

E/PC/T/C. II/ERO/FV/14,

UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

PREPARATORY COMMITTEE

of the

INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report

of the

FOURTEENTH MEETING

of the

PROCEDURES SUB-COMMITTEE OF

COMMITTEE II

HELD IN

Room 243,

Church House, Westminster

on

Monday, 18th November, 1946

at 10.30 a.m.

CHAIRMAN: DR. A. B. SPIJKERBRINK (Netherlands)

(From the Shorthand Notes of
W. B. GURNEY, SONS & FUNNELL,
58, Victoria Street,
Westminster, S.W.1.)

THE CHAIRMAN: The meeting is open. We must now try to finish our study of the Rapporteur's document. Yesterday we stopped when we had reached the section of "General Agreement on Tariffs and Trade", which refers to the paper which is annexed to this document giving partial drafts of a general agreement on tariffs and trade just to give an idea of what it is proposed to work out in Geneva. I think we are supposed to reach as much agreement as possible in regard to those procedure matters when these tentative parts of the draft have been studied, but I do not think that in adopting this paper we must seek to reach definite conclusions. What does the Delegate of the United States think?

MR. HAWKINS (United States): Off-hand, I should not have thought it necessary to get agreement on every line, or to get it definitely settled. I think we should try, however, to get some conception in our minds as to what, in general, we are aiming at. I think it would be desirable to discuss it to see whether there are any points not understood; if so they should be annexed to the document.

THE CHAIRMAN: We have here, then, the paragraph about the general agreement on tariffs and trade. I myself have only one observation here; it is that perhaps it should be made clear here that these tariff schedules have been agreed in the first instance. Is it after the World Conference, this agreement? No? It is after the first meeting in Geneva. So I think we should put in here "This will provide an opportunity for an adjustment of the tariff schedules as may be considered desirable." Is it not the case that the first review will come at the World Conference? I am still not very clear in my mind, because here we have 17 or 18 countries who do certain things; we leave open certain points, perhaps because the principal supplier is a non-member. Non-members, if they come in, may have certain concessions to ask and others to offer, and that may give rise to certain changes in the original agreements.

MR. HAWKINS (United States): I should think that this is the outline of the agreement that should come out of the negotiating meetings next Spring.

As to its effectiveness and legal validity, I should think that we might, as one possibility, bring it into effect immediately, but provisionally and subject to a decision of the full meeting. The reason for bringing it into effect immediately is a practical one. If you have agreed upon schedules of actual tariff reductions, they simply could not be kept secret; they are bound to leak and cause all sorts of difficulties. Therefore the only thing it is safe to do is to put them into effect provisionally, subject to the outcome of the World Conference, which may reach decisions which are pertinent to the application of these concessions to other countries.

THE CHAIRMAN: I quite agree, I only think that that position is not made clear in this part of the memorandum. I do not know what other Delegates think of what we see here; it is not covered in this part of the paper. It just gives one thing, and that is the World Conference.

THE RAPPORTEUR: Do you think that at the World Conference you would undertake to revise these schedules, once agreed upon, in order to cover countries not members of this Committee?

THE CHAIRMAN: In my opinion, we should certainly leave open the possibility.

THE RAPPORTEUR: At the Conference itself?

THE CHAIRMAN: Yes.

MR. HAWKINS (United States): That is provided for in Article 18, "Treatment of other countries". In other words, this provisional agreement would be generalised, initially to all countries, and then the question of whether generalisation should continue in respect of any particular country would depend upon whether that country, given adequate opportunity in time, would comply with the provisions of Article 18 to bring about substantially equivalent reductions by negotiation.

THE CHAIRMAN: I entirely agree there, but I would like to say this. Suppose that we have certain important countries still to enter into the agreement. They may come to the World Conference and ask for a reduction in a rate which has been fixed temporarily at our first meetings in Geneva. That change in the tariff schedules will then apply automatically to all the

other countries. That is a change of the original agreement, in my opinion.

MR. HAWKINS (United States): A change made at the World Conference.

THE CHAIRMAN: Yes.

MR. HAWKINS (United States): I do not think it would be practicable to negotiate tariff rates at the World Conference.

THE CHAIRMAN: Later on.

MR. HAWKINS (United States): It would be later on. The country concerned may be disappointed because a product of interest to it is not covered in these original negotiations, and hence the generalisation is not of as much value as it might be. The remedy of that country is to invoke Article 18 and negotiate with the country concerned to bring about a reduction in that rate which is of interest to it.

THE CHAIRMAN: Yes, but my only point here is whether we say in the second paragraph of page 19,

"The General agreement on Tariffs and Trade should be signed and made public at the close of the tariff negotiations. The Agreement should be legally independent of the Charter and should be brought into force as soon as possible after its signature and publication. Countries should be free to withdraw from the Agreement, on six months' notice, at the end of two and a half years. This will provide an opportunity for a review of the Agreement and any adjustment of the tariff schedules which may be considered desirable."

That is the point I raise here.

MR. SHACKLE (United Kingdom): Where you talk about withdrawing from the Agreement could you not introduce the alternative of substituting the concessions contained in the Charter or whatever it is that emerges from the World Conference? If the parties are included in a larger agreement, the larger agreement would supercede the limited one.

THE RAPORTEUR: I think there are two possibilities there; you might put into the paragraph,

- "(1) either of negotiated bilateral agreements between the members of the preparatory Committee and the members of the Organisation which are not members of the Preparatory Committee, or
- (2) setting up a mechanism within the International Trade Organisation"

— which would be the Interim Tariff Committee —

"whereby other countries could be brought in on the same multilateral basis."

In other words, the new agreements could preserve the multilateral schedule and each one of the earlier members of the Committee might undertake to revise its schedule so as to ensure the inclusion of any products not already included. There could be something to cover that point as to how the Preparatory Committee tariff reductions are to be tied in with the general ones.

MR. GUERRA (Cuba): I think something of that sort might be useful. There is a reference in Article 56 to the effect that the Interim Tariff Committee to be formed by the original members may include other members if they comply with the proviso about having "completed negotiations... comparable in scope or effect to those completed by the original members of the Committee." I think all that is needed here is to contemplate the other possibility that the agreement will not be fixed in the sense that the incoming members will have to comply with everything that has been done and also give the alternative, that what has been done may be altered into a form which makes it possible for the incoming member to enter.

MR. SHACKLE (United Kingdom): I do not think, from a legal point of view, that you achieve any object by writing into the Draft Charter things which are to happen before the Draft Charter itself comes into force. Until the Draft Charter has come into force everything in it is forceless, therefore if you want to make arrangements for things to happen before the Charter comes into force, they have to be in a separate document.

THE CHAIRMAN: This document embodies that part of the agreement.

MR. SHACKLE (United Kingdom): The Charter, as such, will not be in force.

THE CHAIRMAN: We have more of these parts of the Charter, which have to be put in later. They have already been discussed now and are subject to review at Geneva, but we have worked them out in this document. I should say that at this moment we are not concerned with Article 56; it is more for Committee V. It is one of the articles which will have to be definitely decided upon in Geneva. Still referring to the Rapporteur's remarks,

I still wonder whether the best procedure - perhaps we can leave this also for later on - when a new member country comes in will be to conclude bilateral agreements with all the countries concerned? In that case every time a new member crops up each country will have to send a Delegation to negotiate. As there are certain countries still to come in we shall have to multiply our staff if we have to do that. I should very much like, as a practical possibility, to have the Tariff Committee negotiating with members and keeping Governments informed, in one way or another, ON important points where there is a concession asked for in their country. That will be the only way we can work this thing.

MR. GUERRA (Cuba): Then can we bring the reference to Article 56 into a separate part of this document?

THE RAPPORTEUR: I wonder...

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THE RAPPORTEUR: I wonder whether the way should not be left open for either or both of the procedures; that is, for negotiating for bilateral agreements between Members of the Preparatory Committee and non-Members, and for multilateral, and to cover that by an appropriate reference in the Procedure Memorandum, as to the two possible methods by which other countries can be brought into the tariff reduction arrangements.

THE CHAIRMAN: I am agreeable to that, if we can study it again after Geneva having regard to points that may appear.

THE RAPPORTEUR: I mean, describing the multilateral method of doing that, we can say that that would be done by the Interim Tariff Committee, which would be in fact this Committee after the Organization is established.

THE CHAIRMAN: Then if it is agreeable to the Committee we could ask the Rapporteur to change the draft accordingly. If there are no other remarks to be made with regard to this part of the paper we will come to the tentative draft of General Agreement on Tariffs and Trade.

MR. MCKINNON (Canada): Mr. Chairman, it was suggested in this Memorandum that certain parts of the Charter may come into force along with the tariff agreements before the World Conference. I am not quite sure what happens if those parts of the Charter are changed at the World Conference - the ones that are put into the tariff agreements. What happens then? Will the old parts of the Charter continue to have legal effect among the Members who signed originally, or will they be adjusted in the light of what is decided at the World Conference?

MR. HAWKINS (US): I think they would be subject to adjustment in the light of anything done at the World Conference.

MR. MCKINNON (Canada): It would have to have then the agreement of all countries who signed it originally. It could only be adjusted in that event, because it would affect the rate of

concession both ways.

MR. HAWKINS (US): That is right.

MR. MCKINNON (Canada): Is that the understanding?

MR. HAWKINS (US): Yes. I do not see, Mr. Chairman, that there would be any serious difficulty on that. In effect, all we are providing is that these provisions shall be subject to change by agreement among the members who negotiated them, and if they are all agreeable to it there would be no difficulty.

MR. MCKINNON (Canada): But they must all agree. That is the point.

MR. HAWKINS (US): I think so.

THE RAPPORTEUR: Maybe it would be wise to put a point on that in the Memorandum.

MR. MCKINNON (Canada): I think it might be worth while explaining that in the Memorandum.

MR. HAWKINS (US): I take it we are going to say this is a provisional agreement depending on the results of the World Conference. That is almost implicit in that, that any changes made by the World Conference would effect changes in this document.

THE CHAIRMAN: Yes.

MR. SCHACKLE (UK): I think the members of the Interim Agreement, the countries which subscribed to it, would have to take stock of the position after the World Conference and decide what they were going to do. They would not want to accept it automatically in advance. They would have to take stock of the situation when the World Conference is through.

MR. MCKINNON (Canada): Yes, because it may affect the various concessions which have been made if some changes are made in the Charter which may upset the relative advantages or disadvantages members have got.

MR. HAWKINS (US): If, for example, there should be a provision that by agreement at the World Conference the provision regarding quantitative restrictions is changed or taken out,

the schedules then become worthless.

MR. McKINNON (Canada): That is the extreme case.

MR. HAWKINS (US): Yes. On the other hand, it is conceivable that the 18 countries might agree to continue on the basis of the original provisions, as among themselves.

MR. GUERRA (Cuba): The only thing I have to say in that connection, which may help to make the point clear, is that if in the third and fourth lines of the second paragraph on page 18 we take out "either by reference or" and put "by reproduction the pertinent parts of the different Articles of the Charter", as referred to here, and maybe also put in "incorporating the provisional agreement", that will cover both things. Everything that is safeguarding the tariff concession will then be reproduced in the agreement, and also it will indicate that the agreement is provisional, subject to any changes that may be made at the World Conference at some later date. I do not think it is absolutely necessary, but it may help.

THE CHAIRMAN: We can leave the point open, and that will be better, I think, because we can judge the whole position at Geneva.

MR. McKINNON (Canada): Yes, I would favour leaving it open, so that the original 18 countries may continue among themselves something they have agreed upon or may adjust it in the light of what happens at the Conference.

THE CHAIRMAN: Yes, but if you say "provisional" and then agree to continue it, you just continue it and make it permanent.

MR. HAWKINS (US): It is not that they agree to continue it; it is subject to any changes that may be made and agreed to by the original negotiators at the World Conference. Now that leaves the way open, for example, for them to continue to keep these things in effect or to change them in the light of the agreement at the World Conference.

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MR. MCKINNON (Canada): That is what I would prefer, Mr. Chairman.

THE RAPPOREUR: Could we not simply put a sentence in here saying the agreement should contain a provision whereby the signatories may change the provisions in the general agreement in the light of what is done at the World Conference. It does not say they have to, but that they may.

MR. SHACKLE (UK): They may either change them or agree to the whole thing being superseded by the document which comes out of the World Conference. You may have an untidy situation if you have a Charter on the one hand and an agreement slightly different on the other hand, without clarification by the people who are parties to both.

THE CHAIRMAN: I think it would be useful if we put something in the Memorandum.

MR. GUERRA (Cuba): It will not do any harm, I think.

MR. SHACKLE (UK): Before you leave page 19, Mr. Chairman, I have a very small point on the second paragraph. It is the 7th line: "Countries should be free to withdraw from the Agreement, on six months' notice, at the end of two and a half years". I take it that the meaning of that is just the same as that of Article VI on page 3 of the Draft Agreement in the annexe. Article VI in the annexe says that the duration of the Agreement shall be initially three years and provides for withdrawal by any country on six months' notice after the initial three-year period. Well, I take it there is really no clash there, although there appears to be, and that the real situation is that ^{at} the end of two years and six months somebody can give six months' notice, so that at the end of the three years they get out, or they can of course give six months' notice at any later time and get out on six months' notice, but perhaps it would be better to get the wording of those two passages cleared up.

THE CHAIRMAN: Yes.

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MR. ADARKAR (India): This is only a point for clarification, Mr. Chairman: Is it in order for this Committee to recommend that provisions such as those relating to national treatment of internal taxation and regulation or quantitative restrictions or subsidies, which are not being considered in this Committee, should be brought into force in advance of the rest of the Charter? It seems to me that we may be taking a decision which ought properly to be taken by other Committees. Are the Committees dealing with these provisions aware that there is a danger that the provisions they are working out are intended to be brought into force in advance of the rest of the Charter?

MR. HAWKINS (US): They will all have a chance to consider it in Committee II and later in the Plenary Session. It seems to me appropriate for this Committee to recommend it, because if it is recommending tariff negotiations it must necessarily raise the question regarding other provisions which are indispensable, if those tariff concessions are going to mean anything; so I think it is within our competence to recommend it.

THE CHAIRMAN: We have to put it in that way in the Report of this Committee, and we can beforehand have the Secretariat give to the different Committees some information that we are proposing this.

MR. ADARKAR (India): But we do not know, sir, what is going to be the final shape and form of the provisions on these particular matters. So far as Article 8 or Article 26 or Article 29 are concerned we know what the form of the provisions of these Articles should be, but we do not know what is going to be the content of the Article on Quantitative Restrictions, which is still being considered, and without knowing the content of that Article I wonder if this Committee can say that the bringing into force of that Article is indispensable to the effective working of the Tariff Agreement?

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MR. HARKINS (US): All we are saying here is that you cannot negotiate tariffs without regard to provisions relating to internal taxation and quantitative restrictions and so forth. We must establish that inevitable relationship. If there should be different provisions than we contemplate here, then we might have to make a different provision.

MR. GUERRA (Cuba): Or negotiate in a different form.

THE CHAIRMAN: Yes. We have been asked here to prepare a Memorandum and if we have any points that we think ought to be included it is our duty to make them, and it is for the Preparatory Committee itself to accept them or change our proposals. We are not deciding anything. All that we do is to formulate proposals to Committee II, and, in the end, to the Preparatory Committee. That is the reason why all our reports will come under discussion in Committee II, and, later on, in the full Preparatory Committee.

MR. ADARKAR (India): If that is the general sense of the Committee I have no objection. I merely felt the technical difficulty.

MR. GUERRA (Cuba): I would say this, to make it more clear, that always the willingness of any country to grant tariff concessions will be conditioned what that is finally adopted with regard to quantitative restrictions and other things. We may have at the moment an idea of what the provisions may be on those matters, and an idea of how far we may go, but if in the other Committees these things are changed in the sense that they will for any particular country mean less safeguards in tariff concessions, then we may not be able to go so far as we are contemplating at the moment. At any rate, however, a relationship will have to be established, whatever the results of the regulations on these other matters may be, and therefore I think it is only proper that we should make clear our recommendations.

THE CHAIRMAN: Then I think, gentlemen, we can leave this point now, and perhaps it would be better that we should come to the draft of the General Agreement on Tariffs and Trade.

MR. SHACKLE (UK): Before we leave this passage, I am sorry to hark back, but there is a list of suggested schedules on page 17 and at the top of page 18. At the top of page 18 you will see one schedule numbered J. XVI for the United Kingdom, Newfoundland, Southern Rhodesia, Burma and colonial dependencies. That would be an enormous schedule, and there are certain territories comprised within it which we think would probably need to have separate schedules of their own. I merely wish to call attention to that point now before we pass on - that all these territories may not actually be covered by one single schedule. It is a clumsy method and there may be a case for some of the territories having schedules of their own.

THE CHAIRMAN: Yes. There is the same difficulty with regard to the Belgium-Luxembourg^{and}/Netherlands Customs Union, because there you would find that the Belgian Congo and the Belgian overseas territories formed no part of the Customs Union, so you would have for the Netherlands, for instance, one schedule as being a Customs Union and having a common tariff; perhaps for the time being the Netherlands and Belgium separately, even though the tariffs are the same.

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MR HAWKINS: Mr Chairman, I think it might be left in this way. I certainly have no objection to any country adding other schedules as might fit in with these conditions. There is no point of principle or substance really involved here.

THE CHAIRMAN: You can say the same thing about the French Empire perhaps.

MR LECUYER (France) (Interpretation): I think we should make it Schedule A, B, C and so on.

THE CHAIRMAN: I think if we put that in there that would cover Mr Shackle's point.

MR SHACKLE (UK): I do not know that we need give a formal decision about this, and I am not sure whether a sub-division is in itself enough, or whether they might not be separate schedules, but it is not a matter of any importance.

THE CHAIRMAN: We will put in both.

MR SHACKLE (UK): Yes.

THE CHAIRMAN: The only question I still have to ask here is this. We make special mention of certain countries and I would ask those countries that are represented here whether that mention is all right. Is "France and the French Empire" satisfactory, for instance?

MR LECUYER (France) (Interpretation): No - it should be "France and the French Union," instead of "French Empire."

THE CHAIRMAN: So my own point here is that we should have Belgo-Luxembourg-Netherlands Customs Union, but not including the Belgian Congo, because there should be a separate one for the Belgian Congo as well as for the Netherlands Overseas Territories. I think that would be all right, and I think that, for the time being, that is the best formula. As regards the other countries, are there any difficulties there?

MR SHACKLE (UK): I think perhaps so far as the Empire is concerned we may need to put in a footnote which would say that it is not possible at present to say how many separate schedules might possibly be needed for certain territories of the Empire.

THE CHAIRMAN: Yes, I agree; but is this list correct - United Kingdom, Newfoundland, Southern Rhodesia, Burma, and Colonial Dependencies? Is that the

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Is that the right formula? Perhaps we might ask you to consider that?

MR SHACKLE (UK): Yes, we will do that.

MR GUERRA (Cuba): That would be the most practical thing, that each country should do the same thing.

THE CHAIRMAN: Then we go on to the draft agreement, and perhaps, as this is an important paper, we should discuss it page by page.

MR GUERRA (Cuba): There is the question of the relation of the general agreement on tariffs to the International Trade Organization, and to a certain extent that covers the point already discussed about the Tariff Committee and the possibility of other members coming in. I think that has already been discussed.

THE CHAIRMAN: Yes, but I think it is something we shall have to return to. We have now the draft general agreement and then we come on to the other parts of the paper. "The Governments in respect of which this Agreement is signed: Having been named by the Economic and Social Council of the United Nations to prepare, for the consideration of the United Nations Conference on Trade and Employment, a draft Charter for an International Trade Organization of the United Nations: Having, as the Preparatory Committee for the Conference, recommended to the Conference the provisions of such a Charter, the text of which is set forth in the Report of the Preparatory Committee dated, 1947; and Being desirous of furthering the objectives of the Conference by providing an example of concrete achievement capable of generalization to all countries on equitable terms." Are there any remarks upon that? I think it gives the idea: "Have, through their respective Plenipotentiaries, agreed as follows" - and then we get all the Articles that have been mentioned. Is it necessary to have some more Articles here?

THE RAPORTEUR: I think that perhaps the drafting committee might consider whether there are any other Articles that ought to be referred to.

THE CHAIRMAN: Shall we leave that to the drafting committee to see whether there are some more Articles to be included here? (Agreed) Then we go on: "2. Functions entrusted to the proposed International Trade Organization

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under any of the provisions of the draft Charter incorporated in this Agreement by virtue of paragraph 1 of this Article shall, pending the establishment of the Organization, be carried out by means of consultation among the signatory Governments." That is changed now, is it not?

THE RAPPOREUR: Yes; I think it was agreed that provision should be made in the Procedures Memorandum for setting up a provisional organization consisting of members of the Committee to exercise any such functions, so that this would have to be amended accordingly.

MR GUERRA (Cuba): It would be all the members of the Committee.

THE CHAIRMAN: Yes. Then we go to Article II: "With regard to Articles 18, 27 and 28 of the draft Charter, which relate to negotiations for the reduction of tariffs and the elimination of tariff preferences and for parallel action by state-trading enterprises, the signatory Governments declare that they have, by virtue of Article III of this Agreement, fulfilled the obligations of these articles in respect of themselves and that they stand ready, in conformity with the spirit of these Articles, to undertake similar negotiations with other Governments which become members of the International Trade Organization."

MR McKINNON (Canada): In regard to the previous Article I was in a little doubt as to whether the interim committee set up to carry on pending fuller development meant, or did I understand the Rapporteur to say, that every member of the Preparatory Committee would be represented on that committee, or every member which enters into the temporary agreement?

THE RAPPOREUR: I should think the provisional organization here would consist only of the members which make effective the agreement.

MR McKINNON (Canada): That is what I wanted to be clear on. Supposing only nine make an effective interim agreement, then only those nine should be represented?

THE CHAIRMAN: Yes. That is a good point. Then we have to change the wording here.

THE RAPPOREUR: This is on the assumption of maximum success.

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MR GUERRA (Cuba): There is one thing here, just a question of drafting.

In the fourth line it says, "parallel action by state-trading enterprises." The expression "parallel" would give the idea of elimination. I do not think that is required by state-trading enterprises, but it might be interpreted in such a way as that. To prevent that, I would say only "action."

MR SHACKLE (UK): "Parallel" is all right; it is parallel reduction of tariffs and parallel but not elimination of tariff preferences, because it is negotiations for elimination or reduction. That is all right. As regards tariff preferences, is it not a parallel reference to the whole of the preceding reference, and that is how I should think it would be interpreted.

MR GUERRA (Cuba): Well, the question is - and I do not want to be too insistent about this - that when we draft it we should be careful to cover all possibilities of meaning in different languages. In Spanish if you put "parallel" it would relate very closely to the action of elimination. That is my doubt, but it is only a drafting matter.

MR SHACKLE (UK): You could put (a) in front of "negotiations for" and (b) in front of "parallel action." That might do it.

MR GUERRA (Cuba): Yes, you could separate them out.

THE CHAIRMAN: If you put in little (a) and little (b) that would do it?

MR GUERRA (Cuba): Yes, that will separate them properly.

THE RAPPORTEUR: I should think it ought to be "(a) parallel action or negotiations for parallel action."

THE CHAIRMAN: Yes.

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MR. HAWKINS (United States): There is another point, in the next line or two. It says:

"... the signatory Governments declare that they have, by virtue of Article III of this Agreement, fulfilled the obligations..."

I suggest the first negotiations might not completely fulfil the obligations. They are a step towards fulfilling them, and subsequent negotiations of the same kind might carry the process further. I do not think it all ends with the next negotiations. You could say, "have taken this step in pursuance of the obligations."

MR. SHACKLE (United Kingdom): You might say "as between themselves" instead of "in respect of themselves."

MR. HAWKINS (United States): Even with "as between themselves", would they be all through?

THE CHAIRMAN: No. If you have accepted an obligation to reduce preferences you still have to discuss the method of fulfilling your obligations with the other members.

MR. SHACKLE (United Kingdom): But you have to fulfil the obligations as between yourselves. You see, it goes on to say

"... and that they stand ready, in conformity with the spirit of these Articles, to undertake similar negotiations with other Governments."

Surely you have covered the whole thing when you have done that?

MR. HAWKINS (United States): I think there is still something missing. I had not assumed the negotiations between the 17 or 18 countries, or whatever it is, next spring completely fulfilled the obligations which might be expected of them under Article 18. Later it might be possible to go further. I do not want it to appear that this is absolutely everything that is going to be done. For all practical purposes it may be as far as they go for a long time, but you should envisage the possibility of further action. I suggest it would meet the point if you simply say

"by virtue of Article III of this agreement have taken this step in pursuance of the obligations."

MR. MCKINNON (Canada): Or "^{towards}~~its~~ fulfilment"?

MR. HAWKINS (United States): Yes, that would be all right.

THE CHAIRMAN: Then it reads, "taken this step towards fulfilment of the obligations."

MR. SHACKLE (United Kingdom): It says:

" . . . similar negotiations with other Governments which become members of the International Trade Organization." The International

Trade Organization will not be formally in existence at the time, so how can any Government become a member. I am sorry to raise a formal point, but I think it ought to be mentioned in order to get the drafting right.

MR. MCKINNON (Canada): You mean by that it might read "to undertake similar negotiations with such other Governments as may become members"?

MR. SHACKLE (United Kingdom): Yes, or "as may desire to become members."

THE RAPPORTEUR: We do not undertake the negotiations until they do, do we?

MR. MCKINNON (Canada): Well, I wonder?

MR. SHACKLE (United Kingdom): You might say "desire to become members of the contemplated International Trade Organization."

THE CHAIRMAN: Perhaps it is as well to make reference to the conference mentioned in the first part of this draft.

MR. GUERRA (Cuba): You might call another conference in future. So long as we contemplate an international trade organization that will be all right.

THE CHAIRMAN: Now we pass to Article III. It says "Each signatory Government shall accord to the commerce . . ." I think we can go further than that. Perhaps we can put in a date in Geneva. But for the time being I think that is enough, to give the principle.

MR. HAWKINS (United States): I think it is open to suggest there should be changes. This is merely a sample of how it would look.

MR. GUERRA (Cuba): I understood we would insert some other provision on this point - which we discussed before in relation to modification of the agreement. This would be a proper place to put it in.

THE CHAIRMAN: Yes. Now we come to Articles IV, V and VI. Article IV would give the general exceptions ~~for~~ ⁱⁿ Article 32 of the Draft Charter. Article V would reproduce the provisions of Article 33 of the Draft Charter relating to territorial application. Those can only be decided

later on, because Article 32 has not been adopted by the Technical Sub-Committee.

MR. GUERRA (Cuba): This provision will have to be put in according to the way in which this question is solved. It will have to contain provisions on territorial application.

THE CHAIRMAN: They are mentioned here specially and put together in the other Articles.

THE RAPporteur: The exceptions from Article 32 apply to the schedule, I believe, as well as to the provisions which you might incorporate in the trade agreement of the tariff schedules. I think it applies. It is an exception from the whole agreement and not merely those parts which you incorporate either by reference or outside this before you spell them all out.

MR. SHACKLE (United Kingdom): There is an ambiguity in Article VI. I think it appears also in the existing draft of the Charter in the last Article of all, Article 79. There occur the words

"(withdrawal by any country on six months' notice after the initial three-year period)".

The ambiguity is: Is it that the withdrawal can take place at the end of three years, six months prior notice having been given; or is it that when you arrive at the end of the three years you can then give six months notice so that you can get out at the end of three and a half years? I think the intention is the first, but we could get it clear.

MR. McKINNON (Canada): You would give notice at the end of two and a half years and get out at the end of three years?

MR. SHACKLE (United Kingdom): Yes.

THE CHAIRMAN: I think this will have to be changed then.

MR. SHACKLE (United Kingdom): Might I suggest that that ambiguity should be brought to the notice of Committee V with a view to their considering the text of Article 79 in the light of that. I think the text of Article 79 is ambiguous in the same way at the moment.

MR. ADARKAR (India): Have we now finished consideration of the general form of the Article?

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THE CHAIRMAN: We have finished the memorandum.

MR. ADARKAR (India): Our acceptance of this form of the agreement is subject to the doubts we have already expressed, whether an altogether different form of agreement may not be more suited to the need of developing countries. That is to say, we accept this form of agreement on the assumption that the Government of India eventually accepts the principle of multilateral agreement.

THE CHAIRMAN: Yes, we understand that.

MR. GUERRA (Cuba): That is the position of everybody.

MR. ADARKAR (India): No. We raised the question that the developing countries might find it more suited to their needs to enter into bilateral or tripartite agreements which are multilateral in effect, but not in their legal application. Any modification of this agreement should require the consent or or negotiation or discussion with only a small group of countries and not with the Organization as a whole or with a large number of the members of the Organization. That is a slight variation of the plan proposed in the draft Charter on economic development. It was a question we left open yesterday, on which I was permitted to make a reservation.

MR. SHACKLE (United Kingdom): Does the Indian Delegate refer to agreements under tariffs and preferences, or to bilateral or trilateral agreements governing the whole of the subject-matter?

MR. ADARKAR (India): Only tariffs and preferences.

THE CHAIRMAN: Due note has been taken of that point.

MR. GUERRA (Cuba): When the Cuban Delegation came to this conference our Government had only the proposal put forward by the American Government in the proposed Charter, and the Delegation had instructions and ideas about the position of our country in that regard. However, we are in a different position in regard to the memorandum in general. I do not think our Delegation will have any difficulty in this; we think it is all right and covers the idea of procedure and the method of carrying out the negotiations. However, we want to make it clear that our acceptance of this is conditional upon the final acceptance of our Government. Our position cannot be interpreted as accepting this memorandum as it is now.

THE CHAIRMAN: Everybody is in that position. We make no final commitments here. There was another point made by the Heads of Delegations, whether we should provide for an instrument should there be important points to be raised by Governments before we meet in Geneva.

MR. HAWKINS (United States): Might I say that this memorandum was prepared by the Rapporteur. The American Government have never seen it.

MR. GUERRA (Cuba): Than I take it you are in the same position?

MR. HAWKINS (United States): Exactly the same.

THE CHAIRMAN: We come now to the Interim Tariff Committee. I have a very small remark on the last paragraph of page 19. Perhaps we should add here the formula provided in Article 56, "with the countries concerned". Or perhaps we might just refer to the Article. I do not think it is important.

MR. GUERRA (Cuba): Do you not think that even the number of the Article may be changed in the general working out of the Charter?

THE CHAIRMAN: Yes, we could leave it open, and say "Article ..." and fill it in later on when we see the whole thing.

Then we come to page 20. In the first lines, there again I think that for the sake of clarity we should say "after acceptance of the Charter by the World Conference shall constitute the original members of the Interim Tariff Committee." Must to make every step clear. If there are no remarks on the first paragraph, we will pass to paragraph 2. Here too we may introduce something about "after the acceptance of the Charter by the World Conference..." and so on. We will leave the exact wording to the Rapporteur. He might like to put it in a different place, but I think it would go here.

In the second paragraph, here again for clarity's sake I think we should put something in. "The interim Tariff Committee would have the function of determining whether, with respect to further negotiations after the initial negotiations, any member of the Organisation had failed to live up to its obligations ..." Here we do not mean the initial group, we have in mind other members of the Organisation who enter provisionally and then have the obligation to negotiate with the first group with regard to the obligations they will have to fulfil to become a member of the "low tariff club". I think that should be put in here as well for clarity's sake.

MR. SHACKLE (United Kingdom): There is a possible complication, is there not, in this sense, that supposing that after the first revision some member who had withdrawn some of his original concessions were not to negotiate what was regarded by the other members as a satisfactory revision agreement - a satisfactory new agreement - then presumably he would become

subject to the same considerations as a country which originally had not negotiated satisfactory tariff concessions. I do not think we need look to this possibility here, but I think it is a possibility.

MR. GUERRA (Cuba): If we start from the assumption that the Interim Tariff Committee will be made up only of the members which live up to their obligations, we may cover that point and say "Where any non-member of the Tariff Committee". That would include members who were not originally members of who had ceased to be members of the Interim Tariff Committee.

THE CHAIRMAN: I do not think that will cover it because we first have to say whether they have fulfilled it. They would still be members but later on would cease to be members if they did not fulfil the initial obligations.

MR. SHACKLE (United Kingdom): I think that may be the answer.

THE RAPPORTEUR: I think that point is fully taken care of in Article 56. I suppose some provision should be added there to the effect that the Committee may declare any member a non-member, in other words, put him out of the Committee, in the event of failure to maintain the obligations originally assumed.

MR. MCKINNON (Canada): I do not think this memorandum need go into that.

THE RAPPORTEUR: No, I think it should be dealt with in Article 56 itself.

THE CHAIRMAN: Perhaps we should draw the attention of Committee V to that point. Will the Secretary do that?

MR. GUERRA (Cuba): Then do you not think that the proposed agreement should have a reference to Article 56?

THE CHAIRMAN: Yes, that was the idea. That was what I said. It is not mentioned at all here.

THE RAPPORTEUR: It is mentioned, I thought we had agreed to put in a reference to "The Draft Charter provides in Article 56 that the countries which make effective the general agreement on tariffs and trade". So there is a reference to it.

THE CHAIRMAN: The question was, do we mention also the agreement.

Now we come to a few points with regard to the Interim Tariff Committee.

Point (a) is:

"The Committee may not compel a member to withhold tariff benefits from another member; it may only authorise the member to do so. If the benefits are in fact withheld from a member, that member may withdraw from the Organisation."

This is all after the Charter has come into effect, after the World Conference. Point (b) is:

"A member of the Organisation may be admitted to membership in the Committee when the member has completed tariff negotiations 'comparable in scope or effect' to the negotiations already completed by the original members of the Committee. Thus, what is achieved by way of tariff action in the General Agreement on Tariffs and Trade will become the standard to which Members of the Organisation will be expected to conform in order to obtain membership on the Committee."

I have only one question here. Ought we not to have some kind of provisional membership, because you will see that after the World Conference, if that is a success, a number of countries will also be prepared to negotiate and will already be members, having fulfilled some of the obligations of the Charter. The very important point of tariff negotiations will then be taken care of and later on we shall judge whether the member has fulfilled its obligations in that respect. It may be of importance that it is already considered as a member and expected to act accordingly with regard to the other provisions of the Charter. We only say here "a member may be admitted to membership". Here it only refers to the Committee - should it not be a provisional member of the Organisation?

MR. HAWKINS (United States): Is it not conceivable that you can have a member who is in fact a full member of the Organisation but is not getting the benefits of the tariff reduction?

THE CHAIRMAN: What I would like to say here, and it is an important point, is this. Suppose a country is admitted as a member, and later on you have to expel him. Or, suppose a country is a provisional member for a certain time, during which he is supposed to fulfil his obligations. That would not be as severe as to have to expel a member. I do think it is a point worthy of study.

MR. MCKINNON (Canada): There is no provision in the Article, as I recall it, for the expulsion of a member.

MR. ADARKAR (India): A member is free to withdraw.

THE CHAIRMAN: He can only himself withdraw. Perhaps it does not matter- but it is a question which is not clear in my mind.

MR. SHACKLE (United Kingdom): You may have rather a confused situation on this sort of assumption. A country becomes a member, fails to negotiate satisfactory tariff reductions, and the Organisation decides in those circumstances that it shall not be entitled to certain obligations under the Charter. But suppose it then does not decide to withdraw, but simply to remain in the Organisation while not enjoying some of the benefits. If you have a number of countries in that position you might have a very confusing situation. You would have a sort of partial membership.

MR. ADARKAR (India): Unless it is left upon to a member in that position to decide whether it will remain in the Organisation or get out of it, I think it will be very difficult for us to consider paragraph 3 of Article 18 at all, without considering Article 31. Because then the member becomes a non-member. He gets out of the Organisation. The result of any member failing to reach agreement in the matter of tariffs with other members would be that he becomes a non-member.

MR. MCKINNON (Canada): That is right.

MR. ADARKAR (India): Yes. Then we must know exactly what the consequences of expulsion are, and for that we must refer to Article 31.

MR. GUERRA (Cuba): I think there is another question. The Charter contemplates many times the possibility of a member not living up to certain obligations and other members withdrawing concessions given to him, and yet the original member remaining inside the Organisation. The whole spirit of the Charter is that nobody is required to fulfil every one of the obligations he may have originally contracted. There may be members who are complying with obligations regarding tariffs or quotas or other things who yet, in regard to other members, in a bilateral situation, are not fulfilling certain obligations. That other member has the right to with-

draw some concession under the procedure and rules of the Organisation.

I think we may now be able to discuss whether a member has to fulfil every one of the obligations or else get out of the Organisation.

MR. HAWKINS (United States): I think there is a good deal in the point just stated if I understand it correctly. It is an argument in favour of these provisions as they are. That is to say, a member might have benefits withdrawn from him because he did not comply with the tariff agreement and yet still retain membership. The argument in favour of that is that if he stays within the Organisation there is hope of working out the difficulty but if he gets out that hope diminishes.

MR. GUERRA (Cuba): That is what I meant. I think that the whole Charter is drawn in such a way that makes it possible for some members to within the Organisation who are only complying with certain obligations.

THE CHAIRMAN: So in any case he is a member.

MR. GUERRA (Cuba): Yes.

THE CHAIRMAN: If that is clear we can leave it at this.

MR. GUERRA (Cuba): The only thing is, I want to get some clarification of ... (a): "The Committee may not compel a Member to withhold tariff benefits from another Member". Does that refer to a member of the Committee?

THE RAPPORTEUR: No, a Member of the Organization. What it provides is that you release one Member from the obligations of the most-favoured-nation clause in respect of another Member of the Organization.

THE CHAIRMAN: But I agree with you there, Mr. Guerra.

MR. GUERRA (Cuba): It appears to refer to members of the Tariff Committee.

THE CHAIRMAN: I agree you get some confusion.

THE RAPPORTEUR: Well, "may not compel any member of the Organization to withhold tariff benefits from any other member of the Organization under paragraph (c)". That would cover it.

MR. GUERRA (Cuba): Yes, that would cover the Interim Tariff Committee members also.

MR. ADARKAR (India): Mr. Chairman, I wish to have some more clarification of this second sentence here: "Thus, what is achieved by way of tariff action in the General Agreement on Tariffs and Trade will become the standard to which Members of the Organization will be expected to conform in order to obtain membership on the Committee". I believe some amplification is necessary here, and this is the reason: to describe the whole process we start with a distinction between members of the original negotiating group and the members of the Interim Tariff Committee. The Interim Tariff Committee will not necessarily be composed of all the members who will participate in the initial negotiations; it will be composed only of those members who fulfil their obligations under Article 18 and who give effect to this agreement. Therefore, the first point to be decided is, what is the criteria

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which will be used in deciding whether the members of the original negotiating group have fulfilled their obligations? Then the second stage of the process begins when we admit new members, and there we have to decide whether any member who was not in the original negotiating group has fulfilled his obligations or not. For that a criterion has been suggested here, namely, what is achieved by way of tariff action by the original group will be the standard to which new members will have to conform. That is to say, while we have set a standard for the second process, we have set no standard whatever for the first stage. For the second stage we have a standard here, but for the first stage, for deciding whether any member of the original group has or has not carried out its obligations, we have set no standard. You find on page 2, for example, "Procedure in event of failure to negotiate". That is certainly different from failure to carry out the obligations. A country may not have failed to negotiate; it may have negotiated, but it may have negotiated on its own terms; it may have failed to carry out the obligations which are expected of it. Now it is for this reason, sir, that it becomes necessary that we do not dispose of this particular subparagraph (b) without first considering this draft message of the Joint Committee, or, if we work through to the end of this particular section, we should come back to it.

THE CHAIRMAN: Yes, we will come back to it after we have finished this paper.

MR. ADARKAR (India): The only further comment I would like to make is that it is quite in accordance with the principle that the negotiations should proceed on a mutually advantageous basis that, so far as the new members are concerned, the standard suggested here would be a fair standard; that is, if the negotiations are really to be mutually advantageous then surely a new member must endeavour to see that the concessions it is

going to offer are in fair proportion to the concessions that it receives, but while that is fair and that is true and logical, it is certainly not fair to ignore the further consideration also, that whatever may be the genuine desire of the member to come up to that standard, it may not be able to do that because of the peculiarities of its own economic position. Therefore, while every endeavour should be made by every member of the organization to fulfil this principle on a mutually advantageous basis - that is to say, to offer concessions which are commensurate to the concessions it receives - the Interim Tariff Committee should take into account the economic development of the member concerned in case the member fails to come up to that standard, and for that again it is necessary we should consider the message of the Joint Committee before we finally dispose of this particular portion.

THE CHAIRMAN: I would like the Committee to deal with every part of the paper and then have the message of the Joint Committee open for discussion.

If there are no other remarks perhaps the Rapporteur would like to comment on this point with regard to members who do not fulfil their obligations?

MR. GUERRA (Cuba): It is only to make the change suggested in another part - instead of saying "have fulfilled", to say "has taken steps towards the fulfilment of its obligations".

THE CHAIRMAN: No, I do not think so, because in the Agreement you start at a certain point. The Agreement will work for a certain time, and it may take some time before the whole Trade Organization has been set up. The Tariff Committee will go on with its work for perhaps two years, and in the meantime the original group may have, in half a year's time, fulfilled its obligations.

MR. GUERRA (Cuba): That may be so, but we must contemplate cases in which the setting up of the organization will take a certain time, and the real point is that countries have taken steps towards the fulfilment of the obligations. I think that comes in with the

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Other amendment we made before.

THE CHAIRMAN: Perhaps we can get that in point (c).

THE RAPPOREUR: Yes. I suggest you simply add the words "since it is agreed that the original members of the Interim Tariff Committee have taken adequate steps towards fulfilment of the tariff obligations".

MR. GUERRA (Cuba): Yes, that is the idea.

THE CHAIRMAN: Then we come to point (c), gentlemen. Here again there are a few remarks to make, I think.

MR. MCKINNON (Canada): It is (c) we are on.

THE CHAIRMAN: There is one point here, that "the Committee may not authorize one original member of the Committee to withhold tariff concessions from another original member of the Committee." It is left open as to who should authorize it.

MR. GUERRA (Cuba): Then if that is so, the wording in the previous paragraph (a) refers only to members of the Organization which are not members of the Committee.

THE RAPPOREUR: No; it may authorize a non-member of the Committee to withhold tariff concessions from an original member of the Committee.

MR. GUERRA (Cuba): In paragraph (a) it says the Committee may only authorize the Member to do so, and when I asked whether the member referred to was a member of the Organization or a member of the Committee you said they were members of the Organization, and then I asked you the second question, was it understood by "members of the organization" members also of the Committee, and I thought that you answered Yes to that. You have now a rule that the Committee may not authorize one original member of the Committee to withhold tariff concessions from another original member, so there is a contradiction there.

THE RAPPOREUR: The first point, (a), was simply to make it clear that whatever action was taken would not be compulsory, but it was merely an authorization, you see.

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MR. GUERRA (Cuba): Well, it says in (a) it may only authorize, and in (c) it says it may not even authorize.

THE RAPPOREUR: I do not quite follow that. (a) says "The Committee may not compel a Member to withhold tariff benefits" - may not compel any Member of the I.T.O. to withhold tariff benefits from any other member of the Committee. It may only authorize a member to do so.

MR. GUERRA (Cuba): "a member", which will not be a member of the Committee, because a member of the Committee is not authorized to withhold, under (c).

THE CHAIRMAN: You see, in (a) you speak of all members of the Organization - "it" may only authorize the Member. That covers everybody. Now you come to (c), where you say "The Committee may not authorize one original member of the Committee to withhold tariff concessions from another original member of the Committee.", so there you get into difficulties. Here you say it may authorize, and here you say it may not authorize. That is the point.

MR. GUERRA (Cuba): That means para. (a) does not cover a member of the Tariff Committee.

THE RAPPOREUR: It does not cover a case of withholding by an original member of the Tariff Committee against another original member.

MR. ADARKAR (India): Make it "Subject to (c) below".

MR. SHACKLE (UK): Yes, you can simply say in (a), "Subject to the provisions of (c)".

THE CHAIRMAN: Any difficulty? Is that covered?

THE RAPPOREUR: That is all right, sir, I think.

THE CHAIRMAN: Now what is the amendment we put in here, Mr. Loddy?

THE RAPPOREUR: The Chairman thought that point (c) needed some additional clarification to make it clear that while the Committee was not authorized to permit an original member of the Committee to withhold tariff concessions from another original member, the Organization as such under Articles 29 and 30 and other escape

clauses could do so. Was that your point?

THE CHAIRMAN: Yes.

MR. GUERRA (Cuba): Assuming the Charter is in effect.

THE RAPPORTEUR: Yes, assuming the Charter is in effect and the Organization is established, and some case arises under Art. 30, then of course another member, whether or not an original member of the Committee, could be authorized to withhold concessions.

THE CHAIRMAN: My point was that we had better add it here, to prevent any confusion. Is it agreeable to change the draft accordingly?

MR. ADARKAR (India): What exactly is the addition?

THE CHAIRMAN: It is just the point that they may not authorize, but that the Organization itself may authorize it.

MR. McKINNON (Canada): In certain circumstances.

THE CHAIRMAN: Yes, having regard to Articles so and so and so and so of the Charter.

THE RAPPORTEUR: I think that maybe a footnote would be the easiest way to handle it.

THE CHAIRMAN: It is for you to decide how best to do it. Then paragraph d. Is there any question raised there?

MR GUERRA (Cuba): The only question is that in regard to that paragraph, at first sight, it is difficult to understand the reason, but finally we thought we understood the reason. But in my opinion that needs some clarification, some redrafting, because there seems to be a contradiction to say that a "non-member of the Committee" (can) "withhold tariff benefits from a member of the Committee.

MR SHACKLE (UK): What makes the confusion is that one talks in fact of a "non-member" who is a Member of the Organization, and if that were made clear at the beginning the whole thing would become understandable.

MR GUERRA (Cuba): As I understood this, that means that the reason for that is that a non-member can do something, or may want to do something, or he may want to get something, and he may offer something in return, but if a member of the committee is not willing to give him some concession then the situation might arise in which a non-member wishing to come in cannot possibly get in. The whole thing is pretty confusing, and it is most difficult to understand. There is an apparent contradiction between this paragraph (d) and the previous one, and I am not clear which way it would have to be interpreted.

THE RAPPORTEUR: Paragraph (c) deals with the situation between an original member and another original member; (d) deals with the situation between an original member and a country which is not a member of the committee.

MR GUERRA (Cuba): Yes, but my point is this. Paragraph (d) says: "The Committee may authorize a non-member of the Committee to withhold tariff benefits from a member of the Committee." Apparently there has to be a good and clear reason why they may authorize a non-member to do that, and that is my point. As I say, I thought I understood the reason, but the draft is confused. Perhaps the reason should be put in the first part of the paragraph, giving some sort of explanation.

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THE CHAIRMAN: Paragraph (a) deals with members of the Organization in reference to other members of the Organization. If we changed the draft accordingly that would make it broader. In (c) we make an exception with regard to members of the Organization.

THE RAPPORTEUR: I think maybe the way to handle it is to recast (a), but the only point involved in (a) is that action is not compulsory, it is merely permissive; and I think it ought to be re-stated in order to avoid all this confusion. That is the only point.

MR MCKINNON (Canada): Whether it is contradiction or mere redundancy, it is certainly confusing.

MR HAWKINS (USA): I think you would clear it up if you cast it differently, if you put in a general clause somewhere to the effect that if there is any later occasion for action against the members of the Organization, whether in the Committee or out of the Committee, or whatever it may be, that action shall not be mandatory, it shall be permissive. That is what you are trying to say.

MR MCKINNON (Canada): Yes; but the employment of a lot of negatives makes for confusion as between the four paragraphs.

MR GUERRA (Cuba): I would suggest that, if possible, the Rapporteur should re-draft this paragraph (d), putting the reason first, because that would then help us to understand the rule. As it is, the explanation comes later. That is the real reason, and I think if we put the explanation at the beginning we would avoid all this confusion. It is a question of the order of drafting.

MR HAWKINS (USA): Yes. I think if you put this particular part last and say, "If there is any occasion for withholding benefits from members it shall not be mandatory but permissible," that would meet the point, and you would explain the whole thing.

MR SHACKLE (UK): I think the last sentence in this paragraph wants some clarification, does it not, because it is extremely confusing as it stands. It says: "in any event, the extent to which a non-member might withhold tariff benefits from a member would be limited only to tariff

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concessions which the non-member had already made pursuant to Article 18" and so on. At first sight it is a little difficult to imagine how a non-member could have made concessions and still be a non-member; but I take it the idea is that the non-member might have negotiated concessions with some member countries and not with others.

THE CHAIRMAN: What I do not understand here is this. You have a member and a non-member - a non-member of the Committee who wants to get into the Organization. You say: "All right, now you enter into certain negotiations." The whole idea of this is that it is multilateral. How can a member of the Committee who has already extended his concessions to everybody withhold those concessions from other non-members of the Committee and, as such, fulfil his obligations, because that is the only reason why you would authorize him to withhold concessions from a member of the Committee? I am not at all clear on this.

MR HAWKINS (USA): I think that it does need discussion, but my understanding is this. The original members have negotiated an agreement amongst themselves reducing tariff rates. Other members have not yet participated and other members have obligations under Article 18, namely, to negotiate in order to bring their tariff level down to the standard set by the original members. Suppose that one non-member, but not a member of the original group, though a member of the Organization, approaches, say, for the sake of argument, the United States, and says, "We would like to negotiate with you in order that we may bring our tariffs down to the level of yours," and supposing the United States says: "We do not want to negotiate with you. The product in which you are interested is not covered here, and we do not want to negotiate about those products," then he cannot qualify because the original member will not negotiate with him. Therefore, they have to give the member trying to get in some sanction, a right to withhold. He has to have some remedy there.

MR SHACKLE (UK): You envisage that these negotiations would not be on a multilateral plane as would the original negotiations, but that they

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would be a series of bilateral negotiations between the original member and the group of countries wanting to come in, so that you have to make sure that the series would be completed in that sense?

MR HAWKINS (USA): Yes; I would not preclude the idea of multilateral negotiations; but you must envisage the possibility, if not the probability, that they will be bilateral.

THE CHAIRMAN: Yes; so that if it goes on in that reasoning we could even imagine that when we have reached our first agreement we shall find exceptions because certain countries can say: "This and this I have to offer, and for that I want that and that, but I consider that one of this first negotiating group simply does not want to negotiate certain commodities in which I am vitally interested." And then you would have the same thing, that the first group would have certain concessions not multilateral.

MR GUERRA (Cuba): Yes; and then you would have the right, as is given here, the right for the member to withdraw from the negotiations.

THE CHAIRMAN: Yes; you would have in your whole system of tariff certain concessions only applicable to certain countries, not to all - even in your initial negotiations.

MR McKINNON (Canada): Not in the initial group.

MR HAWKINS (USA): This kind of case of which we are speaking here would not arise if the country which had been participating in the original group were interested in exporting only products which happened to have been covered by the original agreement. Therefore, it would be more general. In return for that he would be expected to reduce his tariffs; but in this case it is a product of great importance which is not included, and he has to get that down somewhere. He therefore negotiates to get it down. But one of the original members refuses to do that, and therefore blocks his avenue to comply with Article 18. In that case the member that is trying to comply, a non-member of the original group, is given the right to take action against the member of the original group which fails to cooperate with him in his efforts to get into the original group.

MR McKINNON (Canada): This is to prevent an obstructionist attitude on the part of a member who for some reason might want to keep out a non-member.

MR HAWKINS (USA): Yes, that is it.

MR GUERRA (Cuba): That is my point, that some clarification is necessary.

THE CHAIRMAN: So that in the end you would have all eighteen countries having a real multilateral system. With regard to other new members you would have these exceptions?

MR GUERRA (Cuba): Yes, that is the idea. It is the application, in this case, of the general right given throughout the Charter of withdrawing concessions from members who do not comply with their obligations.

MR HAWKINS (USA): Yes, exactly.

MR GUERRA (Cuba): I still think that some clarification is necessary, maybe by a change in the order of wording.

MR SHACKLE (UK): I rather have the feeling that the paragraph would be made more intelligible if, in the first place, we said "non-member of the Committee" because that would make it clear that it is a member of the Organization but not a member of the Committee, because in the case of a country which is neither a member of the Organization nor a member of the Committee there is no need for the Committee to authorize anything. A country in that position can do what it likes.

MR HAWKINS (USA): In fact, in one draft you would have a different situation, because there the action might be mandatory if you took action against him.

MR GUERRA (Cuba): If the member who is trying to get authorization is not a member of the Organization he will not be able to withdraw a concession, so that if we put here "non-member of the Committee" it would make it simpler.

THE CHAIRMAN: We will ask the Rapporteur to study the draft again and see how we can cover these various points that have been raised. If there are no other comments to be made, we come down to the entry into force of the Charter: "Article 78 of the draft Charter provides that in special circumstances the Charter may be brought into force among the countries

which have made effective the General Agreement on Tariffs and Trade. This provision will tend to assure the establishment of the International Trade Organization at an earlier date than might otherwise be possible."

MR SHACKLE (UK): This is really a repetition of a point I made before, but anything that is put into a document that is not in force is itself forceless from a legal point of view. It has to be put in a separate document to have any legal force, a separate document being brought into force previously and independently.

MR McKINNON (Canada): This is only a statement, for what it is worth, is it not-----

MR SHACKLE (UK): Yes, it is just a declaration of intention, justing the draft just for putting out the idea.

MR McKINNON (Canada): Yes, that is right.

THE CHAIRMAN: Is the point clear to the Rapporteur?

THE RAPPORTEUR: No, Sir.

MR SHACKLE (UK): The point is this. Your Charter is a draft: therefore it has no legal force: therefore no provision that you put in about things which are to happen before the Charter comes into force can have any effect at the present time, and the fact that you have written it into your draft Charter can make no difference; nothing can make the draft more than a draft, and therefore ~~fixes~~ nothing that it says about what is to happen before the Charter comes into force can of itself have any effect. It can only be declaratory; it has no force in itself.

THE RAPORTEUR: I agree with that.

MR. MCKINNON (Canada): The memorandum is as good without this paragraph. In relation to what Mr. Shacklo says, it is a separate instrument and agreed to by those concerned. The Charter will have to speak for itself in due course.

THE CHAIRMAN: The Rapporteur will study this point and see whether we can leave it out or not.

THE RAPORTEUR: It can be left out; there is no question of that. It is just a reference to what is in the draft Charter, that is all.

THE CHAIRMAN: Then we have completed our first study of the draft, and the Rapporteur will have to redraft it accordingly. At the beginning of our discussions we discussed the question of the mutually advantageous basis in the first four pages. I wonder whether something should not be put into the draft being prepared now in that regard, because that was a very important point. That qualified a number of other points in the document. Yesterday we had some cross references to certain points in the first pages of the memorandum.

MR. MCKINNON (Canada): Is that before page 5?

THE CHAIRMAN: Yes.

MR. MCKINNON (Canada): I thought we were going to drop everything before page 5.

THE CHAIRMAN: That was the idea. I only want to be quite clear whether we should drop everything in those pages. Perhaps we can leave that to the Rapporteur. If he feels he should put something in he can do so. Provisionally he will start with page 5. We still have the important point of the draft message from the Joint Committee of I and II. I have not discussed it with Dr. Coombs, but I understand we are supposed to deal with that. We have before us a proposal to make provision in Article 18 of the chapter dealing with Commercial Policy,

"so that in relation to the undertaking to reduce tariffs and to eliminate import tariff preferences, the Organization and other Members should, when considering the contribution which a Member can make to a reduction in tariffs, take into account the height of the tariff of that Member, and the need, if any, of that Member to use protective measures in order to promote industrial and general economic development."

That is the request we have from the Joint Committee.

MR. ADANKAR (India): I suggest the most convenient way to dispose of this issue is to incorporate the whole of the portion beginning "in relation to the undertaking to reduce tariffs" and ending "general economic development", as a separate provision in Article 18 - either as a separate provision or as part of paragraph 1 of Article 18, and also to repeat the same portion on page 5 of the memorandum - that is, in the introductory remarks of the memorandum - and make a reference to it under (b) on page 20.

THE CHAIRMAN: I think yesterday we decided to leave out the introductory remarks.

MR. ADANKAR (India): We are starting on page 5. Either make a reference to it on page 5 or in (b) on page 20 of the memorandum. We shall have to make use of it twice, first to amplify paragraph 1 of Article 18; in order that we may fulfil the wishes of the Joint Committee some amendment of paragraph 1 of Article 18 would be required, and therefore that portion will have to be inserted either as part of paragraph 1 or as a separate provision in Article 18. The same portion will have to be repeated in (b) on page 20 of the memorandum and/or in any introductory remarks that may be under "General nature of negotiations" on page 5 of the memorandum.

THE CHAIRMAN: Before we do that I would like to ask the Rapporteur and Mr. Hawkins their views with regard to the other clauses we have adopted, which can be drafted accordingly as suggested by Committees I and II.

MR. HAWKINS (United States): I am not sure I really understand the question. There are points of substance here that need to be discussed, I think. They are drafting points in a way, but they are of very considerable importance before we consider the exact text.

THE CHAIRMAN: The only difficulty we have is that we do not know whether it has been adopted in full Committees I and II.

THE RAPPORTEUR: It is headed "Draft message to Committee II."

THE CHAIRMAN: But it has been given to us to deal with.

THE RAPPORTEUR: It requires consideration by Committee II. I think we should make appropriate recommendations to Committee II on the subject of what our views are.

THE CHAIRMAN: Everything we do has to be adopted again by Committee II. I think the substance of it is a question more or less for a drafting committee of Committees I and II, on which I understand the United States, United Kingdom, India, Brazil and France are represented.

MR. HAWKINS (United States): This sub-committee is involved in that it involved amendment of Article 18.

THE CHAIRMAN: My question is whether, in the light of the changes we have made in Article 18 and subsequent Articles with which we have dealt, we can draft an Article, or whether it would raise certain difficulties.

MR. ADARKAR (India): May I draw your attention to note 1 of the Rapporteur's report on Article 18?

"Comments on proposed revision of Article 18: It is understood that the article is subject to reconsideration in the light of the action taken by the Joint Committee on Industrial Development."

MR. GUERRA (Cuba): That comes to my point. Would it not be more logical to wait until the Joint Committee takes action on the recommendations of the drafting committee?

MR. ADARKAR (India): This is action taken by them.

MR. GUERRA (Cuba): No. This was adopted by the drafting committee of the Joint Committee. I understand the Joint Committee is meeting this afternoon. It may be more logical to wait for their decision, and see what the Joint Committee does with the recommendations of the drafting committee. Then we will be in a better position to come to a decision.

MR. McKINNON (Canada): I think the Cuban Delegate's point is quite correctly taken. There is no reason for us to assume that the report of the drafting sub-committee of the Joint Committee has been approved by the Joint Committee, much less sent to us for action. If, however, we are prepared to proceed on the assumption that it is so forwarded it will come to us in the end, and I see no reason why we should not go ahead and discuss it.

MR. HAWKINS (United States): On the assumption that it is adopted)

MR. McKINNON (Canada): On the assumption that it is adopted, and probably sent to us to deal with. I see no reason why we should not consider it. However, I agree with the Cuban Delegate that it is not properly before us, and cannot be on our agenda in a formal sense.

THE CHAIRMAN: I agree. I only see one practical difficulty for the Joint Committee. If they have received no report from us with regard to what we have done with regard to Article 18 and so on -- they would expect advice from us whether they could adopt it -- they would have some difficulty. Therefore, I think we had better discuss it.

MR. JECUMER (France)(Interpretation): I would like to put a proposal on procedure concerning the document which has been submitted here from the drafting committee and the General Committee. I do not think that we should change our memorandum because of this document. As we have drafted it Article 20 is included and we have dealt with it in our memorandum. I think we should leave the memorandum as it is, and I think we should study it, I do not mind whether here and now or after it has been passed by the General Committee. I rather think we should do it at once and perhaps make a small supplementary report to be sent directly to the Committee II. It would be a kind of addendum to our memorandum, not incorporated in the report of this sub-committee.

MR. GUERRA (Cuba): I think the first thing to do would be to take the second paragraph which it is not appropriate to deal with here. It would be a matter to be dealt with in the sub-committee on quantitative restrictions. The second point is that I think we should try, if it is the general opinion of the Committee, to discuss this now and to restrict the discussion to Article 18 itself. It will be incorporated in the general report of this Committee to Committee II, but not the whole of this discussion on the memorandum, because that will reproduce the discussion and we should try to avoid that. We have discussed the memorandum and if this question is to be discussed it should be in regard to the final draft of Article 18, not in connection with this part of the memorandum.

MR. HAWKINS (United States): Whether the memorandum is involved or not depends upon what is done with Article 18.

THE CHAIRMAN: When dealing with Article 18 we have to keep in mind also 29, and the conclusions there. It would be appropriate to do it in the first instance only in connection with Article 18. Are there any observations on this? Or does the Committee prefer first to discuss it with other members of Delegations?

MR. HAWKINS (United States): I have done and I am ready now to take up a position on it. In the first part of this we are considering the contribution a member can make taking into account the height of the tariff of that member. That is taken care of already. There is provision on this subject, so I do not think we need consider it further. The reference then is, "and the need if any of that member to use protective measures in order to promote industrial and

general economic development." I think that in the normal course of negotiations these considerations and needs will naturally be advanced, but I do not think it is desirable or appropriate or equitable to introduce them into Article 18, which relates to negotiations. No provision the effect of which is to tip the negotiations so to speak in the direction of a particular country, to give them a clause which they can invoke to escape from, or to make lighter, commitments which may otherwise be justified, should be inserted. You have, and you must consider, this provision in relation to what the Joint Committee are recommending as regards measures to promote industrial development. The essence of that report is that where warranted there can be release from the obligations undertaken in respect of tariffs or anything else for purposes of industrial development. It seems to me that that is all that ought to be provided in that respect. If you put this provision in here the total effect is that you are not only giving an opportunity to escape from commitments under the provisions put forward by the Joint Committee, but are not expected to make many commitments. Our position on it is this. We would put this provision in here if the escapes are taken out of the Joint Committee's report, or we would accept the provisions of the Joint Committee's report if this provision is left out here. We cannot accept both. We would accept either.

THE CHAIRMAN: You refer to the escape clauses.

MR. HAWKINS (United States): I am referring to the escape clauses prepared by the Joint Committee. The essence of them is that where steps are justifiable for the sake of industrial development the organisation may foster negotiations to obtain release from commitments or even set aside commitments that have been undertaken.

THE CHAIRMAN: Yes, but it goes there. Ought there to be a cross-reference to Article 18?

MR. KAPKA (Brazil): May I make an observation? It seems to me that Mr. Hawkins' position is quite logical except that we need some such provision as this for the negotiations in April, when the Organisation will not be in existence yet, and therefore the escape clauses will not function.

THE CHAIRMAN: Yes, but should it be in the memorandum or not?

MR. KAPKA (Brazil): You make it more practical to have the escape clauses as soon as the Organisation functions, but before it functions you also need something.

MR. DEUTSCH (Canada): You will not make any tremendous changes in the Organisation in the course of three or four months.

MR. KAPKA (Brazil): We do not know how soon the Organisation will be effective.

MR. HAWKINS (United States): My position would be that logically we would object when the Joint Committee report came up later.

THE CHAIRMAN: As we are apparently to have some discussion on this I think it would be preferable to have another meeting this afternoon. As we have no meeting of Committee II this afternoon it should be possible to ask Dr. Coombs to be present, because he is Chairman of the Drafting Committee and can perhaps defend the proposal. I would prefer to have it in that way. If that is agreeable I propose that we adjourn until 2.30. There is a meeting of the Heads of Delegations at 4.50 so I in any case should have to leave. But I will ask the Secretary to invite Dr. Coombs to come here for 2.30.

The Committee rose at 12.55 p.m.

For Verbatim Report of afternoon session, see
E/PC/T/C.II/PRO/PV/14 Part 2.

(The meeting resumed at 2.30 p.m.)

THE CHAIRMAN: Gentlemen, I reopen the meeting.

We have now to discuss the draft Chapter on Economic Development, especially paragraph 3 thereof, together with the Draft Message of Committees I and II, which, up to now, has only been a draft message from the Drafting Committee to the Combined Committees I and II, and which suggests a certain addition to Article 18. Before we do this, I would like to have the advice of Dr Coombs, who has agreed to be here, for which I thank him, as to in what way we ought to deal with this question now, because it is a question of a draft message to Committee II as we are only a sub-committee on procedure here, and we are in some doubt as to what we ought to do.

DR COOMBS (Australia): Mr Chairman, I must confess I am not entirely clear about what is a strictly proper procedure myself, except that it is quite definite that this draft message to Committee II has not yet been approved by the joint committee; it has been approved, I believe unanimously, by the drafting committee, but it has not been approved by the joint body; and therefore it is not formally before Committee II at all. On the other hand, I suppose, seeing that it has been I believe unanimously approved by the drafting committee, there is some reason to anticipate that it will be approved by the Committee itself, and I would regard it therefore as within their competence, and if it does come on to Committee II it would quite clearly fall within the scope of the work of this drafting sub-committee. So that I would say that, while obviously this drafting sub-committee cannot do anything final on the basis of this draft, there would be no reasonable objection that I can see to their taking it provisionally into account in their work so that they do not have to go back subsequently. On the other hand, if, when this draft message goes to the joint committee, it is rejected or amended, then you would be advised accordingly, and you could drop any changes which you had introduced to meet this message. I would suggest, Mr Chairman, that if you have reached the stage where it is proper to consider this it would be reasonable to consider it in a provisional way, on the full understanding that if it is not in fact approved by the joint committee, and therefore does not reach you, you will be able to retrace your steps.

THE CHAIRMAN: We had a certain point here, Dr Coombs, that concerned us, and we anticipated that with regard to Committee II they would say, "Well, we would like to have the advice of the sub-committee." Therefore, I think there is perhaps another reason why we should discuss it here; otherwise perhaps the meeting of Committees I and II would reach no proper results at all.

DR COOMBS (Australia): There is one thing I would say which I think may be of some assistance to you, and that is that I notice that this message from the Joint Committee does suggest a way in which you could deal with this matter, or how Committee II should deal with it. Now, I would suggest that it is not necessary for Committee II to deal with this matter in the way that has been suggested by the Joint Committee. The function of the Joint Committee is to make recommendations in relation to industrial development, and it is proper I think for them to send a message to Committee II asking them to incorporate certain provisions or to make provisions for certain types of action if they consider that proper, but, on the other hand, when that message reaches Committee II, it seems to me to be quite proper for Committee II, while accepting the substance of the message, to deal with it in another place or by some different provisions from that originally contemplated. If I can give you an illustration of the sort of thing I have in mind: there was also a message from the Joint Committee to Committee II dealing with quantitative restrictions in relation to the balance of payments, the second part of this message. That was considered provisionally by the sub-committee dealing with quantitative restrictions this morning, and they examined this request and decided that the situation contemplated in this request was adequately dealt with in their existing draft, when you took two separate provisions into account together, and they proposed, if this draft message is received, to reply to the Joint Committee pointing out that this situation is covered by a combination of two of the draft articles which they at present have incorporated. So that I make the point that it is quite competent for this drafting committee

to deal with the situation posed by the Joint Committee in a way other than that suggested here by the Joint Committee, if they wish to do so.

THE CHAIRMAN: Gentlemen, this question is then open for discussion.

Perhaps I may first ask Mr Hawkins, who made some comments at an earlier stage this morning, so that we can get the whole thing very clear before us, to repeat his comments or to add any other comments he might wish to make, having had further time to study it.

MR HAWKINS (USA): Mr Chairman, as I said this morning, it does not seem to me desirable to insert a dictum of this sort in an Article which lays down a rule or a procedure that a reduction of tariffs, when dealing with preferences, is to be a matter for negotiation. After all, what are negotiations? They are procedures whereby considerations which are pertinent to the question of reducing a duty and to which a country attaches importance, can be put forward and considered. Any attempt to tell negotiators that they should be influenced by such and such considerations therefore tends in advance to prejudice the question. That is not to say - and I would like to make this very clear - that it is my view that consideration should not be given to the need for the development of under-developed countries. As I think has been frequently stated by the United States delegation, we feel very strongly that it is in the interests of the United States that such development take place. We think, however, that the whole subject has been adequately dealt with in the Joint Committee's Report, and it provides, among other things, that the Organization can sponsor or assist in negotiations for the release from commitments and, in some circumstances, as I understand it, actually set them aside.

Now, from our point of view, one effect of those provisions in the Joint Committee's Report, or one important advantage of it, is that the undeveloped countries can, given that way out, be much freer in the taking of commitments -- to facilitate tariff negotiations, for example, if provisions such as are contained in the Joint Committee's Report were agreed to, because in taking the commitments the undeveloped country can assure itself that if there is need for protective action, the way is provided for taking it. The effect of the two provisions together, if the one proposed here were put in Article 18, would seem to me to be this: the way is not only open for getting relief from commitments, but there is almost a sanction of not taking any, or taking very few. Therefore I feel that we could take either of these provisions. We could put the provision in here, as suggested, which would mean that the commitments taken would not be very extensive, or we could take the Report of the Joint Committee which provides a relief from commitments, but we could not take both. I do not know whether I make myself very clear. That is all I have to say at the moment on this particular subject.

THE CHAIRMAN: After those remarks by Mr Hawkins, may I just ask Mr Adarkar to give us his point of view?

MR ADARKAR (India): Mr Chairman, we have been trying in our own minds to consider whether the amendment suggested by the Drafting Committee of the Joint Committee is at all indispensable for our purposes. After very great deliberation, we have come to the conclusion that it is indispensable. I will give you the reasons for that. The negotiations (at least, in the initial stages) will be on a purely reciprocal and mutually advantageous basis, without there being any machinery to supervise the negotiations. There will not be the Organisation in existence at that time. The negotiating countries, in conducting the negotiations, will solely be guided by certain principles which are embodied in the Charter, to which they have given their advance acceptance, and which will therefore rule the whole course of negotiations. As I mentioned this morning, Sir, not all the principles of the original negotiating group, but only those of them who will have carried out the obligations involved in paragraph 1 of Article 18 will be qualified to become the members of the Interim Tariff Committee. It is therefore most important to know what exactly is the nature of

the obligations. The point will come, during the course of negotiations, when a difference of opinion may arise as to whether a particular member has or has not carried out the obligations that are expected of it. In answering that question, one group of countries may hold that the particular member has failed to carry out what are here described as "substantial reductions of tariffs". No definite guidance is available on how that word "substantial" is going to be interpreted. No definite guidance is available on that. It will have to be decided whether each country has made concessions which are comparable in scope and effect to the concessions it has received from all other countries taken together; that is to say, there will be a pool of benefits to which each country is supposed to make its contribution, and each country's performance will be judged by what it receives in return for what it gets out of the pool. It seems to me most important to have a clear notion to decide as to how each member's contribution to the pool of benefits is to be assessed. Is it to be assessed exclusively on the basis of a comparison of what it gets and what it gives, or is any consideration at all going to be given to the peculiarities of the economic position of the country concerned? Are we going to give any consideration at all to the fact that, as the Joint Committee has put it, the comparative developments of member countries are uneven? In paragraph 14 it says that since the comparative developments of member countries are uneven, that different countries have different levels of tariffs, that different countries have different needs for maintaining tariffs at particular levels, that certain countries are undeveloped and need the use of tariffs for attaining a higher level of development; in order that they should attain that development, they have to reserve a certain measure of freedom in regard to their tariffs. Are considerations of this sort going to be taken into account at all in assessing the ^{performance} of each individual country, or are we going to declare the country to be a defaulter merely because the performance made by it does not come up to the performance made by other countries which may be in an entirely different position, in an entirely different state of economic development, or because the performance is not what can be described as "substantial"? It is true, sir, that a provision has been made whereby binding of low tariffs is going to be regarded as equivalent to a substantial reduction in high tariffs; but what is the

balance in regard to high tariffs? It is quite possible that even high tariffs serve a certain purpose. Some guidance is required to decide whether a particular high tariff which is being objected to by other countries serves any purpose or not; and if it is decided, in the light of the principles, that it does serve some purpose, then the member against whom the complaint is made should be excused for not conceding a request for a reduction in that tariff. It seems to me, sir, that in the absence of an amendment of this sort, there will be no principle at all before us to guide the negotiating group in the resolution of the kind of deadlocks that I anticipate.

THE CHAIRMAN: Thank you. Are there any other Members of the Committee who would like to add to the discussion?

MR VIDELLA (Cuba): As a country with the same objective, to develop our industrial resources, I would like to say that it is a general principle of general economy that is accepted, that in developing the industries in a country you also increase or improve the international trade. We are a common world in this Conference, and we came here invited to study and resolve some principles in order to develop the industries in countries which are not yet developed. For instance, I can refer to the speech of Mr Marquand, the Secretary for Overseas Trade, on Wednesday November 6th. He said: " In the present international trade organisation talks going on at present in London, no discussions were taking place on detailed tariff bargaining, and there was no question of bartering preferences against tariffs. Discussions were being held on general principles which should cover international trade, commodity and commercial policies, tariffs, quotas, subsidies and industrial development in undeveloped countries". Therefore, I am not wrong when I say that this is the most important, or one of the most important tasks of this Conference. Another point I want to bring up is whether we are not taking this for granted, and whether we are not making or adopting a resolution in order to put into operation these ideals, and therefore walking on one leg! because we have already accepted certain escape clauses for industrial countries. For instance, I would refer again to letter a, No. 2, Article 19, where agriculture in the industrial countries is protected. I think this is the counter-balance of the object of

this Conference. Therefore, if we are to walk on two legs, I ask you to move

this proposal made by the Joint Sub-Committee as accepting a general principle

covering the issues of the undeveloped countries represented here, as well as

the undeveloped countries which are not represented here. Thank you.

O.fs.

M. LECUYER (France) (Interpretation): Mr Chairman, before I say what I can say on this subject, I want to ask you two questions. First, it was said this morning that we should choose between two documents: the draft message which was handed in this morning and the proposals of the Joint Committee of Committees I and II. But what is the document that embodies those proposals of the Joint Committee of Committees I and II? Is it document 17? If it is 17, then I do not think it responds to the desire which was expressed by a certain number of younger countries, India and Chile, for instance. Does it respond to the request submitted by the Cuban Delegation? If this document No. 17 does not respond to the desires and requests expressed here, we then have to refer to this morning's document. But I wonder whether this morning's document referred to the Spring negotiations which will be conducted with a view to lowering tariffs, or to a later stage, that is the stage when the negotiations being over, then a certain number of countries may wish to increase again those tariffs which they will deem to be insufficient. As I refer to the second phrase of paragraph 1 of this draft document, it seems to me that it leaves room for certain ambiguities. For instance, it says: within the general frame of the undertakings which would be accepted with a view to lowering tariffs, Members in the Organisation will envisage the contribution of Members with a view to lowering these tariffs, and so on. So that obviously in this case the document speaks of tariffs. Then it goes on and speaks of the necessity, if any, to employ protective measures. So that here this later phrase obviously refers to the later stage which I mentioned a little while ago. So that I wish to have some clarification of this question, Mr Chairman.

THE CHAIRMAN: Perhaps I may reply to the points raised by the French delegate, because they are points of clarification and not so much of substance. I would say that I understand this draft message as embodying principles in document 17 and a kind of addition to Article 18. So that one of the points might be whether this clause as

proposed by the Drafting Committee of Committees I and II really embodies what is in paper 17. So that if I am right, there should not be a difference between paper 17 and the draft message: they would have the same principle. The other point raised by the French delegate is whether there is not a certain ambiguity here when we talk about the Spring negotiations or later negotiations. I think the answer here is that what we have put up till now into Articles 18 and 8 and so on has been adopted again in the memorandum on procedure as guiding principles for the negotiations in Geneva. So that it still remains of importance that we should cover that and the Articles of the draft Charter, even if the draft Charter would have to be adopted after the Geneva Conference and later on formally at the World Conference. Then with regard to the last point made by the French delegate, I agree with him that when we in this clause speak of the use of protective measures, we are broadening the scope of Article 18 which up till now only speaks of tariffs and preferences. So we have to be careful on that point.

Mr. GUERRA (Cuba): Mr Chairman, regarding this question, Cuba — I do not mean the Cuban delegation but our country — has a position in many ways similar to that confronting countries like India. Yet our situation is not exactly the same. The position of our import trade is such that we have no fear that we shall be able to make substantial reductions in tariffs; that instead of hampering our industrial development, it will contribute to it. It will be a real assistance to our industrial development to lower tariffs on fuel — coal and oil of different kinds — and a lot of raw materials. Indeed, it may be more effective than any other measure we could take to facilitate the industrial development of the country. But still we are confronted with the need to diversify our agriculture and industry for domestic consumption; and therefore we have introduced an amendment also directed to the end that in the negotiation of tariffs due regard should be given to the need of the country to proceed with the task of developing its internal industries.

As we see the problem now regarding these Articles agreed upon by the Sub-Committee of the Joint Committee, there are two different questions. As we see them, these Articles offer an escape clause in the sense that countries which are confronted with that need may, through the procedure of consultation with the Organisation set out in this Article 3, be released from any obligation that they may have undertaken in the negotiations. That is one point, and from the point of view of an escape clause we think that will be quite satisfactory. But there is an entirely different point, not that of an escape clause for releasing Members from obligations undertaken in the negotiations, but that of taking into consideration the needs of each country in the negotiation as a criterion for judging to what extent countries are to comply with the requirement to make substantial reductions in tariffs. As I have said, I do not think this question of substantial reduction should worry Cuba very much, because we shall be able to make substantial reductions, taking our import trade as a whole and yet do it in a way that will preserve the tariffs of many existing industries as to which we are interested in giving a certain measure of protection; while, at the same time, the lowering of tariffs in regard to many other items will contribute to the internal development of the country instead of hampering it; but still Mr Hawkins, when he referred to the question of putting some provision in the Charter to that end in the sense of taking that situation into account in negotiations, said, and rightly, that that will prejudice the negotiations. We can say that that is the real fear we have, that if that provision is not inserted, the negotiations will be prejudiced for countries that are in a position like ours, if the peculiar needs of such countries are not taken into account where normally we should be expected to make reductions in tariffs to a much greater extent than will be possible in the case of countries which by doing so would be endangering their industrial position. However, we must frankly say two things, first/^{that} of trying to reach some compromise

taking into account the just pre-occupation of the American delegation and some others which are in the same position. I ask myself whether it will be possible to do either one of these two things: not to put any particular provision in that place, but, it may be, making reference to it in Article 18 - it may be in the introductory part of Article 18, or it may be adding a paragraph (c) to the principles set out by the Joint Committee. If in the procedure memorandum we are going to clarify the product by product basis of the negotiations that is already in the draft prepared by the Rapporteur, that in the case of countries with a low tariff the maintenance of such low tariff will be considered equivalent to a reduction in the high tariff of other countries, I think that may be a proper place in the Report to put a reference to that provision. A thing that should be taken into account is the actual level of the tariff; I mean the relative height of the tariff and the need of the country. This is only a suggestion directed to seeing if we cannot reach a more common ground than any that we have been discussing so far. In summarising the Cuban position, I would say this: when we came to this Conference there was nothing in the Charter in any place whatsoever that would take care of our pre-occupation in the sense that I have explained, not in the sense of making substantial reductions, because I repeat we think we can make them, but in the sense of making it possible to retain some tariffs either at the actual present level or even to increase some tariffs in some particular cases where it would be justified in view of the need for sound industrial development. That is not to be found in the draft Charter, though we find some different things: we have this entirely new section with regard to industrial development, this escape clause, and we form some principles which contemplate in a general way the needs of countries like ours, and also in these different parts of the procedure memorandum which make it clear as to the product-by-product form of the negotiations in the consideration of the lower level of tariffs for any given country.

Therefore, we must say that we consider and we realise the difficulties of putting in some very specific form this question in the body of the Charter, but at the same time we are not in a position right now to withdraw from our instructions, from the position we were instructed to take when we came here. However, we think that there are many new things that may be studied and considered by our Government in the light of the necessary protection we are seeking, and in that sense, while making a reservation about the amendment we introduce in this part of the Charter, we are ready to put this matter before our Government to have it discussed in the light of the new provisions which have been put forward by the Joint Committee, and in the light also of the fact that the original five-year term of the obligation has been reduced to three years. We think that three years is not such a long time; that if there is any possibility of furthering industrial development, three years will be a three years' loss, but will not really be a very grave thing to be afraid of. Therefore, our position is, that while realising the difficulties of reaching an agreement on this, we want the Committee also to realise the difficulty we have in the fact that our country attaches great importance to this and we have definite instructions, and we declare frankly that in our opinion there is now ground now, with those other provisions put in the Charter, for discussing the matter again with our Government and seeing if we can reach a satisfactory solution.

THE CHAIRMAN: Thank you. Perhaps in order to facilitate our further discussions I might just make a few comments on the remarks which have already been made. I think that there is an important point raised by the Indian delegate, that in Article 18 we specially discuss the question of binding of low tariffs and so on as being an adequate concession. Now why did we have to put that into Article 18? - because in no part of the Charter is there being discussed the position of the special countries, so we had to put that in more explicitly in Article 18. Here we have a new part of

the Charter giving certain principles, so therefore at first sight I think there is no need to be too elaborate on that, but we could perhaps - and here again I am taking up one of the points of the Cuban delegate - we could perhaps do enough if we make a cross-reference to that part of the Charter, because there these principles are discussed and there is no further point raised, only this whole proposal is simply the result of what is in the first part of the Charter. I think if we could come to a solution as to that we could combine various of the remarks made previously and still take adequate consideration of the needs of the underdeveloped countries. I just put forward that suggestion to facilitate further discussion.

MR. VIDELA (Chile): I think we could introduce a new paragraph in Article 19, after letter (e), because the two things are intimately related. When you say here "Import restrictions on any agricultural product, imported in any form, necessary to the enforcement of governmental measures which operate (i) to restrict the quantities of the like domestic product permitted to be marketed or produced, or (ii) to remove a temporary surplus of the like domestic product by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level", this is exemption in favour of the industrial countries, such as, I suppose, England, in order to develop their agricultural products. It is to protect their agriculture. I think if we are going to be fair there is room here to put the counterbalance - to give^{help} to the agricultural countries who are anxious to develop their industries - and I think we could make here a special paragraph. Tonight we are going to discuss again Article 19 in the Quantitative Restrictions Sub-Committee.

THE CHAIRMAN: On that perhaps I may remark that I think changes in Article 19 are not our province, but nevertheless, if we reach a certain kind of solution, as I indicated, as to a kind of cross-reference to Article 18, I think the Committee on Quantitative Restrictions could consider the possibility of having the same

cross-reference in Article 19, because one deals with tariffs and preferences, and we would not like to mix up those two things, and the other deals with quantitative restrictions.

MR. McKINNON (Canada): Mr. Chairman, when you first drew the attention of the Committee to the draft message from the Drafting Committee we had not had before us either Document No. 17 nor Document No. 18. In fact, I think at that time we did not even have copies of the message. Now since that, we have been given yesterday Document 17, and this morning Document 18 was distributed, which is the final Draft Report embodying everything that is in Document 17 and having annexed to it also this draft message to this Committee. We have studied the Report and therefore are in a position to make probably more intelligent comment than had we discussed this message yesterday in connection with the Procedural Memorandum, and we have come to the conclusion that the complete new Chapter relative to economic development in certain areas is so comprehensive and has covered the ground so fairly, and makes such very definite recommendations to both the Organization and the Economic and Social Council, and, moreover, provides a very clear conception, that we cannot see the fitness at all of an additional escape clause attached to Article 18 merely because Article 18 happens to be the relevant Article in the Charter.

Mr. Hawkins has already covered the field from the point of view of the appropriateness of our dealing with this document at all. I do not need to traverse the same ground, other than to say, as he pointed out, that Article 20 is already before another Committee, and, as Mr. Coombs has told us, they have the right to deal with that themselves.

The second recommendation here is that we should make some provision whereby, in assessing the position of a member, other members should take into account the height of the tariff of that member. There we have actually written a substantive Article into the Charter, to do just that.

The third one is the remainder of that sentence - the need, if any, of that member to use protective measures, and so on. I think that it would be most inappropriate to attach any amendment whatever of this nature to Article 18, and I doubt the wisdom indeed of any cross-reference to Article 18. If we start cross-referencing Article 18 to every other relevant Article or Chapter we will have a half-dozen cross-references under 18, and the result will be greater ambiguity and confusion even greater than exists at the moment.

As I listened to the delegate for Cuba outlining his position or the position of his country as he saw it when these negotiations started and as he sees it now, I thought that he had made a very fair assessment of the change in the situation that has occurred during the last two or three weeks. He made reference particularly to the special provisions that are now in the Draft Charter, not one of which was there when we started. I was much struck with his conclusion that, while he saw his country in somewhat the same position as other undeveloped countries, and while he had a good deal of sympathy for the motives behind an amendment of this kind, he felt that so many other things had been done which offered such possibilities for countries that find themselves in difficult situations that he was himself, by the facts, driven to the conclusion that probably it was not necessary or advisable to make an actual amendment of Article 18.

The delegate of India, in arguing his case, as he has very cogently, has always referred to the fact that it will be most difficult for a country such as his to make a proper contribution, because it will be afraid of the consequences if it binds too many items or reduces too many rates. I think in that respect we are all in that position. It is a matter of degree, and surely it remains with the negotiators in each case to determine whether or not they can recommend to their governments the putting in of a certain item, the reducing of a rate, or even the binding of a

ratio, and probably that happens to be a situation that will weigh more heavily on some of the under-developed countries than on other countries, but it seems to me it is a situation that the negotiators have to face and weigh when the negotiations are on, and that is when it should be done, rather than placing any reliance on an escape clause of this character, which I think would be most inappropriate.

MR. SHACKLE (UK): Mr. Chairman, I should like to say I agree very much with what Mr. McKinnon has just said. It seems to me that the principles contained in draft Article 18 - and, for that matter, all the other provisions of the draft Charter as it is emerging - will have to serve as a guide, even before the Charter comes into force, to the countries who are engaged in negotiating the General Agreement on Tariffs and Trade at Geneva next Spring. If, indeed, that were not so, there would be no point in suggesting any addition to Article 18, for it is only, as I understand it, from the point of view of giving a guide to the negotiations next Spring that the delegate for India was particularly concerned at this moment to get an insertion made in Article 18.

If one looks at Article 18 in its latest form one sees in paragraph 3 this provision, "The Organization, if it finds that a member has, without sufficient justification failed to negotiate with such complaining member in accordance with the requirements," and so on. I need not read further. The important words are "has, without sufficient justification." Now, I think that it is clear that the Organization, in deciding whether or not there is sufficient justification, will have to look at the provisions of the Charter as a whole, and if the Chapter on Industrial Development which is recommended by the Joint Committee of Committees I and II goes into the Charter it will include as its Article 1 the provision that: "Members recognize that the industrial and general economic development of all countries and in particular of those countries whose resources are as yet relatively undeveloped will improve opportunities for employment, enhance the productivity of labour, increase the demand for goods and services, contribute to economic stability, expand international trade, and raise levels of real income, thus strengthening the ties of international understanding and accord." If that paragraph appears in the Charter it is clear I think that the Organization will have to have regard to that amongst other things in the Charter in deciding whether there is sufficient justification or not in a particular case for regarding the reductions made by a particular country in the course of tariff negotiations as adequate; and as I have said before, it seems to me that for the purposes of the negotiation of this joint agreement on tariffs and trade the countries which are negotiating will have to take as their pattern and guide what is laid down in the Charter for the guidance of the Organization. Therefore, they will have to take this point into account, and the fact that there is in the draft Charter this chapter on industrial development and this principle laid down. It seems to me that that is a factor which will weigh with them in assessing whether there is sufficient justification or not. I think that there is no need to bring in any cross references, either in Article 18 or in Article 19. If one once started on that process one would have to fill the Charter full of cross references

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all over the place, with, as Mr McKinnon has said, greater confusion than clarification. For these reasons, I conclude that there is no need to introduce a reference to industrial development into Article 18. Moreover, if such a reference were introduced it would become necessary to introduce a number of other qualifications. We might need to introduce one, for example, as regards the special needs of the war-shattered countries; we might need to include a qualification for countries which have lost, in the course of the war, a large part of their foreign investments, and which are having difficulties with their balance of payments. For these reasons we could not start introducing such an enumeration, and I feel that there is no occasion to make an addition to Article 18.

THE CHAIRMAN: If I may say so, I am much struck by the arguments put forward especially by Mr McKinnon and by Mr Shackle, in addition to the other observations that we have already received. We have to see every Article of this Charter in connection with the whole spirit of all the other Chapters. That is the main point. Therefore, I am inclined to agree that we should drop the idea of having cross references because cross references would only create confusion, and also because if any cross reference is made to certain Articles and not to others questions might be raised, and people might say, "Why is not that adaptable to this part of the Charter?" On the other hand, there may be some point in what has been suggested also by the Cuban delegate, that in the memorandum on procedure we should draw attention to this part, because in that memorandum we draw attention to many parts of the Charter and specially draw attention to the chapter on industrial development and the conclusion reached there, which is, that the initial negotiations in Geneva, later on, will give us an opportunity of dealing with the whole thing as it is, with everything in it and every part closely interrelated with every other part, and that we cannot see justifiable reasons for it when we have looked at it in the light of the whole Charter. This is my conclusion. I think that now I would like to ask Mr Hawkins and after that Mr Agarkar perhaps again to make a few remarks to see whether we can reach any conclusion here.

MR HAWKINS (USA.): Mr Chairman, I cannot add anything to what has been said. I

think that the remarks of the Chilean delegate indicate the sort of dangers you get in if you start qualifying this Article. Someone might very well with equal cogency say that in the negotiations consideration should be given to the position of the country which desired to stabilize its agriculture, and when that starts somebody will think of something else. Each country has its own peculiarities and those peculiarities will come out in the process of negotiation. I think that is all I have to say, Sir.

MR ADARKAR (India): Mr Chairman, I am glad the United Kingdom delegate has underlined the words "without sufficient justification." It is true, Sir, that the Organization when it is called upon to consider whether a member has or has not fulfilled his obligations will certainly see whether it has sufficient justification or not in doing so in following their course of action; but the words "without sufficient justification" I think it will be appreciated are definitely vague; some guidance is necessary as to what kind of evidence will be regarded as sufficient justification.

THE CHAIRMAN: The whole Charter.

MR ADARKAR (India): It is therefore necessary, Sir, that some cross references should be made to the chapter on Industrial Development. As you will see, Sir, it is not denied that the Organization is likely to be called upon to determine whether a country has fulfilled its obligations in respect of the negotiations; it is not denied that the Organization will have to perform that function at some stage or another; and the purpose of the particular amendment is merely to provide some guidance to the Organization in discharging their function. The argument that has been advanced, Sir, is that a cross reference if one is made in order to provide for these points will mean that a number of other cross references will have to be made to provide for other points. But are we going to be frightened, Sir, by the multiplicity of the provisions and reservations that will have to be made? Is that a more important consideration than that of safeguarding our own interests? Let us face up to the problem. Instead of disposing of the argument merely on the ground that if that is conceded other arguments will also have to be conceded, let

us first consider the argument on its own merits. I remember, Sir, that in the course of this discussion Mr Hawkins did explain to us that when the actual negotiations were proceeding each country, if it is to safeguard the spirit of the negotiations, will have to consider what it should offer in return for what it gets from all countries taken together, that is to say, if the spirit of these negotiations is to be observed there should not be anything like a strict balancing of concessions, but what should be aimed at is there should be a pool of benefits to which each will contribute according to his ability and in regard to which each will see that his own contribution is, as far as possible, commensurate with what he receives. So that the second principle is important, but the first principle cannot be ignored. But if it is true that each will try to make the maximum concessions it can, at the same time it should be admitted that it may be precluded from making its maximum contribution because of its other obligations; and therefore it is necessary, Sir, that some recognition should be given to the principles which are emphasized in this amendment, either by incorporating the words as they stand or by making a cross reference to the draft Chapter.

THE CHAIRMAN: May I ask a question here? I think that we should leave the negotiations open here because we have the memorandum and we have here Article 18, the second part of that Article, and if we could only add there, "The Organization if it finds that a member has, without sufficient justification, keeping in mind all the other chapters of the Charter, failed to negotiate," and then so on: then your point must be covered, because there it is in it, and then you have only left one other point: that is, whether, after part II of Article 18, we should put something in the memorandum, in that way covering your point in the memorandum with a special chapter of the Charter, and I think that then we would have solved the difficulty.

MR SHACKLE (UK): Mr Chairman, I have a very simple suggestion to make. I am bound to say that I think it is entirely unnecessary, but I think it does no harm. That is that in Article 18 (3), the words which have been

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referred to, "If the Organization finds that a Member has without sufficient justification," after the words, "sufficient justification," you could add, "having regard to the provisions of this Charter as a whole," and that would mop up all these other special situations.

THE CHAIRMAN: Yes; those are the words I had in mind. If that would be agreeable to the Committee then I think we would have found a proper solution to this problem.

MR MCKINNON (Canada): Although, as Mr Shackle implied, it is drawing attention to the obvious, it can do no harm.

THE CHAIRMAN: May we have it again, to see where it fits in.

MR SHACKLE (UK): Yes. "having regard to the provisions of this Charter," or we might add at the end "as a whole."

THE CHAIRMAN: Mr Hawkins, is that agreeable to you?

MR HAWKINS (USA): Yes.

THE CHAIRMAN: In my opinion, that would cover the further position; and then we would only have to study the possibility of having, in the memorandum, where we may refer to a certain part of the introductory remarks, a special reference to Chapter I. Then we could leave it to our Rapporteur to do what he thinks best, and then we could see it in draft when we have this new memorandum before us. I think that that would also cover the point that has already been discussed in the Committee on Quantitative Restrictions and all other balance of payments, so that I think we put every country on the same level.

MR ADARKAR (India): If the two are linked together in paragraph 1 of Article 4 of the Charter, the Chapter on Economic Development, and if that is invoked in connection with paragraph 3 of Article 18, the effect is the same.

THE CHAIRMAN: The provisions of the Charter as a whole; the Charter as a whole is here mentioned; so that that part of the Charter is mentioned as well.

MR ADARKAR (India): No; what I am saying is that Article 4 is allowed to be invoked in connection with paragraph 3 of Article 18; then, of course, the effect is the same as the effect of the particular amendment recommended by the Drafting Committee. I am only wondering whether technically it would be all right and if it would be possible for a country to invoke that particular Article. I suppose it would be.

THE CHAIRMAN: The Drafting Committee will have to consider it, and we can consider it again in Geneva. That would take adequate care of the point that the Joint Committee of 1 and 2 raised. We have only to leave that to the Rapporteur and see whether he can take care of this point in the memorandum he is now drafting, and perhaps we can ask Mr Hawkins to say that to him because he will see him earlier than I will. Is that agreeable? Then I think we have reached a satisfactory solution of this difficulty. I would then invite the Secretary to report to Committees 1 and 2, before they meet at 5 o'clock today, the result of our discussions.

We have still one point left open, and that was the point we dealt with yesterday about the automatic reduction of preferences when we started our negotiations. We had left it open because I wished every Delegation to study the problem further, and to see whether they think the present draft is adequate, or whether they have some reservations to be made on it. That could be reported accordingly to Committee 2 and then Committee 2 would have, in the first instance, the decision according to dissenting members of how the draft should read. Perhaps some Delegates would like to add some further remarks?

MR HAWKINS (U.S.A.): I naturally am very regretful that it has been our own insistence on the provision that has caused the difficulty. We have given further consideration to it, but I still cannot agree. We simply cannot see our way clear to abandon the word "automatically". It is a matter of very considerable importance to us to retain it.

THE CHAIRMAN: Thank you. I think the best plan is that we should ask every Delegate to state his position, so that we can make a proper report to Committee 2 and we should not try to solve this difficulty any more now, because it is so fundamental that perhaps it may only be clear at Geneva itself, or before-hand by means of diplomatic exchanges.

MR SHACKLE (United Kingdom): I personally would certainly not press further for the deletion of the word "automatically". It occurs in the proposals drawn by in Washington last December, and to which the United Kingdom Government gave their general agreement. At the same time, I would say this, that when I put

to Mr Hawkins the other day the question whether, supposing you read in there some such sentence as would say "This is without prejudice to possible negotiations between a number of parties, in the course of which both the M.F.N. rate and the preference rate would be under discussion, such reductions of the M.F.N. rate and the preference rate being reached in those negotiations as the parties may agree on". As I remember Mr Hawkins said, if the parties agree on anything, there is nothing to stop them. Those sentences with the word "automatically" will both be read in the light of that understanding, that if the parties agree on any particular adjustment of the particular rates, there is nothing to stop them. That is as much as I wish to say on the subject.

MR MCKENNON (Canada): From the start this has been a very difficult problem for us. I am not sure whether we were the first to raise the point in the meetings of Committee 2. If we were not, it is not that it has not been in the backs of our minds ever since we saw the Draft Charter. We felt that we had very good and cogent reasons, and honest reasons, for pressing for its deletion. We even felt that it might make the nett result of the negotiations even better in the world interest than if we had to follow a road that contained the word "automatically". You will remember, Sir, that after we had pressed our case for some time, and were supported by others, we said no more about it until it came up again on the Wednesday or Thursday last, when we again went on record as saying that we would prefer very much to see it deleted, but we did not press to make an issue of it. I think I can only join in the tenor of Mr Shackle's remarks and say that after some more serious reflection (because it is a very moot point with us), and after having felt for several days that the United States Delegation might see its way clear to withdraw the word, we now realise Mr Hawkins' statement today to be that that is something he cannot recommend, and in the interests of progress as a whole, in the interests of what should be the betterment of all our countries, in allowing us to get on with the job, we will certainly not press it, and for that matter will withdraw our objections to the word "automatically".

MR GUERRA (Cuba): That is the position of the Cuban Delegation.

MR ADARKAR (India): Mr Chairman, as the position stands, the Indian Delegation finds it difficult to take the positions which the United Kingdom and the Canadian

and Cuban Delegations have taken just at this present stage. All that the Indian Delegation can do in this matter is to take note of the views expressed by the United States Delegation and those expressed just now by the other Delegations, and to report them to the Government of India for a reconsideration of this most difficult problem. For the present, Sir, I can only restate the position taken by the Indian Delegation on the previous occasions when this subject was discussed, by saying that, so far as they are concerned, they would prefer their obligation to be restricted to endeavouring to achieve by negotiations and, in concurrence with the parties at present enjoying the preference, reductions in the existing margins of preference. By that, I mean margins of preference existing on a date to be agreed upon between the parties concerned. In doing that, we attach the utmost importance to consultation with all parties, not merely with parties seeking a reduction in the margin but also with countries which are at present enjoying the benefit of the preference -- consultation with all parties in the sense that they will be simultaneous negotiations. We would also like to say that the reason why we find it difficult to accept this principle is that, by accepting it, we shall be confusing the two objects, the two considerations, which we have constantly to bear in mind, namely the needs of our domestic industries which are safeguarded by the particular level of the most-favoured-nations countries, and the consideration that the preferential margins which are at present given to certain countries are indirectly beneficial to our export trade.

THE CHAIRMAN: Thank you.

MR. VIDELLA (Chile): I shall refer first to the Atlantic Charter, quoted by the Indian Delegation in one of their interesting papers. They quote this phrase: "Existing obligations must be respected"; and I would like to refer also to a speech made by Sir Stafford Cripps and published in "The Times" of November 6th, with the title "No contraction without adequate compensation". The reference is this: "You will recollect that the Prime Minister then said that we, for our part, were ready to agree that the existing system of preferences within the British Commonwealth and the Empire will be contracted provided there is adequate compensation in the form of improvement in trading

conditions between Commonwealth and Empire countries and the rest of the world". The question is this, that I arrive at the opposite conclusion to that of the United Kingdom Delegate. That is the reason why I was the first one to back the word we are discussing, and the more I think this over, the more satisfied I am with the line taken by the Chilean Delegate. I would not like to see the deletion of the word we are discussing. On the contrary, I fully agree with the United States Delegate.

THE CHAIRMAN: Thank you.

MR LECUYER (France)(interpretation): I think the deletion of the word "automatically" would give more flexibility to the negotiations, and its retention, on the contrary, would give greater efficiency in those negotiations. For the same reason as expressed by Mr McKinnon, I do not insist on its deletion.

THE CHAIRMAN: I think we should terminate the discussion of this point here. We can put in our report the special remarks of the Indian Delegate, and we should draw the attention of Committee 2 to this problem. Committee 2 will then take a decision on how it should be drafted, and make a note in its report of what should be added with regard to very special reservations, such as the reservation of the Indian Delegate. I am very thankful for the way he put his reservation, because I think that must facilitate further proceedings to a great extent. Then we should advise Committee 2 to put in its report that in the interval before the Geneva negotiations one would try to solve the difficulty, preferably by diplomatic means.

MR MCKINNON (Canada) Are you speaking in reference to the word "automatically"?

THE CHAIRMAN: Yes -- if there are certain countries dissenting.

MR MCKINNON (Canada) Have we a reference from Committee 2 on the word "automatically"?

THE CHAIRMAN: No. We have to put it before the Committee.

MR MCKINNON (Canada): If there is a measure of agreement such as is expressed here today, why do we need to refer to it in our report?

THE CHAIRMAN: There is the reservation from the Indian Delegation, also a note that a solution might be possible. Perhaps it will be possible, before we get

to Geneva, to settle this by other means.

MR McKINNON (Canada): Having in mind your own reference to the nature of the remarks by the Indian Delegate and the Cuban Delegate, I think it is merely a very politely expressed reservation.

THE CHAIRMAN: We might leave it to the initiative of the parties concerned to find some resolution.

MR ADARKAR (India): But why not put it in the Report?

THE CHAIRMAN: We will put your reservation in the Report.

MR GUERRA (Cuba): The usual procedure in other committees, as I understand it, is to put the agreed text representing the view of the majority of the sub-Committee, and then to make a reservation "That certain Delegations made a reservation", and so on.

THE CHAIRMAN: That is the idea of it. But, seeing the way this matter is, I think that perhaps before Geneva there will be some solution. We might leave that to the initiative of the parties concerned. I think we have today done everything we can to expedite the work of this Sub-Committee. Mr Leddy is at this moment busy with, I think, a new draft of the memorandum, and I hope that we will be able to discuss that

on Wednesday morning, so that it will possibly have to be

multiplied.

After that he will no doubt do his best, as we know he always does, to proceed with the Report of the Subcommittee with as great speed as possible.

Mr. McKINNON (Canada): I suppose the intention would be to discuss whichever one he has ready first?

THE CHAIRMAN: Yes. Therefore I would like to have a meeting provisionally on Wednesday morning. The only point is that here in the Journal for the time being there is a meeting on Wednesday of Committee II, the 12th Meeting. That might create some difficulties. Therefore I would ask Mr Wyndham White to clear this point. Is it agreed that we meet again at 10.30 on Wednesday morning?

Mr GUERRA (Cuba): Subject to ratification?

THE CHAIRMAN: Yes, subject to ratification.

(The meeting rose at 4.20 p.m.)