". I suppose that in the Committee which is dealing with the problems of industrial development the extent to which tariffs and other restrictive devices could be employed for assisting the industrial development of backward or undeveloped areas is going to be discussed. Whatever understandings are arrived at in that Committee, should we take them into account while conducting these negotiations? Therefore I suggest that the condition of the under-developed countries should not be disregarded if the entire paragraph 1 of this Article is made subject to the provisions dealing with industrial development. That is my first point. The other point deals only with the drafting of this. There is an explanation here, "substantial reduction of tariffs (or of margins of protection afforded by state trading)". It seems to me that the object of these negotiations is to secure not merely a reduction of tariffs which serve to protect but to secure some sort of rationalisation of all tariffs, whether they have any protective significance or not, the object being that even when a particular rate of import duty has no protective significance, it might be so high as to discourage consumption unduly. It might be so high as even to defeat the purpose of bringing in the maximum revenue. The idea is to use this occasion to secure the rationalisation of tariffs, and therefore it seems to me that, just as the word "tariffs" refers to both protective and non-protective tariffs, the margins maintained by state trading organisations should be taken into account irrespective of whether they serve any restrictive purpose or not. In Article 27, under this letter (a), where margins maintained by state trading enterprises have been referred to, no indication has been given as to whether the margin is serving a particular purpose or not. The only word used here is the maximum margin maintained by the state trading enterprise. We might adopt the same procedure and delete these two words "of protection".

THE CHAIRMAN: Are there any other observations with regard to the first part of paragraph 1?

MR HAWKINS (USA): Would it be useful if I made my comments at the end of each suggestion that comes up? I have a few words to say on the suggestion of the delegate of India.

THE CHAIRMAN: I myself have also a few observations to make here. I think another point cropped up which was, I think, mentioned by the Belgian and Netherlands delegations. We said, "Look here, what are we going to do?" Here we mention only that we should have the tariffs and the margins of protection afforded by state trading, but there are still a number of countries which have a combination of rather low tariffs and quantitative restrictions, and therefore we have the difficulty: what should be the starting point of the negotiations? Should it be just simply, as I think the Belgian delegate said, to reserve the right to increase tariffs if the outcome of the negotiations is not satisfactory, so that there would not be a real decrease in the tariffs and margins of preference? Should we take care of that here and discuss it here or should we leave it to a later stage? We have that observation by the Belgian delegate before us, and we should take it into consideration one way or the other. I think that when we deal with the summary of the Chairman we should also take this into consideration. Are there any further observations?

MR ALAMILLA (Cuba): Mr Chairman, I would like to point out in reference to the point raised by the Delegate for India that the Cuban delegation have presented a proposed amendment to add a paragraph, letter (c), to paragraph (a) of this Article, in which that same point of industrialisation is brought to the attention of this Committee. It may be that we may leave the problem raised by the Indian delegation and consider it when we come to the proper portion of this letter (c); or in the event of your wishing to discuss it now, I believe it should be discussed in reference to the amendment that was distributed on the 28th October under cover II.16.

MR VIDELA (Chile): I would like to call attention to the Chilean speech of C.II/FV/2, page 19, which was taken into consideration in the report of the Rapporteur on the 27th October, page 16, where we refer to Article 18 (3). You will see there what we said. These are important questions in relation to the speech of the Indian and Cuban delegates. We said that exceptions should be (a) when a concession affects or might affect a national industry in its initial stage of development; (b) when a concession affects or might affect a national industry which is vital to production and employment in a particular region and cannot easily be replaced by another industry; (c) when home industries are sufficient to supply internal consumption; and (d) when home industries use for the most part domestic raw materials.

THE CHAIRMAN: Gentlemen, I want to see what we have to discuss. We have first to discuss what will be the basis of the coming negotiations. Then we have to discuss the exceptions to this basis of negotiations. Then we have to discuss what will be the consequences of these negotiations. I think (a) and (b) simply more or less state what would be the consequence of the negotiations -- specially (b) -- and (a) states those which may not be brought forward as an exception. The first thing to discuss is what would be the basis of negotiations, and we have had some remarks made already. Perhaps there is more in the paper that has been prepared by the Secretariat. As I see it, it comes down to exemptions to what will be the basis of negotiations, so perhaps we had better confine our discussion to that first point.

MR HAWKINS (USA): I want to be clear about the subject we are discussing. You speak of the basis of negotiations. Do you mean by that such qualifications as have just been made by the Delegate for India and the Delegate for Cuba?

THE CHAIRMAN: I think the first thing to discuss is what will be the things to put on the table -- the tariffs, the margins of preferences, and so on. Then we come to the second part and say there are exceptions in some circumstances. Perhaps it is not a clear course, but I have to grope my way through this mass of arguments.

MR ALAMILLA (Cuba): I believe that what we are going to work on is what the title of Article 18 says -- "Reduction of tariffs and elimination of preferences". I think that is our subject.

MR HAWKINS (USA): I agree that that is a subject, and I do not know whether it can be spelled out in any more detail. But, attempting to answer your question, the subject-matter of the negotiations which are contemplated here would be both tariffs and preferences. Now, on the question as to how to proceed with those negotiations, generally speaking, the only way to proceed would be to look at the most-favoured-nation rate. A country might ask another for a reduction in that rate, with one or both of two objects in view: one would be to reduce the degree of protection afforded, and the other would be to narrow that preferential margin. In one case it would be one and in another case the other.

THE CHAIRMAN: It comes down to this. We have tariffs and margins of preferences to put on the table. The first thing in the question asked by the Delegate of India as to the margins of protection afforded by state trading. We have to change perhaps the wording.

MR HAWKINS (USA): On that point, I think we should note that that is a parenthetical clause which refers to Article 27, and the controlling language would be in Article 27. As to the point that there may be margins in state trading operations which are so small as to be designed only for the reason of raising revenue, I think the answer to that is that even a revenue margin is to some extent protective. Therefore, the reference in the parentheses in paragraph 1 of Article 18 seems to

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me an accurate description. However, I do not think that the point is extremely important. The main thing is to show that you are including in these negotiations a margin between purchase and resale in state trading operations just as though it were a tariff. That is the sole point of the parentheses there.

MR ADARKAR (India): May I explain the reason why I suggested the particular amendment? It is not of very great consequence, it is true. It has to be recognised that in certain quarters these negotiations are regarded with certain misgivings -- quite unjustified misgivings -- and, if the language of the clause makes it appear that the negotiations are solely directed towards securing a reduction in the protection afforded to domestic industries, I think the opposition to those negotiations is likely to be stronger. If the reference to protection is eliminated, it places certain governments in a position to argue that these negotiations are not solely directed to a reduction of protection but are also intended for rationalising tariffs, to bring about a general lowering of tariffs, in order to stimulate consumption. As regards the point raised by Mr Hawkins, that even a revenue margin has a protective consequence, I should say that in most cases that is so, but there may be certain cases in which there may be no domestic industry at all, and state trading may have been resorted to for other reasons.

MR. VIDEELA (Chile): I have here the paper that you mentioned, Mr. Chairman, and I see that there was agreement in Committee II on the subject of the order of the discussion in the Sub-Committee. I think the order was set out in the speech of the Canadian Delegate, when he said that there seemed to be general agreement that the reduction or elimination of preferences should be a matter of negotiation, and that basic points needing further consideration by the Sub-Committee included a list of things which he enumerated very clearly. Perhaps that will help us:

MR. HAWKINS (United States of America): Could we dispose of this point? I think it is easily dealt with. The whole purpose of the parenthetical phrase is to try to indicate that the margins referred to in Article 27 are to be treated in much the same manner as in tariff negotiations. It is convenient to describe them by saying "margins of protection". I think we could make the point clear simply by saying "margins afforded by State trading referred to in Article 27."

THE CHAIRMAN: Is that agreeable to the Sub-Committee?

MR. SHACKLE (United Kingdom): I should like to raise an incidental point. In the next line one sees the words "and to the elimination of import tariff preferences." I think that in the same way as we have by words in brackets explained what is said about tariffs is meant equally to apply to margins afforded by state trading, so that after the words "import tariff preferences" we should include words in square brackets "preferences accorded by state trading."

THE CHAIRMAN: If there is no objection, I think we should add this amendment proposed by Mr. Shackle, and include the words, in brackets, "or of the margins afforded by state trading mentioned in Article 27."

MR. DARKAR (India): The reason I suggested that the reference to the provisions relating to industrial development might be considered in conjunction with the opening portion was that this part of the Article deals with the principle of negotiations, while, as you will see from the concluding portion of this Article, the remaining part of the paragraph deals with the rules of procedure.... "These negotiations shall proceed in accordance with the following rules." Whether the clauses dealing with industrial development are to be taken into account in this connection or not is a matter which, I think, should be covered in the opening portion itself. It is a matter of indifference how it is dealt with, provided it is dealt with somewhere, but it seems to me that the way I have suggested would be the more logical way of dealing with it.

THE CHAIRMAN: The Delegate of India is right. Therefore, I would amend my suggestion so that we would now say, in the first phrase, "These negotiations ...."

MR. MCKINNON (Canada): Are we talking about the same margins and the same state trading in the two parenthetical sentences?

MR. SHACKLE (United Kingdom): That was my intention.

MR. MCKINNON (Canada): Then why qualify the second one and not the first one?

THE CHAIRMAN: We do it in the case of both of them.

MR. MCKINNON (Canada): I am not objecting to its being done in both, but it makes for a pretty clumsy construction.

THE CHAIRMAN: It is a little bit clumsy, but we can ask the rapporteur to make a better draft of it, if we agree on the principle.

THE CHAIRMAN: We now come to the point raised by the Delegate of India; that is, the question of the undeveloped countries. We have there the Indian proposal and the Cuban proposal to discuss.

MR. ALMILLA (Cuba): Mr. Chairman, I would like Mr. Torras, who is one of our substitute Delegates and has studied this part of the matter, to take my place now, so that he may be able to discuss these specific points.

THE CHAIRMAN: Mr. Hawkins is away for about five minutes so I have not his very valuable advice on this matter. But it comes down to this, if I understand it rightly: that if there is need for the protection of infant industries, countries should not be expected to make those tariffs a matter of negotiation.

MR. ADARKAR (India): May I add a word in justification of the amendment that I suggested. It seems to me that we must avoid the danger of overlapping between the work of this Committee and that of the Joint Committee on Industrial Development. This problem of industrial development is extremely complicated. I am not participating in the discussions of that Committee, but I think that the precise extent to which restrictive devices should be used, or the conditions under which such devices should be used, are being dealt with by them. In connection with that discussion that Committee will consider not merely the general proposition that such devices should be allowed to be used, but will also go into very great detail in regard to the precise conditions under which they should be used, the type of industries which should be developed, and safeguards that should be provided in order to prevent abuse of these restrictive devices. If that matter is going to be discussed in such detail in another Committee it seems best to avoid a discussion of the same subject here, and the best thing would be merely to refer to the clauses relating to industrial development as they will be worked out by that Committee. Then we shall have automatically taken account of any safeguards which that Committee will devise to prevent excessive reservations being made by undeveloped countries in the matter of tariffs and other devices.

MR. LECOYER (France) (Interpretation): I do not think that the question raised here is of very great importance. What we are doing here is contemplating the subsequent negotiations and what will be discussed then . . .

will be tariffs. During those negotiations the conditions prevailing in each country will be taken into account. Some countries will say that under the conditions prevailing in those countries it is possible to reduce tariffs, others will say that their tariffs are so low that they cannot reduce them - and I think you, Mr. Chairman, have referred to this matter elsewhere. At any rate we shall have negotiations on an equal footing, and each situation will be taken into account. This does not mean that I object to referring here, in this Article, to the position of undeveloped countries, but I would like to say that we cannot foresee what will be the result of the discussion within the Committee on Industrial Development and, if we adopt such a reference, we should only do so in a tentative manner - perhaps put it in brackets, in a text similar to that suggested by the Delegate of India, on the condition that the text may be revised after we have heard the results of the discussions in the Industrial Committee.

THE CHAIRMAN: I really think that before putting in a clause like that we ought to know more about the results of the discussions in the other Committee on Industrial Development. Perhaps it is better that we should ask our Rapporteur to get into touch with them and see whether there is anything to be done by this Committee with regard to this Article.

MR. ADARKAR (India): The reason why undeveloped countries will be anxious to see such a reservation made in paragraph (1) is the possibility that, in terms of the first sentence of paragraph (3), any country which fails to fulfil its obligations under paragraph (1) of this Article will expose itself to certain penalties. What precisely the obligations are is rather an important question for the undeveloped countries. If it is recognised that the negotiations are subject to any understandings that may be arrived at in regard to industrial development, their position will be safeguarded and they need have no anxiety. Otherwise some very explicit or extended

reservations will be made. We are assuming that some progress will be made in that Committee on Industrial Development, and some specific provision will be made. It is on that assumption only that the reservation is proposed.

THE CHAIRMAN: There is one thing on which I am still in a difficulty. As I understand it, we shall have those tariff negotiations in Geneva in April and we accept to have them. Every country is free to state its position and find acceptance for its situation and point of view. After that we shall have the draft of the Charter; we have already had the first negotiations. The Charter will not come into effect before we have had the world conference, as I understand it, and then we shall perhaps have a second set of negotiations. What is the sense of putting this in the Charter? It would only mean that there would be further reductions after the initial reductions arrived at in negotiations in Geneva. Is that not right? We have already agreed to enter into negotiations; there is no need to put it into the Charter as such. Even the rules do not apply, because the Charter will be debated after the negotiations - it is for further negotiations.

MR. HAWKINS (Rapporteur): The negotiations need not necessarily end with those to be undertaken next spring. They might be going on for years. We might go one stage next spring, and in addition to that there will be other countries who are not parties to those negotiations who will be participating in other negotiations. So the Charter has to lay down rules to cover all those proposals.

MR. HAWKINS (United States): I have a few words to say on the proposal of the Indian Delegate. It seems to me not appropriate to be inserting in this Article at this stage reference to actions which will be considered by the Joint Committee on Industrialisation before the committee has even considered the question. We do not know what provisions regarding relaxation of tariff commitments are going to be agreed to; and to insert that in here now is to prejudice the question. It implies that we in this committee think that there should be some relaxation in favour of the underdeveloped countries. Now, without attempting to discuss the merits of that question it does seem to me to be inappropriate to be putting a reference in this draft at this stage to some problematical, unknown action which may come out of another committee. In the light of what they do we could then reconsider what, if any, reference should be made here.

MR. VIDELA (Chile): I think we are all in agreement. I have just consulted with my friend, the Cuban Delegate, and I also think the Indian Delegate will be in agreement, if we follow the line of the Chilean Delegation. That is to say, to put the exemptions under No.3 - because we were all referring to that, sanctions. Therefore, we cannot now proceed with (a) and (b), about the procedure, and leave the exemptions till tomorrow, including, of course, the exemption which is suggested by the Indian Delegate and the Cuban Delegate and the Chilean Delegate. As the Cuban Delegate just told me, two of these exemptions referred to by the Chilean Delegation are included in their paper; and we may make a general exemption covering the whole of the exemptions, as was suggested by the Chairman of Committee II

in the document to which we have referred:

"... whether an escape clause should be included, so as to make possible remedial action in cases where industries were seriously injured because of reduction or elimination of preferences."

I think we should leave that till the last part of our discussion, because there are exceptions, although we can follow the lines of the other committees and sub-committees in making the general principles first and then the exceptions.

MR. MCKINNON (Canada): This is, after all, the basic provision of the Charter relative to tariff negotiations, and I am inclined to think that if we amend it by means of a number of paragraphs - (a), (b), (c), (d), (e) etc. - involving or permitting reservations or exceptions to a general undertaking to negotiate tariffs and state trading markets, we would be in this particular committee for another month. I have grave doubts that this, which is the substantive provision expressing a willingness to undertake tariff negotiations, should be qualified in any way. Even if we knew what the other committees had done or is going to do, what may be done in the committee in connection with underdeveloped countries should, in my opinion - if I may use the phrase - stand on its own feet. I do not believe it should be referred to here at all, unless as a matter of drafting a cross-reference appears to be necessary. I take much the same view, I think, that Mr. Hawkins expressed, but I think I feel more strongly on it than he does - or than he put it - namely, that this first substantive provision to express a willingness to negotiate tariffs and preferences should be completely

unqualified. There are enough escape clauses of one kind and another being drafted in other committees, or being considered in other committees, and surely they of themselves will be substantive articles or chapters of the Charter, and will speak for themselves.

THE CHAIRMAN: I am inclined to agree with Mr. McKinnon, that we should not try to put in here more than a readiness to negotiate tariffs and preferences for the coming negotiations, even after we have had our meeting in Geneva. Perhaps the Charter may be adopted at the meeting for negotiations, as the starting point, but I would suggest it will have no legal effect, because I think it will not have been adopted when we start our negotiations.

MR. TORRAS (Cuba): This is a very important point to the Cuban Delegation, because of our special economic position in regard to underdeveloped countries. I think this point should be discussed in the tariff chapter, because it relates to industrialisation and also to tariffs. This industrial negotiation will be taking account of the relative tariffs of each country being reduced, with special consideration for those countries which are in the early stages of their industrial development. These are points on which we cannot seem to agree to put in here, in order to authorise those countries in these cases to maintain adequate labour or trade to protect the industries and the agricultural production, which may be injured by imports if the tariffs are reduced, in a proper manner.

MR. ADARKAR (India): I appreciate the difficulty raised by Mr. Hawkins, that it does look awkward to refer to certain

provisions which have yet to be worked out without knowing the content of those provisions. However, from the point of view of the underdeveloped countries we know the object of the whole discussion which is taking place in the Committee on Industrial Development; we know how the committee has been set up, and it seems to me that, although it is true we are not undertaking the actual drafting of the various provisions, it may be advantageous to adopt some such reservation as that suggested by me in a tentative manner. If a chapter on industrial development is included in the Charter, then the reservation still stands. If no such chapter is included, then it is open to us to come back to this provision and to delete that, and to consider some substitute. I feel there is danger of our falling between two fires. On the one hand we may be tempted -- and surely it may be necessary also -- to insert a very general provision to the effect, for example, that underdeveloped countries should have freedom to maintain tariffs at any level necessary to protect their domestic industries; but that will not include any references to safeguards, but conditions under which those tariffs may be maintained, to the types of industries which may be developed, the criteria which may be adopted in applying that principle. On the other hand we may have no reservation at all, in which case there is nothing in this paragraph to safeguard the position of underdeveloped countries. The paragraph says that Members should enter into negotiations directed to the "substantial reduction of tariffs." Now that expression, "substantial reduction of tariffs" strikes a note which is completely out of accord with the intentions and aspirations of the underdeveloped countries.

The substantial reduction of tariffs is a principle which does not suit all countries. It is true that there is scope for reduction of tariffs in the case of undeveloped countries and also that all members should enter into negotiations directed toward a substantial reduction of tariffs; but, as a principle, it is not fair to expect the undeveloped countries to accept readily and without qualification. Now, a reference has been made in the course of the discussion to an escape clause. I am not sure, Sir, that escape clauses which are meant to deal with emergencies and not to deal with the current situation would really meet the requirements of this case. I therefore suggest, Sir, that either a tentative reservation of the kind suggested should be made or that the undeveloped countries should be given freedom (and I speak without committing the Indian Delegation) to reserve their position in regard to this principle of a substantial reduction of tariffs until they can see what is happening in regard to the Chapter on Industrial Development. That is, of course, without prejudice to this broad procedure of entering into tariff negotiations, because, as I said, even undeveloped countries will find ample scope for some reductions in tariffs. There is no disagreement or difference of opinion, as far as I can see, between these two groups of countries in regard to the necessity or the desirability of entering into negotiations for tariff reductions in a broad way next spring.

THE CHAIRMAN: I think that as things are, and as Mr McKinnon rightly pointed out, this is the basic article probably of the whole Charter. I would like myself to have some time to reflect upon it further, and I am sure that Mr Hawkins and other delegates here would like to do the same. So that I propose that we start our next meeting with this same point. Our Rapporteur will then perhaps have had time to get in touch with Committees I and II, or with the drafting sub-committees, to see what they are working out, and we could perhaps reach a conclusion on that.

Our next meeting would have to be on Friday afternoon I think

at three o'clock, because tomorrow we are having a meeting of Committee II the whole day.

MR HAWKINS (USA): Mr Chairman, could I just say that I would like to revert to the point that Mr Shackle made for additions to the paragraph - or I may want to, because I did not have much chance to consider it. You will remember he suggested putting something in brackets.

THE CHAIRMAN: We will leave that to our Rapporteur to make clear. Is that agreeable? The meeting is adjourned.

(The Meeting rose at 6.50 p.m.)

(Adjourned to Friday next, 3.0 p.m.)