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

VERBATIM REPORT.

FOURTH MEETING OF THE TARIFF AGREEMENT COMMITTEE
HELD ON WEDNESDAY, 20 AUGUST 1947 AT 10.30 A.M.
IN THE PALAIS DES NATIONS, GENEVA.

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

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CHAIRMAN: The Meeting is called to order.

Members of the Tariff Agreement Committee will remember that at the close of the last meeting we stated that we would take up the Articles of Agreement in Part III one by one. However, since that time we have received the amendments to the Draft Agreement which have been submitted by the various delegations and it has seemed to me, as Chairman, and ^{the} Secretary of the Committee, that it would be more practical and would facilitate our general approach to this whole question of the General Agreement if we had a further discussion and endeavoured to resolve certain fundamental issues which have come to light as a result of the discussions which took place in this Committee at the meetings we have already held and as a result of the amendments which have been submitted by the different delegations.

Accordingly we propose as a working paper for the Committee document E/PC/T/W/301 which was issued on the 15 August. This document sets forth seven basic questions which we thought it would be useful for the Committee to discuss one by one with a view to obtaining the sense of the Committee with regard to these basic issues, and if we could clarify them it would greatly expedite our work when we come to consider the various Articles of the Draft Agreement.

It is necessary, I think, that we should, when we take up these seven basic issues, limit the discussion strictly to each issue as we take it up, and that Members of the Committee should refrain from referring to the other issues and confine themselves strictly to the issue that is under discussion. Otherwise, we may be in danger of wandering over too great a field and not serving the purpose of this Working Paper to clarify these seven basic issues.

As we proceed, we might find difficulty in reaching finality

on one or several basic questions, and it might be ill-advised at this stage to come to a definite decision on these issues. That, I think, we can only judge as the discussion proceeds but our effort should be to try to reach as much finality as is possible, so that when we come to consider the various Articles there will not be a resumption of the general discussion on these basic issues. I trust that the procedure I have outlined is satisfactory to the Members of the Committee.

Do any of the Members of the Committee wish to comment on that procedure?

If no Member of the Committee wishes to comment, I take it that the procedure outlined is adopted.

The first of the seven basic questions will be found on Page 2 of our Working Paper. It is headed "Submission of the Agreement to the Economic and Social Council for approval". This question has been raised by the Czechoslovak Delegation in Document E/PC/T/W/274. During the course of the discussion, the United Kingdom Delegation pointed out certain factors which are set forth on page 3; but otherwise during the course of the general debate there was not any definite expression of views on this question, and I think it would help in clearing the air if we had a discussion on this particular matter. Does the Delegate of Czechoslovakia wish to speak on the subject?

H.E. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, we think that there are two possible ways of dealing with this matter. One is that we sign and put into force an international treaty for the reduction of tariffs. In that case, we would not need to have in mind any prior consultation with the Economic and Social Council, because such a treaty would be registered with United Nations and it would enter into force.

On the other hand, if we are creating here a kind of permanent

or semi-permanent institution, I think we should seek the advice of the Economic and Social Council, because it would be rather as if we were creating a new specialised agency for customs questions, and not only customs questions, but also related matters--all the more so if those Articles concerning the Economic and Social Council should be included in the Charter we are drafting. In that case, we think it would be wise to seek the prior consultation with the Economic and Social Council.

Mr. Winthrop BROWN (United States): Mr. Chairman, we are, in our tariff negotiations here, coming to an agreement with respect to tariffs and preferences, and also with respect to certain "channel" provisions which are related to the matter of tariffs and preferences, and which are necessary to provide a proper protection and setting for the tariffs and preference schedules.

Certain of those provisions will require consultation between the parties to the Agreement, for their administration, in certain cases, and therefore we provide a machinery by which that consultation can take place - in other words, the Committee which is referred to in the Agreement. This is not creating a new international organization, but is providing a machinery whereby the parties to this Agreement can properly administer it, and it therefore seems to us that there is no necessity for submitting this Agreement to the Economic and Social Council at all.

CHAIRMAN: The Delegate of South Africa.

Dr. J.E. HOLLOWAY (South Africa): Mr. Chairman, I do not think that we need spend very much time on this issue. I know of nothing preventing my country from entering into trade agreements on a multilateral basis with other countries. If

there is anything like that in the Charter of the United Nations, I am not aware of it. That may be ignorance on my part. But if I am correct on that point, it does mean this: that if there is a motion that this Agreement should be submitted to the Economic and Social Council, that motion must be an unopposed motion. It must be unanimously agreed to, because it does involve everybody giving up some right, and therefore you cannot do it without having unanimous agreement. For ourselves, we are not prepared to give agreement to this.

CHAIRMAN: Any other Member of the Committee wish to speak on this question?

Are there any Members of the Committee who support the proposal of the Czechoslovak Delegation.

Does the Delegate of China wish to speak?

Mr. WUNSZ KING (China): Mr. Chairman, I have some sympathy with the point raised by our Czechoslovak colleague. On the other hand, I also understand the reasons why it is not quite necessary to submit this to the Economic and Social Council. I would like to remind my colleagues that the Chinese Delegation has presented a rather modest Amendment which appears in Doc.W/276, proposing that the United Nations are authorised to effect the registration of this Agreement as soon as it comes into force.

Now I am wondering whether, if this Amendment is adopted, it might not be capable of meeting the point of our Czechoslovak colleague half-way.

CHAIRMAN: The Delegate of Cuba.

Mr. GUTIERREZ (Cuba): Mr. Chairman, I think that this point is covered by Article 102 of the United Nations Charter. The Registration Office of the United Nations is working according to this provision, and I do not think in every particular Treaty there is need to insert this proviso - it is a little far from the suggestion of the Czechoslovak Delegate as to submission of the paper for approval by the Council.

CHAIRMAN: It would appear that we have completed discussion on this subject. There does not appear to be any measure of support for the proposal of the Czechoslovak Delegation. On the other hand, as the Chinese Delegate has pointed out, it will be necessary to submit the Agreement for approval to the United

Nations, and the Cuban Delegate says there is an obligation on all Members of the United Nations under the Charter; and that, I think, makes the relations of the agreement to the United Nations quite clear.

I therefore think we can pass on to the next item on our agenda, and take it that the Committee does not support the proposal of the Czechoslovak Delegation.

Dr. HOLLOWAY (South Africa): Did I understand you correctly to say that after agreement has been made it should be sent for approval to the United Nations?

CHAIRMAN: If I used the word "approval" I meant "registration". I should have said that all Members of United Nations are under an obligation under the Charter to have it registered.

The next item with which we have to deal on page 3 of the Working Paper is entitled "Significance of signature of the Agreement at Geneva". This is divided in two parts as there are two related issues involved here.

"The Australian Delegation has expressed doubt as to the significance of signature, which it understands implies the commitment by Governments to introduce ultimately the Agreement to Parliament with the Governments' support." This position of the Australian Delegation is supported by the Brazilian, Indian and New Zealand Delegations.

In document W/271, the United States Delegation has proposed an Amendment which meets to some extent the point raised by the Australian Delegation.

We have also on the bottom of page 4 of W/301 the opinion expressed by the Legal Adviser of the Secretariat, and it is

pointed out that this legal interpretation may dispel some of the doubts which have been expressed; but if any Delegation wishes to do so it can protect its position by signing ad referendum.

The second point which is very closely related to the first is the question which has been raised by certain Delegations to the effect that ^{signature} of the Agreement might constitute an obstacle to discussion of the Charter at the World Conference; the Syrian-Lebanese Delegation has pointed out that this understanding concerning signature will not constitute an obstacle to the freedom of discussion on the Charter at the World Conference; and we consider it would be useful if the Committee could reach an understanding in this connection.

I would like first of all that the discussion should be confined to the first of these two points; and we might then take up the point given under little (b) here on page 5.

The Delegate of Cuba.

Mr. GUTIERREZ (Cuba): In relation to the first point, the statements made by several delegations with respect to the constitutional limitations of the entering into force of the General Agreement on Tariff and Trade and the prevailing uncertainty in connection with the time factor required to secure the various Parliamentary approvals moves the Cuban Delegation to request of the others that they consider the possibility of not signing the Treaty in Geneva, leaving this for the last day of the World Conference on Trade and Employment.

The basic reasons which prompt this proposal are, first that it does not seem practical to insert in the General Agreement provisions of a Draft Charter of the ITO which would surely be modified by the World Conference before it should

become effective. It seems preferable not to repeat in the General Agreement only some Articles of the Charter, but there should also be inserted in said Agreement the obligation of giving complete enforcement, as far as possible, to all the provisions of the Charter.

Secondly, the Tariff negotiations have not been able to reach the stage of coordination necessary to enable the General Agreement to be completed and signed by all countries represented in Geneva. The pertinent schedules agreed upon could be initialled here and then further negotiations continued bilaterally, country-to-country, in the interval between the Geneva and Havana Conferences, with the purpose of completing them in the latter city so that the General Agreement could be duly signed with sufficient time to submit a complete document for the ratification of the corresponding legislative and executive bodies of each signatory party.

CHAIRMAN: The Delegates of Australia.

Dr. H. C. COOMBS (Australia): Mr. Chairman, I do not wish to go over again the reasons which prompted the Australian Delegation to raise this question of the signature at Geneva. I would, however, like to remind Delegates that it is necessary, in the light of Australian administrative and political practice, that neither the Australian Government nor the Australian Parliament should be committed at Geneva in any way. We have therefore to ask that we, at any rate, be not called upon to sign a document in Geneva which carries any implications of commitment for the Government or the Parliament.

I notice that the Legal Adviser of the Secretariat considers that this signature which is proposed does not constitute anything more than an authentication of the text. I have a profound respect for the Legal Adviser and a layman's disinclination to disagree with experts, but, after all, this General Agreement, in its present draft, starts off: "The Governments of the Commonwealth of Australia" - etc., etc., - "have, through their respective representatives, agreed as follows," Articles I to III, and then, in Article XXIII, the Governments of certain countries - which may include Australia - shall, on and after such-and-such date, apply provisionally the parts of the Charter, etc.; "In witness whereof the respective representatives, after having exchanged their full powers, found to be in good and due form, have signed this agreement and have affixed their seals hereto."

Well, Mr. Chairman, that may be an authentication of a text but it does not sound like it, and I shall have difficulty

in convincing my Government, if I affix my signature to that, that I have not done anything more than authenticate a text.

Accordingly, Mr. Chairman, I find myself dissatisfied with what is proposed. I do not find much comfort in the proposal of the United States Delegate which he has put forward in an attempt to meet our difficulties. He suggests, in effect, that we should attach a reservation to our signature, to the effect that it would become effective only when our Government has given written notice to that effect to the Secretary-General of the United Nations. I find that subject, to some extent, to the same complication; that it does imply a commitment, even if it is qualified in the way suggested.

Another difficulty is that it would, so to speak, put Australia in a special position, and this is a difficulty which I find in the solution which the South African Delegate has himself put forward. He would ~~sign~~ ad referendum. I agree that covers the position formally, but I do believe it is undesirable unless absolutely necessary. There is a difference between countries, in a way which draws attention to the fact that certain countries have not behaved in precisely the same way as other countries. It is capable of being misinterpreted in two ways: first of all, that they are in some way recalcitrant - which might, of course, be true - and, on the other hand, it may be interpreted as meaning that, in fact, they are committed in the same way as the other countries, and that the attachment of the ad referendum or the qualification suggested is merely a device and, in fact, the commitment has been entered into.

We therefore do not like that suggestion. We have, however, a proposal to put forward which seems to us to meet the requirements of those countries who are anxious to attach their signatures

to this document as quickly as possible, and also of those countries who feel it necessary that they should, after the completion of the negotiations in Geneva, formally place this thing before their Governments for consideration before their signatures are attached.

At international conferences it is the custom frequently to have what is called a final act, in which the Heads of Delegations attach their signatures to a document which records, in brief terms, what has proceeded and has attached thereto a text which is, by the signature of that final act, authenticated.

We would propose that at the end of this Conference there should be a Final Act by which, in signing, the Heads of Delegations would authenticate the text of the General Agreement. The General Agreement should then be available for signature at the Head Office of the United Nations and should remain open for signature until, in accordance with the tentative timetable, the 15th November, or before if that is thought preferable, during which time representatives of the countries here could sign the document or inform the Secretary-General of the United Nations that they accept the obligations implied by signature. That would mean that if one of the Delegations here is, in fact, in a position to sign this document at the conclusion of this Conference, he could send a telegram immediately to the Secretary-General of the United Nations, informing him that he was prepared to sign, or he could ask his representative in that country to sign for his Government. There need therefore be no delay, on the part of those countries which wish to sign, in signing immediately..

We could conclude here on 30th September, as is suggested in this programme, then their signatures could be attached on that day or on the first day of October.

On the other hand, other countries who wish to place this matter before their Governments would have from then until the 15th November before attaching their signature.

On the other hand, there would be no distinction between the action taken by one country or the other. At the conclusion of the Conference here, we would all take similar action, and between that date and the 15th November we would again all take similar action, on the assumption that we were authorized by our Governments so to do.

That does seem to me to offer certain very definite advantages. It does meet the requirements of the countries which are anxious that their signatures should be appended promptly and it similarly meets the requirements of those countries which need delays in order to have this text examined by their Governments. At the same time it makes no distinction between them in the nature of the action to which they are called upon to commit themselves.

I would just like to comment on the suggestion which has been made by the D Delegate of Cuba. I am, of course, in agreement with the basic proposition which he has put forward, that there should not be a signature of this document here in Geneva, but I find some difficulty, Mr. Chairman, on the assumption that our negotiations here do conclude by the date forecast, in believing that we could leave this signature and the publication of the text and the entry into force of the Agreement as long as the Cuban Delegate's proposal would imply.

It does seem to me that, once agreement has been reached here, the time which should elapse between the conclusion of those negotiations and the publication and entry into force of the actual reductions in the tariffs required should be as short as is consistent with democratic procedure.

Therefore, Mr. Chairman, whilst I have a good deal of sympathy with the Cuban point of view, I would be anxious, if it is possible, for us to adhere to a programme roughly corresponding to that set out in the Schedule, with the variations which I have suggested.

If I could just repeat those final words; the positive suggestions we put forward are: that on the 30th September, or a date approximating thereto, all Delegations should sign a Final Act at the Geneva Conference which would authenticate the text of the General Agreement on Tariffs and Trade, and from that date until the 15th November the General Agreement should be open for signature at the Head Offices of the United Nations; that on the 15th November or thereabouts there should be a simultaneous public announcement, and, furthermore, that countries should be permitted to put these things into force on or after that date at their discretion.

Mr. WINTHROP BROWN (United States): Mr. Chairman, I am sorry that our suggestion did not fully meet the point made by the Australian delegation, but after listening to the delegate from Australia, I am persuaded that it did not, and it seems to me that the suggestion which he has made is a very constructive one with which we would be able to agree.

There is one point, however, that I think should be made clear. It is, of course, necessary for countries to know, in considering whether they will give provisional application to the Agreement,

how many other countries are going to be able to do it, and if the Australian suggestion would include that in the final Act, there would be an agreement suggested in our amendment that certain named countries at least would agree to give provisional application to the General Agreement by a certain date provided that the other countries had also signed by that time. In that case this suggestion would be quite acceptable to us.

May I supplement that by saying that we would expect to sign immediately and we would hope that the other countries which have already indicated that they could sign at once and would put it provisionally into effect by the end of the year would do likewise, but we should be perfectly happy for the Agreement to be left open for signature by other countries not able to sign at once.

Dr. H.C. COOMBS (Australia): I do not quite understand the ^{first} point made by the United States delegate. Does he mean that Australia, for instance, by signing on the 14th November would thereby be undertaking to put the General Agreement into provisional operation before the 15th December on the assumption that the other countries did the same? It would, in fact, be our intention to make the

Agreement operative so far as Australia is concerned as soon after the signature date as practicable - as a matter of fact, on the same day.

Mr. R.J. SHACKLE (United Kingdom): I would like to say - subject to approval by my delegation which I have not yet consulted - that the suggestion which has been made by Dr. Coombs, together with the comments made by Mr. Winthrop Brown, seems to me to be the best proposal which has been made up to now, for our purposes. It is my impression that we should agree and subscribe to this proposal - subject, of course, to reference to my delegation.

I would add just this: that as regards the suggestion which was made by the delegate of Cuba, I feel, as Dr. Coombs has said, that there would be very serious difficulties if the publication and enforcement of the General Agreement on Tariffs and Trade were deferred as long as the proposal indicates.

Mr. J.J. DEUTSCH (Canada): Mr. Chairman, with respect to the Cuban suggestion, we also see very great difficulties in postponing the matter until after the end of the World Conference.

With respect to Dr. Coombs's suggestion, we find it a very constructive one, and we could accept it. We would also, however, like to have a provision like the one suggested by the United States delegate, that the Agreement would not come into provisional effect for any signatories unless the Agreement came into effect also with respect to certain named countries.

DR. H.C. COOMBS (Australia): Could I just ask a question in regard to that, Mr. Chairman?

CHAIRMAN: Is the Belgian Delegate agreeable to the Australian Delegate asking a question?

The Delegate of Australia.

DR. H.C. COOMBS (Australia): I just want to make sure, Mr. Chairman, that the point made by the United States Delegate would not prevent one country taking action in advance of others, provided it was after the date on which the simultaneous announcement had been made.

As I pointed out earlier, it would be necessary for Australia to take action on the same day as the announcement was made, and it might be, in the case of the United Kingdom, from what I understand of their position, six weeks before the United Kingdom is in a position to make the Agreement provisionally effective.

I presume that once the text has been made public, the countries who are prepared to do so are free to implement the Agreement, so far as their own tariff is concerned.

CHAIRMAN: Speaking as Chairman of the Committee, I would think that there would be no objection on the part of the other countries concerned to one country giving effect to tariff reductions before them, The date agreed upon would simply be the last date upon which they could give provisional application - but, of course, I am open to correction by any Member of the Committee.

The Delegate of Belgium.

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M. P. FORTHOMME (Belgium) (Interpretation): Mr. Chairman, I think the proposal of the Australian Delegate extremely reasonable, and probably the most practical one we have heard so far, but I have some doubts about one aspect of the question and I would like to hear what solution can be found to it.

The procedure suggested by the Australian Delegation supposes that, at the time of the signing of the document, all Governments concerned will have reached a final decision concerning the reservations they made to the different Articles contained in the General Agreement. Therefore, before the time of signing the document, it will be possible for them, if they maintain their reservations to have the text re-opened to see what solution can be found to the difficulties due to the reservation. But if no final decision is reached before the date of signing, the Governments will be faced with two alternatives: either they will be in a position to withdraw their reservations, and then nothing will prevent them from signing the document, or they will not be in a position to withdraw their reservation, even if it is a minor one, and then they will not be able to sign the document.

I would like to know what solution can be found to this difficulty.

CHAIRMAN: The point just raised by the Delegate of Belgium is a most important one, and it is one to which we will have to give very careful consideration. However, I think it would be better if we could defer discussion on this particular point until we reach items 5 and 6, because that is where these points can best be discussed. It would, I think, help the discussion if, for the time being, we just keep to the question of Significance of Signature of the Agreement at Geneva. There are, of course, a lot of

questions to be raised on Significance of Signature at Geneva, but we will try to deal with them under the points we have provided for in this Agenda.

The next speaker on my list is the Delegate of France.

M. ROYER (France) (Interpretation): Mr. Chairman, I would like to ask the Delegate of Australia for a clarification.

The proposal he made aims only at introducing an additional stage in the procedure of signing at Geneva. Otherwise, the procedure provided for in the Australian suggestion has exactly the same effect as the procedure provided for by the Working Party Draft.

However, there is an obscurity here. I would like to know the date on which the names of the countries who are prepared to implement the Agreement provisionally will be inserted in Article XXXII, or in any other part of the Charter. I think it is important - and the French Delegation has expressed the difficulties of implementing the Agreement - if only a small number of countries are party to it. I would like to know at what time we will know which countries are prepared to implement it provisionally before December 15th.

CHAIRMAN: Would the Delegate of Australia care to reply to that?

DR. H.C. COOMBS (Australia): As I understand it, other countries would know which countries had signed the General Agreement provisionally as they signed, and they would know, therefore, by the 15th November, how many had agreed to implement it by the 15th November. They could then decide whether there were a sufficient number who had signed to warrant taking the action which they had

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agreed to take, which their signature implied their willingness to take, so that if, on the 15th November, the Government of France found that there were X countries which had agreed, which had signed the General Agreement and had therefore undertaken to make it provisionally operative on the 15th December, and they believed that X was sufficient for their purposes, they could go ahead.

On the other hand, if they felt that the number was not sufficient, or that it did not include countries which were essential from France's point of view, then they could abstain from making it effective.

That, as I understand it, is the purpose of Article XXXII: to give you a clear right to take back the obligation implied by your signature, if corresponding action is not taken by other countries.

CHAIRMAN: The Delegate for Cuba.

DR. G. GUTIERREZ (Cuba): Mr. Chairman, if the Cuban Delegation had not had very serious doubts of the legal and juridical possibilities of what we are trying to do, it would not have presented for the consideration of the other Delegations the problem it has presented.

I am very sorry to state that, according to my experience as an old student of international law, I do not see what difference exists between the Final Act to be signed and the Treaty. According to the decision of the International Court of Justice, treaties are undertakings of obligations and rights, and whatever we call it - a protocol, agreement, final act or anything else - it will always be a treaty.

I do not want to go into the technical discussion of this matter. For us, it is the same final act in this type of treaty

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as the Delegate of France has just said so ably, and I do not know what kind of treaty is this one that stands by Article XXXII when it takes up the question of Provisional Application. There are four Governments that can apply the provision, and if they want to call that a multilateral treaty between four nations, that is all right, but if it is supposed to be the basis of a treaty to be open to the rest of the world, that is quite different, especially when you take into consideration that they will apply provisionally only parts I and III of the Agreement, that is to say, eleven Articles, leaving out twenty-two which ^{may be} going to be modified by the World Conference, and the whole Treaty is not going to enter into force until next year.

It seems more practical not to rush this matter in that way, but to have the draft Charter approved or modified, and have a definite text, and then have the whole document in force at the same date, because according to our suggestion, it will not make any difference at all when the obligations enter into force: they will enter into force the same day. The only difference would be that in one case we would have a complete legal backing, and in the other case we would be making circles around a problem without giving any real decision.

That is the only point to which we want to call the attention of the different Delegations assembled here, because it seems to us that we are overlooking the juridicial aspect of these obligations. Final Acts generally do not mean obligations upon the Governments: they are only recommendations; and if they place obligations upon the Governments, they are no longer final acts - they are treaties.

CHAIRMAN: The Delegate of the United States.

Mr. Winthrop BROWN (United States): Mr. Chairman, first may I say that I entirely agree with your statement that provided there is simultaneous publication and entry into force of the document, there would be no objection if there were some differences in the actual time at which they were put provisionally into force, provided there was a date before which that must be done.

I think the point made by the Delegate of France is an important one, and for our part, we would like to have it definitely decided, before we begin the final act, as to which countries are the so-called "key" countries: in other words, that we should have an agreement before we leave here that certain

countries making an adequate trade coverage would put the Agreement provisionally into force by the dates selected, provided sufficient other countries to make up that coverage, and including certain key countries, had done likewise.

We feel, with the French Delegation, that it is important that that be fixed before we leave the matter.

As far as the point raised by the Cuban Delegation is concerned, I would like to add our Delegation's support to the points made by the Delegates of Australia, United Kingdom and Canada, about the extreme difficulty which would be involved in having a prolonged time between the conclusion of negotiations here and the entry into force of the General Agreement.

CHAIRMAN: The Delegate of Australia.

Dr. H.C. COOMBS (Australia): Mr. Chairman, I would like to refer to two points which have been raised. The first is the question of key countries. I quite agree that the countries are entitled to be able to anticipate what is going to be done by the key countries, but it seems to me to be impossible for key countries to give an undertaking here in Geneva that they will make this Agreement operative by the 15th December, and it is the purpose of the procedure which we have outlined to avoid that.

I think that the position is quite adequately met if here in Geneva the countries which are agreed to be key countries will undertake to give a decision; and as they will undertake to give a final decision by the final signing day, that will mean that if the decision of their Government is a favourable one, other countries will know that they are coming in by the final signature date, and then it will be possible for all the other key countries to know definitely whether their requirements for

provisional operation are met.

The thing to be avoided is uncertainty as to whether all the key countries are, in fact, going to be in; so that all we need is an undertaking from any country which is regarded as a key country that it will reach a decision by that date. I am not sure if Australia is classified as a key country for this purpose, but we are prepared to give an undertaking to reach a decision by that date, and I think that is as much as we can be asked to do.

The other point was the nature of the Final Act. I am not a lawyer, and I have very little experience of international conferences, Mr. Chairman, but it seems to me that in this matter we can make the Final Act what we like, and what I had in mind was that the Final Act would be a brief outline of what had taken place in descriptive terms, and a statement that the Delegations here represented had agreed upon the texts attached, which would be submitted to their Governments for their consideration. If that is the nature of the Final Act we want, then it seems to me, Mr. Chairman, that we are fully capable of seeing that it takes that form.

CHAIRMAN: I think we have had an extremely useful discussion of this point 2 on our Agenda, and the discussion so far has advanced the ideas on this question. Do any other Delegates wish to speak?

Dr. A.B. SPEEKENBRINK (Netherlands): Mr. Chairman, as my instructions and powers are at present, the Netherlands Delegation will be able either to initial or to sign an Agreement at the end of the Geneva Session.

I am speaking on the basis of the present discussion, and I am entirely in agreement with either the proposal of Dr. Coombs or the ideas of Mr. Winthrop Brown, so I await the development of our discussions. I would only like to point out that when we have to sign, we will, in the first place, sign on behalf of the entire Kingdom of the Netherlands, including all its overseas territories.

There again, with regard to our Tariff concessions you will find this position, that for the Metropolitan territory our signature will be connected with that of Belgium and Luxemburg, because it will be a Benelux concession for a customs union.

For the other overseas territories, we might have to make certain reserves, as, as you know, the Kingdom of the Netherlands is in course of re-construction, and so there may be a day when we declare certain territory autonomous in its external and commercial relations, when they have reached the minimum status. In that case we will make efforts to have those countries accept and follow what we have signed. But there might be here a certain difficulty for which we must make a reserve which in due course we will work out. This may be a difficulty confronting other countries, when we have a long discussion on Tariff Agreements, so we might also raise this point for discussion in this Committee.

Mr. RODRIGUES (Brazil): Mr. Chairman, in regard to this point 2, I should like to state that Brazil would like to follow as close as possible the Australian Amendment; but our constitution requires that any agreement before put into force must be approved by the Congress. We would do our best to get the approval of the Congress before November 15th; but we are not in a position to take any commitment with regard to the action of the Brazilian Congress, and I should like to explain our position, because if we cannot get approval before November 15th we will be in a position very different from the situation given by the Australian Delegate.

Mr. MELANDER (Norway): Mr. Chairman, I take it that the Australian proposal for a Final Act will mean that the Delegations

signing the Final Act will not bind the Governments of their countries legally to anything at all. They will only authenticate the text of the Agreement. That is their legal obligation.

Secondly, de facto, the Delegations which sign the Final Act will do so if they consider that they are in a position to recommend to their Governments to accept as a binding obligation the obligations set out in the Final Act.

That I take it is the idea of the proposal. If that is so, I would say on behalf of the Norwegian Delegation that we would be in a position to sign the Final Act, if we considered that the General Tariff and Trade Agreement were such that the Delegation could recommend to the Government to accept it. That, of course, will depend on the clauses which will be included in that Agreement.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. SHACKLE (United Kingdom): Mr. Chairman, I only have a small point to make in reference to the position of overseas territories which are autonomous in respect of the matters provided for in the Agreement. The position with regard to those territories will be very similar to the position as stated by the Netherlands in regard to the Netherlands overseas territories.

The point is that the United Kingdom Delegation cannot agree to bind those territories which are autonomous in these respects. It will have to wait for them to decide, and that will involve a slight modification of Article XXXII as it is at present provided. That is all I have to say.

Mr. SPEEKENBRINK (Netherlands): Mr. Chairman, when Mr. Shackle associated himself with my remarks, I think he was under a misapprehension. I spoke of countries that might receive

autonomy in the conduct of their external and commercial affairs, or become a Dominion, which at present do not have that status.

Mr. SHACKLE (United Kingdom): I think I did appreciate that distinction. The position is that some territories, in our case, are already autonomous as regards this.

CHAIRMAN: The Delegate of South Africa.

Dr. HOLLOWAY (South Africa): Mr. Chairman, I think perhaps we may make some progress if we just go on really substantial things, and then let the form be decided afterwards. We have form and substance a little bit mixed up.

The first important thing is authentication of the text. That obviously has got to be done, and done by the people who have established the text. I would suggest that to meet the convenience of everybody, there should be some time during which the countries here represented should be able to sign somewhere or do whatever is necessary just to authenticate the text. That is the first point which is essential.

I suggest we should have some time for that, because it is quite clear some Delegations are going to be negotiating right up to the end of September; and there will be quite a large number of Delegates who will have finished their work long before and cannot stand about there kicking their heels, because all over the world there is a shortage of the type of people who are here, and their countries require their services for other purposes.

Secondly we require a substantial undertaking, which is to be an undertaking with all the force that is necessary by the laws of particular countries, to carry out the undertakings in that text which has been authenticated. Various countries have various requirements, and we have got to give them time.

As far as we are concerned I think I have explained that Parliament must approve, and Parliament will not meet until January; so that may be it will be January, or middle February, before our Parliament can consider that text. The position of other countries is different.

Therefore it does not matter whether the form is signed or anything else, that instrument has got to be deposited somewhere where that country can consider it. That raises the question, are we all going to insist on everyone here carrying it out before we bring it into force. Well, I think quite obviously nobody is going to insist on that absolute condition. If one or two fall by the wayside, I think the rest will probably still be prepared to go on. Therefore, in that instrument, whatever you make it, you have got to state that the countries undertake to bring it into force when not less than so many have brought it into force, and possibly give a date by which that can be done. That is or is not necessary according to the views of Delegations.

You have got a third^{point}, which is a subsidiary problem dealing with the entry into force. The third is exactly the same as the second, that is, an instrument is required by which countries undertake to bring the provisions into force provisionally. As soon as "x" countries have agreed to do that, on the day when it is announced that "x" countries have done it - off you go! Those who can will bring it provisionally into force.

Those are the only three points we have to decide. Whether you sign, or sign ad referendum, or anything of that sort, is not important. If you get those three things fixed in a document you have solved your problem.

CHAIRMAN: The Delegate of China.

H.E. DR. WUNSZ KING:(China): So far as the Chinese Delegation is concerned, we shall have no difficulty in signing the Final Act on September 30th, if by that time the texts of the Agreement and of the Tariff Schedules are ready.

We understood that the Final Act is actually by no means final and that the signing of the documents will, as has been pointed out by the Legal Expert attached to the Secretariat, merely serve to establish the authenticity of the texts, but I am not sure whether the Chinese Government will be able to signify its final acceptance by or on November 15th. This is because of two simple reasons: first, the legislative procedure might entail a considerable amount of necessary delay, and, secondly, unless the whole question of reservations is solved in the meantime, there will certainly be a great amount of difficulty in this regard.

As to the question of adherence to the provision concerning Provisional Application, I shall reserve my opinion until we come to that.

CHAIRMAN: Are there any other speakers?

The Delegate of France.

M. ROYER (France) (Interpretation): Mr. Chairman, I shall be very brief. I simply want to make it quite clear that, by initialling or signing the Final Act, the texts of the Agreement and of the annexed lists will be established once and for all, and it should not be understood that the signature of the Final Act would enable some parties to re-open the text of the Agreement or, even worse, the tariff concessions.

After the signature of the Final Act, any country will be able to ratify it or not, but no alteration of the text will be possible without the general consent of all the signatories.

CHAIRMAN: I believe Dr. Coombs would agree with that interpretation.

Dr. Coombs (Australia) Yes, Mr. Chairman.

CHAIRMAN: The Delegate of Czechoslovakia.

H.E. DR. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, the more I listen to all these speeches and declarations, the more I think of Goethe's "Faust", where he says: "Das ist die Flucht der bösen Tat" - "the cause of the crime was a bad deed!" - I think that our bad deed is that we have put in the hundred-years'-old practices of commercial policy, that is, the bilateral tariff agreements extended to all countries have a Most-Favoured-Nation clause. We put it in a footnote, with three provisos or two provisos on its coffin.

If we did away with this very old practice, I think eighty or ninety per cent of our difficulties would disappear, because it would always be open to countries which have negotiated to put the concessions into force if they find it convenient to themselves.

If we try, all together, by one stroke, at one moment, to put them into force, we have either to wait until the last one is able to put them into force or we have to revise all our schedules because, if there were, for instance, only ten countries able to put them into force, then of course no country would be ready to put into force unilateral reductions of customs tariffs for those countries which are not willing to put them into force.

That is why I think we should consider carefully what we are doing and if we wish to remain in those difficulties, which you will see are extremely grave and which may make it possible that, at the end, nothing will remain of the whole Agreement.

On the other hand - at least, I speak for myself - we are all tired and we would need a certain time to think over the problem and to consult our Governments. That is why I want to suggest question of that we leave now, at this moment, the/tariff agreement negotiations, that we sleep on it, and that we return to the discussion of this matter, say, when the tariff negotiations are over, which would be after the 10th September. Meanwhile, we would have sufficient time in which to consult our Governments and to see what are the possibilities and which way could be chosen.

Dr. H.C. COOMBS (Australia): I just wanted to make a small point, Mr. Chairman, particularly in relation to the comments of the delegate from South Africa. It seems to me that we could agree (1) that we should, at the end of the Conference prepare a document establishing the authenticity of Geneva, /the text; (2) that a final date for signature by key countries should be fixed - such as the 15th November; (3) that there should be a date on which it is agreed that the full text would be published simultaneously - such as the 16th November, and (4) there should be a date on which the General Agreement would enter into force through provisional application by key countries - such as the 15th November.

I think all the points are covered, and those countries which are not key countries and who would find a difficulty to adhere to that programme because of constitutional difficulties, would be able to adhere at any time convenient, consistent with their constitutional necessities.

Mr. WINTHROP BROWN (United States): Mr. Chairman, I agree entirely with the delegate of Australia.

M. E.L. RODRIGUES (Brazil): The explanation which was just given by the delegate for Australia is very useful to me, but I should like to explain our position. Our constitutional procedure in this case would be to sign the Agreement ad referendum and send it to the Congress. In this case, however, ^{if} we cannot get the approval ^{of the Congress} for the 15th November, we would accept another date, such as June 30th, 1948, and that will cover our position. Otherwise I will not be able to sign the Agreement because I cannot commit myself without the agreement of the Congress.

Dr. J.E. HOLLOWAY (South Africa): I suggest that either a small Committee or ^{the} Tariff working Party be asked to draft an instrument on these lines.

M. PIERRE FORTHOMME (Belgium) (Interpretation): Mr. Chairman, I merely want to raise one point. If the date of publication is appointed for November 16th, that means that no country will be able to submit the Agreement to its Parliament before that date, because submission to Parliament implies publication.

CHAIRMAN: A very valuable point has been raised by the delegate of Belgium, and we must consider it when we come to the next item on our Agenda, which is Tentative Timetable of Developments. Are there any other speakers?

I think we have a substantial measure of agreement among the majority of the members of the Committee on the proposals which were put forward by Dr. Coombs in the earlier part of our debate. I think there is a fairly general agreement that there should be a document prepared which would establish the authenticity of the text, - not of the General Provisions but of the tariff concessions, - and that this document should be signed by all the delegations if they find it possible to sign it.

I also understand from the elaboration of Dr. Coombs's proposal by Mr. Brown, that those delegations who wish to sign the document in Geneva could do so, but according to the proposal of Dr. Coombs the date of signature should be left open to the date to be agreed upon. We should also agree as to the date of simultaneous publication, and later on, to the date of provisional application by key countries. Does the proposal of Dr. Coombs share the support of all the delegations that are represented in this Committee? The details will still have to be worked out, and we will be coming to the principles involved in some of these details in other items of our agenda. Later on we will have to proceed to the general drafting. That can either be considered in connection with the Articles of the Agreement ^{or} if it is the wish

of the Committee later on to adopt the suggestion of Dr. Halloway that the text of the final Act should be drafted, we can do so but I would suggest that we postpone that for the time being until we come to the other items of our Agenda and until we see the whole picture more clearly.

As to the suggestion raised by the delegate of Brazil which relates chiefly to the provisional application of the Agreement, we will come to that under point 4.

There has also been the point raised about key countries' provisional application. We can consider that under point 4.

There is also the important question of the dates. We shall come to that in our next item, No. 3, and we will have a full discussion on that which will help to clear our minds on that particular problem, so I think we can leave the discussion on the date of signature in Geneva. I do think there is general agreement on this point.

We can go on now to the next point in our Agenda and decide later on as to what steps we should take to appoint a special sub-Committee for that purpose.

With regard to the suggestion of Dr. Augenthaler that we should postpone further consideration of the General Agreement until we have completed our tariff negotiations, I take it that if we do ^{not} consider the General Agreement/^{now}we would have to stay here another month after we have completed the tariff negotiations, and this would make it difficult for those governments who are in the position of the South African Government who want their key men back. I therefore do not think it is necessary that we should proceed with the suggestion of Dr. Augenthaler and if the Committee

agrees we can take up other points in our agenda which are given in our working paper, at our next meeting.

We have not yet touched point (b) on page 5 which raises the question as to whether or not the signing of the General Agreement will constitute an obstacle to the freedom of discussion at Havana. We shall consider that at our next meeting.

I would now like to hear the views of the Committee as to whether we should have a meeting tomorrow or postpone it until next Monday. We could have our meeting on Monday afternoon, or we could have it tomorrow morning. I have the impression that most of the delegations will wish to have time to prepare their statements for the public session, and if it is the wish of the Commission we shall postpone our next meeting until Monday afternoon.

CHAIRMAN: The Delegate for Australia.

DR. H.C. COOMBS (Australia): I wanted to ask, Mr. Chairman, whether it is really necessary not to have a meeting tomorrow morning? We regard this question of the General Agreement as one of very great importance and of very great urgency, and we would wish, therefore, to proceed with the discussion of the problems embodied in it as early as possible. I just wanted to ask, therefore, whether it would not be possible for us to proceed with our deliberations tomorrow morning?

CHAIRMAN: If there are no objections, we could meet tomorrow morning at 10.30.

M. P. FORTHOMME (Belgium): I would rather not, Mr. Chairman.

CHAIRMAN: This is a point of procedure on which we could very well take a vote.

Will all those Delegations in favour of meeting tomorrow please raise their hands?

DR. G. GUTIERREZ (Cuba): Will that be for all nations, or only for key nations?

CHAIRMAN: All the Members of the Committee.

Will all those in favour of meeting tomorrow please raise their hands.

Those against?

I think the energetic Delegations win by 11 votes to 6.

We will meet tomorrow at 10.30 a.m.

The meeting is adjourned.

The meeting rose at 1.05 p.m.