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

VERBATIM REPORT

NINTH MEETING OF THE TARIFF AGREEMENT COMMITTEE HELD ON WEDNESDAY, 3 SEPTEMBER 1947, AT 2.30 P.M. IN THE PALAIS DES NATIONS, GENEVA.

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

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CHAIRMAN: The meeting is called to order.

Members of the Committee will have seen from the notes of the circulated documents before us that the Committee, proceeding with its consideration of the text of the General Agreement, submit documents S7 and S8 for consideration and approval. These two documents comprise the SixthSpecial Report of the Tariff Negotiations Working Party which was issued on August 27th, and the Special Report given in document S8 which was issued on September 1st.

Since the Sixth Special Report deals with the situation up to August 23rd and is therefore somewhat out of date, I think we can simply take it as read and approved, and we might only give consideration to document S8, which is the latest Report and which brings the situation more up to date.

Are there any comments on document S8?

I take it then that the Committee approves of these two documents?

The Delegate of Chile.

MR. A. FAIVOVICH (Chile) (Interpretation): Mr. Chairman, reading through this Report, I would like to know if the final date for the signature of the Agreement is maintained on the 30th September, that is to say, the date on which the Act will be signed and the Agreement will therefore become authentic.

The date which has been fixed is the 30th September, and this date is based on the assumption that the tariff negotiations will end on the 10th September, but it seems to me that it is probable that by the 10th September these negotiations will not be concluded. Therefore, it is extremely important that a definite date should be fixed for the signature of the Agreement - especially when we consider

the case of countries which have to leave Geneva for various parts of the world, and especially if we consider the shortage of ships and the lack of transport by plane.

The same situation will arise, in fact, with regard to the forthcoming Conference in Havana. Therefore, we should now fix a date for the signature of the Agreement, and also fix a date for the end of these tariff negotiations.

It seems to me that, in spite of what has been done, some haste ought to be shown here by the countries which are most interested in the conclusion of these tariff negotiations, that is to say, the key countries.

We have read in the press various comments which are somewhat pessimistic in tone, and which are pessimistic if we consider the success and final result of these negotiations. Therefore, I think that it would be to the interest of the countries which are most concerned with these negotiations to proceed with the utmost speed to reach a final conclusion of this Agreement.

To sum up what I have said, I should like to press the point that a final and specific date should now be fixed for the signature of the Agreement.

CHAIRMAN: The Delegate of Chile has proposed that we decide now on a fixed date for the signature of the Final Act. I would like to obtain the views of Members of the Committee with regard to this suggestion. Are there any comments?

The Delegate of Czechoslovakia.

H.E. Mr. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, I would like to support the proposal of the Delegate of Chile, because I too would like a fixed date for signature, especially as I want to have some leave.

CHAIRMAN: Are there any other comments?

The Delegate of the Lebanon.

M. MOUSSA MOBARAK (Lebanon): Mr. Chairman, I am afraid to say it, but the Delegate of Chile has said what everybody in this room is thinking. I would like to thank the Delegate of Chile for being our interpreter in this matter. In fact, what he said about countries far away from here is true, particularly about my own country.

Certain Delegations - especially the Heads of Delegations - have to go home in order to discuss the Charter with their Governments. If the beginning of the Havana Conference is to be on November 21 and we are only going to be finished here on October 15, there would be a very short time between the end of the negotiations in Geneva and the beginning of the Havana Conference in which to receive instructions from our Governments and to discuss the various Articles of the Charter.

Therefore I think it would be of some interest to try and findnow a definite date for the end of our discussions here. At least it would be worth while to be informed as to the date

which the various Delegations envisage for the end of these negotiations. I must say that at the present moment I think the most important countries have not yet reached agreement here and that the negotiations have been very limited. Therefore I am afraid that the end of September will arrive without leading us to any real progress, and I believe it would be useful to discuss the matter in a very frank way, in order to see whether the negotiations are going to lead us to something or not.

CHAIRMAN: Are there any other comments?

The Delegate of France.

M. ROYER (France) (Interpretation): Mr. Chairman, first of all I would like to answer the comments which have just been made by the Lebanese Delegate.

If the Lebanese Delegate reads carefully the report of the Working Party he will find at the end of this Report sufficiently precise information to show that the parties intend to reach an agreement. (At this point the Delegate for the Lebanon made an observation, to which the French Delegate replied that it seemed these parties had sufficient possibilities of reaching such an agreement).

On the point raised by the Chilean Delegate, I do not think we can commit ourselves now to fixing a specific date for the end of the present negotiations. Nevertheless, there are two possibilities. The first one is to sign the Final Act and the Protocol without appending the Schedules to the Act and the Protocol at the time of signature. The other alternative is to wait to sign all the documents until the time when all the documents are ready for signature, and then the Delegations should

entrust their diplomatic or consular representatives in Geneva or Switzerland to affix their signatures to the Act.

These are the two possibilities, but I think it would be very dangerous now to set a definite deadline for the conclusion of the negotiations.

CHAIRMAN: Are there any other comments?

The Delegate of the Lebanon.

M. MOUSSA MOBARAK (Lebanon): Mr. Chairman, we all agree here that we have the best intentions in order to bring these negotiations to an end. In fact, we have a saying in French that "the road to Hell is paved with good intentions."

What I think is that it would not be of any value to sign here any kind of Final Act or any Agreement and leave the negotiations for later on, because the main purpose of the Agreement is to include all the negotiations. If the negotiations are not terminated, I do not see any emergency for signing the Agreement itself. If we are delayed here it is only on account of the key countries which have not ended their negotiations in Geneva; they are responsible for the delay and they should hurry to finish off these negotiations if we want to sign here the Final Act.

CHAIRMAN: Are there any further comments?

The Delegate of the United Kingdom.

Mr. J.R.C.HELMORE (United Kingdom): There have been one or two references to the key countries. I do not know whether it is intended that the United Kingdom is regarded as representative of a key country. I think probably it is, when I look at the terms of the last Special Report of the Tariff Negotiations Working Party.

I only want to ask two questions about what has been proposed. The first is specific: we pick the date of September 30, for the sake of example, by which all negotiations must be completed; suppose that negotiations between three or four key countries are not completed? What happens then? Do we all just put our papers away in a large tin box and disappear back to our capital? If so, what happens to the agreements that have been made between the key countries and the non-key countries, or between two key countries? I very much doubt whether those agreements would survive.

The second question I want to ask is whether there is a suggestion about that those countries whose negotiations are taking longer are delaying matters. I do not myself think there is such a suggestion and it might be useful to remember what the Leader of the United States Delegation said in his speech in the final Plenary Session, that the 1938 negotiations between his own country, mine and yours, Mr. Chairman - only three countries - took a great deal longer than the time we have so far spent in Geneva or are like to spend on the probable result as shown in the last Report.

I do not myself think there is occasion for undue alarm about the time these negotiations are taking. I would suspect that within a comparatively few days a great deal more will happen which will make the picture look much less gloomy than it has been. I believe that even since your last Report was written further negotiations have got to the state when they can be regarded as virtually finished.

Mr. J.R.C. HELMORE (United Kingdom): Mr. Chairman, may I make one comment on the translation? I think there was a reference to Agreements between countries already signed. I said "concluded". It is rather an important difference, in that they have not been signed.

CHAIRMAN: The Delegate of Chile.

Mr. Angel FAIVOVICH (Chile) (Interpretation): Mr. Chairman, I would like to revert now to this question of date. This meeting has been held here now for a period of five months and we think that such a conference should know by what date it is going to conclude its work. We have decided here that the Havana Conference should meet on 21 November and therefore it seems to me that ... position of the countries which have to study the Charter and all the documents which will be submitted to them before the Havana Conference - and I am referring to sixty countries - ought to be able to study those documents in time, and they will not be in a position to do so if we do not fix a date for the conclusion of our work.

This Conference reminds me ... the Congress of Vienna, the "Dancing Congress", but it seems to me that, in a way, this is a somewhat "Agonising Congress".

If I study the Report of the Working Party it seems to me that this Report lays the burden of responsibility on a certain number of countries which we can call key countries. It seems that the preferential régimes which/certain of these countries may are known by somewhat slow down the negotiations, and that those negotiations, for that reason, might be bogged down now. I think we can state that the success or failure of this conference will depend largely on three or four countries. During the five months which have elapsed since the beginning of this conference, the differences between the different systems of tariffs of the countries have become well known, and in 80 days the Havana meeting is going to

gather and therefore we ought to fix now the date for the end of our work here.

Mr. Chairman, I think that the only solution, as I say, is to fix a date, and if there are any outstanding difficulties then the countries which as I have said have the responsibility for the success or failure of the conference must do their utmost and show the utmost spirit of co-operation and solidarity so as to end successfully our work here. The differences between the tariff systems and between the standpoints of the delegations are well known and I wonder whether anything will happen before the Final Act. But, Mr. Chairman, although I respect greatly the position of those most important countries, nevertheless we ought to fix a date, and our delegations must assume the responsibility for giving their governments time to study the documents and also the other governments of the world which will be represented in Havana.

Dr. J.E. HOLLOWAY (South Africa): Mr. Chairman, I want to make a suggestion which might get over the difficulties which have been raised, particularly by the Delegates of Chile and the Lebanon, difficulties which I have, too.

The first stage of getting a document finished is purely certification, simply stating that that is a correct document.

Now, you said yesterday, Mr. Chairman, that we should get the text of the document, apart from the Schedules, finished by the end of next week. Whether we finish it then or a little later, that text should in any case be finished well ahead of the final negotiations being finished. Now, what I would suggest is this: that as soon as we have that text a copy should be prepared which immediately lies for signature, that is certification; that when a country has finished with all other countries and it has got schedules, then those schedules simply be initialled between those two countries and given to the Secretariat. Then when you have

done that you can say, like Lady Macbeth: "Stand not upon the order of thy going" but go at once. You have finished. And do not disturb other people; let them get on with their job.

If a country is not finished to that stage obviously it cannot go away, so no damage is done to it. And if, having done that, something happens here in the latest stages which makes it impossible for that country to go through, it just does not ratify. So we do not lose anything that way and we can arrange for the people to go away as soon as they have finished.

CHAIRMAN: The Delegate of the United States.

Mr. Winthrop BROWN (United States): Mr. Chairman, we fully understand the feelings of the Delegates who have spoken about the desire to know precisely when this meeting will be concluded, and when they may return home to report to their Governments in more detail on the results of this Conference than it has been possible to do by correspondence.

On the other hand, it is intensely difficult to fix in advance a firm date on which the highly complicated negotiations which still remain to be concluded can be brought to a close. I can assure all the Delegates present that so far as we are concerned, we have an urge to get home which is as intense as that of anyone else here, I am sure, and that we are constantly motivated in our negotiations by the desire to bring them to a speedy conclusion. We sense the same feeling in those with whom we negotiate, and I think there is no doubt whatever that the more complicated negotiations are being pressed as rapidly as possible.

Now, when the text of this Agreement is determined by this Committee this week and next week, and when any country has completed the bilateral stage of its negotiations, I think it would be quite possible for some of the Delegation at least - perhaps most of it - to return home for the necessary consultation and explanation with their Governments, leaving technically qualified officers to see that the results of their bilateral negotiations are properly included in the final form of the Schedules, and that the indirect benefits on which they are relying in many cases are also included as a result of the negotiations of other parties. Thus it would be possible,

when the text of this Agreement is agreed upon, for the Delegations who have completed their tariff work materially to cut down their representation here, and to get a large part of their staff home for necessary work. We feel that it is most desirable, in fact essential, to have the signature of the Final Act a complete process which takes into account not only the text but the Schedules, so that we have before us, when we sign, one complete document.

CHAIRMAN: I think that all that has been said here today shows that there is a general desire on the part of all Delegations to finish the tariff negotiations as soon as possible in order that the Delegations may return home to their respective countries.

I think that the only reason why certain negotiations are taking much longer than other negotiations is owing to the complicated nature of those particular negotiations - the large number of products that are involved on either side.

I know, as Chairman of the Tariff Negotiations Working Party, that in recent days, ever since the close of the Charter discussions, there has been an acceleration of the pace of those negotiations, and a greater determination shown by the countries concerned to complete those negotiations as soon as possible; but I do not think, from what has been said today, that it would be practicable to act upon the suggestion of the Delegate of Chile and fix now a final date for the signature of the Final Act, because it is impossible to predict or estimate exactly the day on which these negotiations will be completed.

As both Dr. Holloway and Mr. Brown have pointed out, there should be no reason why any Delegation, after the discussion on the text of the Agreement had been completed and the particular

negotiations in which they are engaged, should not be able to send home the greater part of their Delegation, leaving behind only a few technical officers to see that the final text is in the way they think it should be, and then to authorise their diplomatic representative in Berne or some other capital to sign the Final Act. I think that, in the light of the discussion that has taken place, we cannot very well at this stage set a final date for the signature of the Final Act.

CHAIRMAN: The Delegate of South Africa.

Dr. J.E. HOLLOWAY (South Africa): May I point out that my suggestion makes it unnecessary to have technical people in Geneva who are badly required at home, and I think it might be worth while to see whether the suggestion would help the Delegates, by asking for a show of hands.

CHAIRMAN: I think that depends on the circumstances in each case. Some Delegations might not feel it necessary to leave technical officers behind to check the Schedules in order to be quite sure that they are getting all the indirect benefits they wish: that will be up to each Delegation. I think we can only determine that in the light of the circumstances as they arise.

M. Angel FAIVOVICH (Chile) (Interpretation): Mr.Chairman, I would just like to say a few words on the comments made by the South African Delegate. I think the proposal made by Dr. Holloway is quite reasonable, and the proposal I made just nowwas only to find a formula which would give satisfaction to all the Delegations and not only to some of the Delegations.

Therefore, if the Working Party takes into consideration Dr. Holloway's proposal or any other similar proposal, it would enable the larger part of the Delegations to return home once the negotiations of a general character are completed, and once they have completed their work, also, concerning bilateral negotiations. I fear that any other formula would have the result of maintaining here for an indefinite period a large number of people who would not be needed here once they had completed their work in connection with their bilateral negotiations.

CHAIRMAN: Perhaps it would enable us to solve our difficulties if the Tariff Negotiations Working Party, at its next meeting, could consider this question in the light of the suggestions made by Dr. Holloway and the Delegate of Chile, and then we could issue a report on what we think might be the best way of meeting the situation of those Delegations who will soon be terminating their negotiations.

Is that suggestion acceptable?

H.E. Mr Wunsz KING (China): May I add a word for the information of the Tariff Negotiations Working Party? So far as the Chinese Delegation is concerned, I think that you will appreciate the very special practical difficulties with which we have been faced. We have a limited number of tariff experts. They have been away from China for almost half a year. Their services are urgently needed at home, and on account of the special difficulty of arranging transportation facilities, we have to make arrangements at least four or five weeks ahead. As the final date for the conclusion of tariff negotiations has been fixed for 10th September, these experts have made their arrangements for their return to China by the middle of this month. Therefore, if by that time we are not able to finish all our tariff negotiations, through no fault of our own, I am very much afraid that we might have to continue our tariff negotiations somewhere else - most likely in Shanghai !

CHAIRMAN: Is the proposal to defer this matter to the Tariff Negotiations Working Party to study the question, taking into account the views expressed at this meeting, approved?

Approved.

The Tariff Negotiations Working Party will take into account the remarks just made by the Delegate of China.

I should also like to make a proposal for speeding up our work, that is, that we should endeavour to make a first run through of the Draft Tariff Agreement as rapidly as possible, settling as many points as we can. We may have to leave any points that give rise to difficulties in abeyance to deal with when we come to the second run through of the Tariff Agreement.

I would point out once more that the interpreters are only available until the end of next week, and therefore it is most important that we should make as rapid progress as possible.

DR. J.E. HOLLOWAY (South Africa): Mr. Chairman, on a point of order, as Part II is a question of whether things are in or out, is it your intention to take Part III before Part II?

CHAIRMAN: No, it is my intention to take up Part II after we have finished with Part I, in order to determine which Articles should or should not be included in Part II. I think that is the only way in which we can consider Article XXVII, which relates to the supersession of Part II by the Charter, after we have a better idea of what will be in Part II.

Therefore, I propose that we take the Articles in the order in which they appear in the Draft Agreement and that we then take up the Protocol and the Schedules.

When we concluded yesterday, I announced that we would take up paragraph 3 of Article I, to which the French and Czechoslovak Delegations have submitted a revised draft. This is given in document E/PC/T/W/317 of September 2nd.

I would ask either the French or Czechoslovak Delegation to explain briefly the purposes of their amendment.

M. ROUX (France) (Interpretation): Mr. Chairman, the text which you have now before you in document E/PC/T/W/317 is the result of the collaboration between the Czechoslovak and French Delegations - a collaboration which took place during a meeting, because these two Delegations sit at the same end of the table and therefore can maintain good neighbourly relations.

Our amendment is the result of very serious consideration of document E/PC/T/189. We think that paragraph 3 which appears in that document does not cover all the practical cases which derive from preference margins. It seems to us that if document E/PC/T/189 does not cover all the cases this is due to the fact that the draft of Article I derives only from Article 16 of the Charter and does not derive from Article 17, where various cases of preferences appear after negotiations. The principle which ought to guide us and which appears in the Charter is that no margin of preference should be increased. Three cases appear in the draft which we have before us now in document E/PC/T/189, cases which envisage a maximum margin of preference.

The first case is that in the tariff schedules, when the most-favoured-nation rate is mentioned and the preference rate, and the margin of preference between these two conventional rates is the difference.

The second case is when, in the tariff schedule, a most-favoured-nation rate is provided for and no preference rate is mentioned. Therefore, the margin of preference is the difference between the most-favoured-nation rate and the preferential rate which was in force on the 10th April 1947. This was the case which was used as an example in the London Memorandum, when it was stated that the margins of preferences should be reduced.

The third case appears when the most-favoured-nation rate is frozen also, and then we also have a reference to the date of the 10th April 1947, but of course that date just happened to be chosen and it could be any other date just as well.

We drew the attention of the Working Group, as appears in document E/PC/T/153 on page 4, to the fact that the margin of preference could in certain cases be fixed in the tariff schedules when no rate appeared for the most-favoured-nation rate and when no preference rate appeared in the tariff schedules. It was possible to say, for instance, that a margin of preference should not be greater than X per cent. That is why we took up that case in document E/PC/T/W/287, which appears on page 2 of the English text.

Another case which was taken up by the Czechoslovak Delegation, and which resulted in document E/PC/T/W/314, is the case where the most-favoured-nation rate is not mentioned. I think that provision should be made that in no case prior margins of preference should be increased, and that resulted in the document E/PC/T/W/317 under heading (iv), which reads:- "if the most-favoured-nation tariff rate is not specified in the Tariff Schedules, the difference which existed on 10 April 1947 between the most-favoured-nation tariff and the preferential tariff".

Therefore, we now have five cases instead of the three mentioned in document E/PC/T/189, but it is possible that we have also forgotten a certain number of aspects of this question, and I am mentioning this because of what the Belgian Delegate said at one stage here. Nevertheless, I think we ought to insert here - and we ought to insert it in gold letters - that the negotiations should not lead to the increase of margins of preference. This appears in Article 17, and it ought to be, and is in fact, our guiding thread to this Article.

MR. R.J. SHACKLE (United Kingdom): Mr. Chairman, I have the impression that this rather elaborate draft which is before us is really a set of rules for conducting negotiations. Well, surely that is not the function of this Article at all. It is simply to enshrine the results of negotiations as they will have emerged by the time that this document is signed.

Therefore, it seems to me that all this elaboration - or a good deal of this elaboration - is not necessary. My impression is that one or two small verbal changes in the existing text will cover all we need. I do not think it is necessary to go into these now, but that is my impression - that a very small amount of change would suffice. Thank you.

CHAIRMAN: The Delegate of the United States.

Mr. Winthrop G. BROWN (United States): Mr. Chairman, I think we are all agreed that the purpose of this Article is, as the Delegate of the United Kingdom has said, to fix and enshrine the results of the tariff negotiations and be sure that they will take place. It is a very technical bit of drafting. Could we not perhaps appoint a smaller group of technicians to agree upon and present a draft to us, because it seems to me that we can spend easily the whole of the rest of the afternoon in this large group, trying to deal with a subject which is, in its essence, a straight drafting job and a particularly technical one at that.

CHAIRMAN: I think the Delegate of the United States has just made a very sensible suggestion. I think we are all agreed as to what we want to say in this paragraph; the difficulty is just to find the words with which to say it. It is a complicated and technical problem and therefore it could best be dealt with by an ad hoc sub-committee. If that proposal is approved, I will name an ad hoc sub-committee

The Delegate of China.

H.E. Mr. Wunsz KING (China): Mr. Chairman, without going into the merits of this question, the Chinese Delegation would like to point out that the joint text as shown in Document W/317 seems to be acceptable to us, because it serves to clear up certain points in the original text which are otherwise not so very clear.

I feel very much interested in what our French colleague has told us. In the course of tariff negotiations which the Chinese team has had with some of the other teams, we seemed to be confronted with some difficulty in ascertaining what the

preferential rates are. As to some of the negotiating teams, the Chinese team felt very grateful to them for having made known to us their preferential rates, but, as to several others, I would like to point out that we have been somehow groping in the dark. Therefore we should feel very grateful to those Delegations which also have preferential tariffs if they would be kind enough to make accessible to the Chinese team their preferential tariffs and the rates, so as to speed up to some extent the work of our tariff negotiations.

CHAIRMAN: Is the proposal to set up a drafting sub-committee to consider this question approved?

The Delegate of Brazil.

Mr. R. ALMEIDA (Brazil): Mr. Chairman, I think the French-Czechoslovak proposal is useful as an elaboration and a clarification of the wording of Paragraph 3. I would accept it, but I do not oppose its further examination by that group, as the United States Delegate has proposed.

In respect of the margin of preference and its definition as the difference between the Most-Favoured-Nation tariff and the preferential rate specified or indicated in the tariff schedules, or existent on 10 April 1947 or on the base dates indicated in Annex G, I wonder if it will not be wise to put an explanatory footnote, setting forth that the difference must be understood, unless otherwise indicated, as the percentage relation between the Most-Favoured-Nation tariff and the preferential tariff, not as the mere subtraction difference.

When I said "unless otherwise indicated," I meant the margins which consist of an explicit difference in percentage ad valorem rates or an explicit specific rate difference.

CHAIRMAN: The Delegate of Cuba.

Mr. H.DORN (Cuba): Mr. Chairman, I am in agreement with the proposal of the United States Delegate, to set up a small Drafting sub-committee, and I wish only to draw attention to a small drafting point which I think must be taken into account when considering the proposal, because there is a difference made between the margin and the difference. If I make this distinction under (a) I must make it under (b) too. Therefore I would propose that a small committee take into account the necessity to add, "for products not desribed in the Tariff Schedules, the margin which existed on 10 April 1947, or the difference existing on the same date, between the Most-Favoured-Nation-tariff and the preferential tariff."

That is a question of formulation, but I wanted to draw attention to this point.

CHAIRMAN: The Delegate of India.

Mr. B.N.ADARKAR (India): Mr. Chairman, I am in agreement with the proposal to set up a small working group, but I would like to draw the attention of the group to one drafting point which I think is not taken care of either in the existing Paragraph 3 or in the draft submitted by the French and Czechoslovak Delegations.

Sub-Paragraph (a) (ii) in the draft submitted by the French and Czechoslovak Delegations makes a situation in which no Most-Favoured-Nation tariff is scheduled; neither the margin nor the Most-Favoured-Nation tariff is scheduled, but only the preferential rate. The situation is that only the maximum margin is to be equal to the Most-Favoured-Nation tariff and the

scheduled preferential tariff, but if no difference is scheduled then the margin remains practically unlimited, because the Most-Favoured-Nation tariff is not related to any specific date. It could be raised, so no limit is placed on the maximum margin, because the Most-Favoured-Nation tariff referred to in sub-paragraph (a)(ii) is not related to any date; the base date occurs only in (iii) and (iv) and not in (ii).

Some difficulty arises in the existing Paragraph 3, which states in sub-paragraph (a) that "In respect of any product in respect of which a preference is permitted under Paragraph 2 of this Article, the margin of preference shall not exceed the difference between the Most-Favoured-Nation tariff specified and the preferential tariff in force on 10 April 1947," but what happens if no Most-Favoured-Nation tariff is scheduled? Is it to be assumed that the maximum margin in such case is unlimited?

Either the Most-Favoured-Nation rate should be required to be scheduled or, where no Most-Favoured-Nation rate is scheduled in respect of the product appearing in the schedule, the rate should be the one ruling on the date stated.

CHAIRMAN: There appears to be general agreement that we should refer this question to a Drafting Sub-Committee who will be able to take into account the various views which have been expressed at this meeting.

With regard to the point just referred to by the Delegate of Brazil, if I understood him correctly I think he suggested that there should be some arrangement made for a percentage margin of preference rather than the difference between the actual rates. If my understanding is correct, the clear margin of preference has come to be understood to be the difference between the preferential rate and the Most-Favoured-Nation rate, by subtracting the one from the other, and that is the basis on which negotiations have been carried on at Geneva. So I fear it would be introducing an element of confusion if at this stage we were to introduce percentage rates as a means of introducing percentage margins of preference. No doubt the Drafting Committee can take into account this point so that it can be made clear in the drafting of paragraph 3 and in doing that they will no doubt take into account what has been said by the Delegate of Brazil.

Accordingly, I would name the following countries to constitute this Ad Hoc Drafting Sub-Committee to examine the new text for paragraph 3 of Article I: the representatives of Australia, Czechoslovakia, France, the United Kingdom and the United States. This Ad Hoc Drafting Sub-Committee should meet tomorrow morning at 10.30, should elect its own Chairman, and should submit a revised text of the paragraph as soon as possible.

The Delegate of the Lebanon.

M. Moussa MOBARAK (Lebanon) (Interpretation): Mr. Chairman, as Syria/Lebanon have preferences in force, I would wish if possible that a representative of the Customs Union of Syria and the Lebanon should sit on that Sub-Committee.

CHAIRMAN: We do not want the Drafting Sub-Committee to be too large, but I am sure the Committee would have no objection to a representative of Syria or the Lebanon being added to the Sub-Committee.

Is the composition of the Sub-Committee as I have read it out, with the addition of the Lebanon or Syria, approved?

Agreed.

We dealt yesterday with paragraphs 1 and 2 of Article II. We now come to paragraph 3 of Article II. In Document E/PC/T/189, Corrigendum 2, is given a revised text of paragraph 3 which was revised by the Secretariat in the light of the new text of Article 31 of the Charter. Are there any comments on paragraph 3?

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, I have two minor corrections. Eleven lines from the bottom of the new paragraph, after "stabilization arrangement" there should be a comma instead of a semi-colon; and two lines below that, in the phrase "agreement between countries", the word "the" should be inserted in front of "countries". Otherwise I have no observations.

CHAIRMAN: I take it that there is no objection to the small drafting amendments just proposed by Mr. Shackle.

The Delegate of Czechoslovakia.

Dr. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, I would like to state first that this paragraph 3 of Article II goes further than the Charter itself and that is why we would suggest deletion of the whole paragraph 3, for the following reasons:

It is meant only for the cases where the country negotiates with another country tariff concessions. At that moment there is no state monopoly. Now, after a certain time, two years, or three years, or God knows when, the Government of that country - you never know with Governments - decides to introduce a monopoly for the

respective commodities. Then, if this monopoly is introduced and nothing happens as to the functioning of the monopoly in relation to foreign countries, there is no reason for having here some special provision. Or the country finds it has to introduce the monopoly for some serious reasons; I suppose that these serious reasons may be connected with a political crisis, because no doubt no country would like to introduce a monopoly just for the pleasure of having monopolies, but it is to follow certain politics. In that case I think it would mean that the country receiving the concession was somehow frustrated of the contemplated concession, and in this case the country could come and claim, as provided in paragraph 4, that it is not receiving from the other country the concessions as it understood at the moment of negotiations. In this case both countries would have to sit round the table and discuss anew, and if there is really a frustration, then there should be some compensatory adjustment of the matter. As it stands here it means that we are binding in future any internal price policies of a country.

Then there are some minor difficulties, for instance, that if the monopoly would buy commodities from different sources, and selling to one single price, it would be, as I understand, contrary to these provisions. So if, for instance, a monopoly should buy some commodity today and the price was 100, then in two months this goes up to 200, in this case the monopoly would not be allowed to raise the price to 200, which any merchant can do and is regularly, unfortunately, doing.

Then there is no provision, as there is in the Charter, for other kinds of agreements, but only the price arrangements.

I had the honour to state once, I think in Sub-Committee, that in countries with planned economies the prices have an entirely different function from in countries with free trade; they are a

a part of the whole economic and social structure of that country; and I am afraid the Czechoslovakian Delegation would be unable to agree to the provisions of this paragraph 3 of Article II.

CHAIRMAN: The Delegate of the United States.

Mr. John W. EVANS (United States): Mr. Chairman, I have a feeling that Dr. Augenthaler has put the worst light on the possible difficulties that might arise in the application of this Article. I wonder if he has given special consideration to other provisions which I think would permit the hypothetical country he described to operate its emergency price stabilisation scheme without interference from this Article, if an emergency should arise of the kind he has described. I should like to call attention to the wording which appears on page 23 of document E/PCT/189, paragraph 3 of Article X, which now reads:

"Throughout Articles X, XI, XII, and XIII the terms 'import restrictions' or 'export restrictions' include restrictions made effective through state-trading operations".

Now I submit that one of the purposes for that wording in the original Charter and also in this document was to permit a country which operated its foreign trade through a state-trading organization to use all of the devices which are permitted to countries not using state-trading enterprises under the various exceptions to the Quantitative Restrictions Order. I have a feeling that the study of that will show that the difficulties are not nearly so serious as Dr. Augenthaler has suggested.

Now, without further comment on the merits of the point, I do want to take issue with Dr. Augenthaler's statement that this Article as nowdrafted goes further than the wording of the Charter. I was prepared to ask for the floor to complain that it does not go quite as far: and that, I think, is true in two particular respects.

The first has probably already been noticed by most members of the Committee. In the first line of the draft the qualification appears "after the day of signature of this Agreement"; in other words the Article applies only to a monopoly which was established after the Agreement, even though an existing monopoly might subsequently take actions which would in effect nullify the value of the tariff concession negotiated. Now that wording was clearly avoided in the Draft Charter itself and I think it should be avoided here. I should like to propose the deletion of the words "after the day of signature of this Agreement".

The second respect in which this Article does not go as far as Article 30* of the Charter is that Article 30* of the Charter provides rules covering the case of protective margins through the operation of a state-trading monopoly where no rate has been negotiated. In other words, Article 30* in the Charter has a provision which is comparable to at least the implied obligation elsewhere in the Charter that tariff rates must be published, must be known and made public. That provision then relates the operation of the state-trading monopoly to the provisions elsewhere in the Charter, by requiring that the degree of protection afforded shall not exceed the degree of protection in the declared import duty.

Now we have considered suggesting that this Article be revised so as to parallel the Article of the Charter in that respect, but I am not sure that it is necessary in this document and we are not disposed to press that point: but we do consider it very important to make the first correction which I have suggested.

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* Corrected to Article 31 in following speech (see next page)

Mr. John W. EVANS (United States) (after interpretation): I should like to make two corrections in my own remarks. The first one is a very minor one: I referred to "Article 30", when I should have referred to Article 31. The other correction is much more substantive. I had not noticed - Mr. Shackle has kindly pointed it out to me - that the wording which appeared in document T/189 was changed in the second line and the word "maintains" was inserted. I think that that takes care of my point and would make unnecessary the deletion of the words "after the day of signature of this Agreement", though I am not quite clear what is accomplished by the words "the day after the signature of this Agreement".

CHAIRMAN: The Delegate of Norway.

Mr. J. MELANDER (Norway): Mr. Chairman, I must admit that when the Norwegian Delegation first considered the original draft of the Tariff Negotiations Working Party, we did not discover more than two points on which we would like amendments to paragraph 3; but we have studied this paragraph further, and we feel grave doubts as to the advisability of having it included in Article II at all.

The reasons are, to a certain extent, the same as those explained by the Delegate of Czechoslovakia; but there are also other reasons. I think the easiest starting-point to explain our position is this: Article 31 of the Charter says: "If any Member establishes, maintains or authorizes....a monopoly.... such Member shall....negotiate...with the object of achieving:" and then states in 31(b): " in the case of an import monopoly, arrangements designed to limit or reduce any protection...".

Then in paragraph 2 of Article 31, it is said: "In order to satisfy the requirements of sub-paragraph 1(b) of this Article, the Member maintaining a monopoly shall negotiate (a) for the establishment of the maximum import duty...." or "(b) for any other mutually satisfactory arrangement...".

Now, the paragraph here really goes farther than that. The paragraph should, in our view, only refer to the negotiations which have taken place now between Member countries having monopolies in existence, and countries which are interested in having either a price margin fixed or any other mutually satisfactory arrangement. But if a monopoly has not been established and is, in fact, not functioning now in one particular country - for example, Norway, then, of course, we have not conducted our negotiations here on the assumption that if we in future establish an import monopoly the maximum duty which we might have fixed on a particular commodity is fixed once and for all, and that consequently we will not be able to alter that.

We have only negotiated on the assumption that insofar as we have monopolies now -for example, wheat or grain monopoly, those margins which the monopoly set out to use on the sale of wheat and other grain, are bound by Agreements reached during the tariff negotiations we have conducted here. But if we introduce this paragraph here, one goes much farther than that. One does, in fact, limit to a certain extent -perhaps to a very large extent- the freedom of action of a Member country, if in future it decides to establish a monopoly.

If a country establishes a monopoly in future, then Article 31 says that in that case that Member is under an obligation to negotiate with the object either of fixing a maximum import duty or else making any other mutually satisfactory arrangement.

Now, if we maintain this paragraph 3 in the present form, it also has two other disadvantages as far as we can see. Firstly, paragraph 6 of Article 31, which refers to the point that "due regard shall be had for the fact that some monopolies are established and operated mainly for social, cultural, humanitarian or revenue purposes" is not included at all. Secondly, this paragraph 3, as it is drafted, does not include paragraph 2(b) of Article 31, concerning the possibility of arranging other mutually satisfactory arrangements. It refers only to a price margin.

Consequently, we feel that the whole paragraph is very doubtful indeed, and the result is that the General Agreement as it is now does not include even in Part II the full text of Article 31, because Article 31 in the Charter is not included in Part II - we have only taken out part of Article 31 and included it in paragraph 3 of Article II. Our proposal would be that we delete paragraph 3 of Article II and include the whole of Article 31 in Part II, together, of course, with Article 30 of the Charter, which is already included in Part II of the General Agreement.

M. ROYER (France) (Interpretation): Mr. Chairman, the text of the General Agreement which we first had provided for certain guarantees in view of the possible establishment of certain monopolies. The fact that some monopolies could be established should not allow certain countries to increase the margin of protection of their industries. Nevertheless, we have been struck by the arguments which have been put forward by the Czechoslovak and Norwegian Delegates. Their arguments tend to point out that there is a difference between the countries which will now adhere to the Agreement and countries which might adhere in the future, because the countries which might adhere to the Agreement in the future will have time to set up new monopolies for adhering to the Agreement. Therefore, they will reserve their right to negotiate with the country the margin of protection before joining in the Agreement. But the countries which now adhere to the Agreement will be deprived of that right.

Therefore, we do not think that we should include in Part II only a part of Article 31, but the whole of Article 31. We could insert it in a more concise form stating, in so many words, that in the case of the establishment of monopolies, at the request of interested countries, a substantial amount of trade negotiation will take place under the rules set forth in Article 31.

Now, the second idea which I am coming to is that we do not think that it would be necessary to specify a definite obligation for existing monopolies. We have no objection to the principle, but it would be difficult for us to accept this principle now owing to certain difficulties which exist in our case. But, going further, I wonder if there is any need at all to specify special rules for existing monopolies, because we can have either of the

cases if the commitments have already been taken by the Delegations in the name of existing monopolies - and it is possible that these commitments will differ from the commitments specified in paragraph 3. As the Norwegian Delegate quite rightly pointed out, for instance, the commitments will be not to impose maximum import duty, but the quota of the global purchase made by the monopoly will be such in specified cases. Therefore, if we also added to this the rules of paragraph 3, this would duplicate in a way the commitments undertaken by the monopolies.

There is another difficulty regarding fiscal monopolies. Although I do not agree with the form in which the question of fiscal monopolies is couched in paragraph 6 of Article 31, nevertheless, I think that this paragraph ought to be inserted. I will not stress this point now, but I would like to state that there are three elements to calculate the prices here, and I think that the text which we have before us does not make this idea very clear, and there is something rather doubtful in the conclusion to which one can come.

The elements to calculate the prices are the c.a.f. price, the maximum rate of import duty and such charges as transport or internal taxation. If, for the first, we take a price of a hundred, for example, and if we add to this the maximum rate of import duty, that is, forty, we should have a price of 140, but I wonder if, under paragraph 3, it would not be possible to add also transport fees and internal taxes and other such charges, thus arriving at the price of 200. I think that the Committee will agree on the second solution, that is to say, to have a price of a hundred only plus forty, but this seems to me rather doubtful if we

look at the terms of paragraph 3.

Now, as regards the question of customs duties, in the case of fiscal monopolies, in many cases the customs duties do not amount to much, but if the text here were to be adopted then in certain cases one would have to increase the rate of customs duties on such items or to establish a special internal tax before the sale of such goods.

To summarise what I have just said, Mr. Chairman, I adhere to the proposal which was made by the Norwegian Delegate and I think it would be better not to discuss at all the existing monopolies here and to insert, as I have stated, Article 31 as a whole and, in the case of new monopolies being created, to mention the obligation which the country would have to undertake to negotiate in the case of the establishment of new monopolies.

CHAIRMAN: The Delegate of the United Kingdom.

MR. R.J. SHACKLE (United Kingdom): Mr. Chairman, I cannot help thinking that this Article is not intended to lay down all the rules which will govern state trading monopolies. Its function is to attach certain results which have already come out of the negotiations. In paragraph 1, it attaches the results of the Tariff negotiations and the tariff schedules.

This paragraph 3 is meant simply to attach in the same way the results that will have already come out of the negotiations where state trading monopolies are involved. That is the whole purpose of this paragraph, and it follows from that, I think, that all we have to do is to make sure that those cases where arrangements, whether they be maximum import duties or other arrangements, have

been negotiated here are duly picked up and attached. That seems to me to limit very much the scope of what we have to do, and I think that the criticisms made by Dr. Augenthaler, for example, are largely not criticisms of this Article but of Article 31 of the Charter, which does not allow for sufficient stabilization policy. I would be prepared to argue that, but I think that this is not the place to do so, because that is not the purpose of this Article.

I think there is perhaps one type of case and only one which is not conditionally covered here, that is, the case where a monopoly is set up after the Agreement has come into force and import duty has been negotiated already, but there may be some reason why it would not be appropriate for that particular monopoly to just pick up the import duty and apply it in the way in which this paragraph indicates. It would be very rare, but there might conceivably be such cases, and I think it may be necessary to make some additional paragraph to cover the case where the nature of the new monopoly is such that it is inappropriate to pick up the import duty already negotiated. We may need to make some provision whereby there should be some new negotiation so that an arrangement of a different type can be made in the place of the import duty previously operating. My impression is that that is the sole case we need to provide for which is not covered here.

As regards the special provisions which occur in Article 31 for fiscal and other monopolies, that, as I conceive it, is a rule that due regard is to be paid to the nature of those monopolies when they are negotiating with them. It is not a question of what you do afterwards. As I have said before, all we are here to do is simply to pick up and attach the results of the negotiations that have taken place.

I am inclined to think, as regards the question of procedure, that this is probably another case for a small working group which would have to be employed to deal with it. My impression is that the area of necessary change is quite small. Thank you.

MR. J.P.D. JOHNSEN (New Zealand): Mr. Chairman, I think we would all agree with the Delegate of the United Kingdom that this Article is intended to cover the cases where a rate has already been negotiated, and then it might subsequently be brought within a monopoly. In other words, it is a matter of attaching cases of that nature.

I think that what we have to consider, however, is whether it is necessary to make any special provisions such as this, having regard to the other provisions in the Agreement to safeguard a Member's interests, and also whether this particular provision imposes conditions on a Member more onerous than those provided for in the Charter. On listening to the very lucid explanation given by the Delegate for Norway, one comes to the conclusion that this particular paragraph is rather more onerous than the provisions of the Charter. For instance, in paragraph 2 of Article 31 there is the provision for a monopoly to negotiate for maximum import duties, and also, where such negotiations are not possible on the basis of duty, then they could make some other satisfactory arrangement, but there does not appear to be any provision in this paragraph to cover such a situation.

I do not think that it was contemplated that we should put into the Agreement more onerous conditions than those provided for in the Charter. Paragraph 4 of Article 2 in the Agreement provides, as the Delegate for Czechoslovakia mentioned, that if any contracting party considers that a product is not receiving from another contracting party the treatment which the first contracting party believes to be contemplated by a concession, they can take up the matter with a view to coming to some arrangement.

Apart from that, of course, there is always the opportunity for consultation on such matters.

It seems to me that the suggestion which has been made by the Delegate of Norway, and supported by the Delegate of France, is quite a reasonable one in the circumstances; that is, that the whole of Article 31 be inserted in Part II of the Charter. I would be inclined to agree with that suggestion.

CHAIRMAN: The Delegate of the United States.

Mr. John W. EVANS (United States): Mr. Chairman, I am not convinced that this Article is more onerous than Article 31 of the Charter. My Delegation would have no objection at all to taking up Article 31 of the Charter verbatim, except our desire to see a chronological document. It just does not seem to us any more appropriate to pick up the entire text of Article 31 than the entire text of, let us say, Article 17.

In spite of that, I do feel there are improvements that could be made in this Article; there are changes which could be made to make it very clear that it is not intended to be more onerous than the terms of Article 31. For that reason, I should like to agree with Mr. Shackle on his proposal.

I do want to make one more specific comment. Paragraph 4 of Article II has been referred to by the Delegate of New Zealand as perhaps making unnecesary Article III. I do not think it would take care of the case for two reasons. In the first place, as I understand Paragraph 4, it was written in contemplation of changes in tariff nomenclature - problems having to do with the interpretation of a very specific agreement that has been reached and not to do with the nullification by an unrelated action of a

tariff concession that has been negotiated. I do not think it is worded in such a way as to take care of the former. I think a more specific wording is required than the general language of Paragraph 4.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R. J. SHACKLE (United Kingdom): Mr. Chairman, may I make one small suggestion about the Working Group. It seems to me it is desirable to have rather limited terms of reference for it, in order to avoid straying into other fields. I would suggest that these terms of reference should be to devise a means of attaching the results of negotiations to State-trading monopolies corresponding to the provisions attaching to the results of tariff negotiations. That, it seems to me, is the whole job of the Working Group, and they should go no farther than that.

CHAIRMAN: It is clear to the Chair that there is a difference of opinion in the Committee on this particular paragraph of Article II. Therefore I think the suggestion made by Mr. Shackle, and seconded by the United States Delegate - and also approved by other Delegations - that an ad hoc Working Group be set up to study this question, is the most sensible one if we are to make progress.

Mr. Shackle has proposed that the terms of reference of this ad hoc Working Party should be confined to the following: to devise a means of incorporating the results of the negotiations pursuant to Article 31 of the Charter.

The Delegate of Syria.

M. Hassan JABBARA (Syria) (Interpretation): Mr. Chairman, as far as we are concerned, we see no objection to adopting either Article 31 or the draft which appears in Corrigendum 2, or the initial draft which was presented to us, but there is something which I do not see. When a State establishes a monopoly it is not for the sole pleasure of establishing such monopoly but to raise taxes, and these taxes are essentially internal taxes. Therefore, if a monopolized item appears on the Schedules, and if the duty pertaining to such item has been frozen, then no higher duty will be perceived on such monopolized item. Nevertheless, this will not prevent the Government from raising an internal tax on such item once it is imported. This is in accordance with its needs and the needs of the moment.

If the Article which we are adopting here does not prevent this possibility for an interested Government, we have no objection to adopting one or other of the drafts which are now before us.

CHAIRMAN: The Delegate of the United States.

Mr. EVANS (United States): Mr. Chairman, if I may answer that question, I think the draft of Article 31, and also of the Article under discussion, fully takes care of that point, because among the expenses which you are permitted to use in determining the differential between the import price and the retail price are taxes.

May I make one other comment on Mr. Shackle's suggestion for limiting the terms of reference of the ad hoc sub-committee. I think such a limitation is desirable. I think it is essential that we should not stray off into the fields which were explored at great length in the sub-committee which discussed Article I.

But I do not think Mr. Shackle's proposed terms of reference quite cover all the necessary cases. From their inception, the State-trading Articles have included not only provisions for the negotiation of the margin of preference afforded by State-trading monopolies but also provisions for protecting the tariff concessions which may have been negotiated against nullification through the creation of a subsequent State-trading monopoly and the erection by that State-trading monopoly of other tariff barriers.

Therefore I think Mr. Shackle's proposed terms of reference need to be expanded to include the provision of protection of negotiated tariffs which may have been negotiated, not with a country maintaining a State-trading monopoly at the time; that is, to cover the case where there was a negotiation of a tariff and the subsequent creation of a State-trading monopoly which erected barriers in addition to the tariff barriers on which the negotiations were based.

CHAIRMAN: Would the following text for the terms of reference cover the point which has just been raised by Mr. Evans: that the terms of reference of the ad hoc sub-committee should be "to devise a means of incorporating the results of

negotiations pursuant to Article 31 of the Charter and of protecting negotiated tariff concessions from the effects of the creation of a State-trading monopoly"?

The Delegate of Czechoslovakia.

H.E. Mr. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, I have no objection against these terms of reference, but I would like to have added something to them; that is, that the protection of those concessions should be in no way greater than it is in cases of nullification of the effects of tariff concessions by measures like changing the method of determining the value, and other measures of this kind. I do not see why the State-trading monopolies should be treated in a different way than nullification of tariff concessions by other means, such as internal taxation, and I do not know what other measures.

Mr. R. J. SHACKLE (United Kingdom): Mr. Chairman, I should just like to say that I should be very glad to accept Dr. Augenthaler's addition to the terms of reference. I agree with him completely. I wonder whether it would not be covered if we made the last part of the terms of reference read like this: - We start off by saying:

"To devise a means of incorporating the results of negotiations pursuant to Article 31 of the Charter ...."

and go on like this: -

"... and of providing for cases where tariff concessions already negotiated are liable to be affected by the establishment of a state-trading monopoly."

I think that would cover the point.

CHAIRMAN: Does that meet the point that was mentioned by Dr. Augenthaler?

Dr. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, I am afraid not.

CHAIRMAN: I would like to direct the attention of Dr. Augenthaler to paragraph 2 of Article II, which does deal with determining dutiable value. Then we have Article III which deals with national treatment on internal taxation and regulation, and we have Article VI which deals with valuation for customs purposes. So it can be seen that these points are covered, if not in Article II, then in other Articles of the Agreement.

Dr. Augenthaler.

Dr. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, I want only to make one point: that is whether we need at all this

point 3 here.

CHAIRMAN: I wonder if we could not leave it to the Working Group to make these terms of reference to cover that point; and if they think it not necessary to cover it, that should be sufficient.

Mr. R. J. SHACKLE (United Kingdom): Mr. Chairman, so far as the terms of reference are concerned, surely the words I have suggested are most studiedly neutral. I say "... providing for cases..." Would Dr. Augenthaler say there is no need to make any provision for a case where a tariff concession has led to a binding and then a state-trading monopoly is set up? Is there no need to make any provision for that case at all? I should think that there is. I have not prejudged what the effect would be. I have merely said "liable to be affected". I should have thought the wording I suggested was so colourless and so neutral that it was bound to be all right.

CHAIRMAN: The proposal is to set up an Ad Hoc Working Group with the following terms of reference: -

> "To devise means of incorporating the result of negotiations pursuant to Article 31 of the Charter and of providing for cases where tariff concessions already negotiated are liable to be affected by the creation of a state-trading monopoly."

Is that agreed?

Approved.

I would like to name the following delegations to constitute the Ad Hoc Working Group: Canada, Czechoslovakia, France, Norway, United Kingdom and the United States.

This Working Group will meet tomorrow at 10.30 and will

elect its own Chairman, and will make its report to the Committee as soon as possible.

Is that agreed?

Approved.

I would now like to call the attention of the Committee to a proposal of the Norwegian Delegation on page 2 of document E/PC/T/W/312. The Norwegian Delegation proposes that the following sentence should be added to the end of that paragraph, paragraph 3: -

"Due regard shall be had to the fact that some monopolies are established and operated mainly for social, cultural, humanitarian or revenue purposes."

Would it be sufficient to leave this to the Working Group to deal with this amendment, or would any member of the Committee like to comment upon this proposal?

The Delegate of Norway.

Mr. J. MELANDER (Norway): Mr. Chairman, I would be quite content to leave that to the Working Group.

CHAIRMAN: Is that agreed?

We can now leave paragraph 3 and pass on to paragraph 4. The only comment we have on paragraph 4 is given on page 2 of document E/PC/T/W/312: -

"The Norwegian Delegation questions whether this paragraph should not contain a provision to the effect that the contracting parties should, as soon as possible, bring their legislation into line with the obligations undertaken."

The Delegate of Norway.

Mr. J. MELANDER (Norway): Mr. Chairman, we do not feel very strongly on this point at all. The reason we have raised it is that we feel that if a Treaty has been concluded and accepted by the parties, surely the principle ought to be that they shall have to bring their legislation into conformity with that Treaty. The solution here is rather the opposite - namely, to amend the Treaty, adjust the concessions.

We do not feel very strongly about it, as I say, and the reason we have raised the point is that we would like to know what reasons there are for suggesting this particular proposal.

CHAIRMAN: Mr. Brown.

Mr. Winthrop BROWN (U.S.A.): Mr. Chairman, this provision is intended to take care of the occasional case which crops up that, after the Trade Agreement has been entered into, there is a judicial decision that the classification which the parties negotiating the Agreement applied to a particular article did not in fact apply to it, and that they were wrong in the assumption on which they entered into the Agreement. It was felt only proper that in that case, if one of the contracting parties found that, although the matter had been negotiated in good faith, he did not in fact get what he thought he was getting, he should be entitled to make the corresponding adjustment in what he gave. The situation usually arises in the case of one item, at infrequent intervals, and it is then very difficult for the country where such a decision takes place to correct the matter legislatively, because it would often have the effect that the whole question of the operation of the tariff rates affecting

the Agreement would be thrown into the legislature and a great deal more difficulty and inconvenience would ensue than by correcting it in this manner. I think that was the reason for making this provision.

CHAIRMAN: Does that explanation meet the point raised by the Norwegian Delegate?

Mr. J. MELANDER (Norway): Yes, Mr. Chairman.

CHAIRMAN: Are there any other comments on paragraph 4?

Then I take it that paragraph 4 is approved.

It is now six o'clock and therefore too late for us to take up Part II, so we will now adjourn, and meet tomorrow at 2.30 p.m. in the same room.

The meeting is adjourned.

(The Meeting rose, 6 p.m.)