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

VERBATIM REPORT.

TENTH MEETING OF THE TARIFF AGREEMENT COMMITTEE HELD ON THURSDAY, 4 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.

We shall resume the discussion on the General Agreement. We have concluded our discussion on Part I of the Agreement and we now come to Part II.

As I mentioned at the opening of the meeting on Monday, the discussion on Part II will relate to whether any particular Article now given in the text as suggested by the Tariff Negotiations Working Party should or should not be included in Part II. The same could apply to any particular paragraph of any of the Articles included in Part II; but it would not be in order to submit any amendments of substance to the text of these Articles, because the basis on which the Tariff Negotiations Working Party drew up Part II was that the Articles will be taken with the corresponding Articles of the Charter.

There is also a more practical reason for that ruling, in that we have only got a short time in which to conclude our work, and if we were to permit, at this stage, the re-opening of any Articles which have been the subject of prolonged discussion in the Preparatory Committee, we would never be able to terminate our work in time.

The first Article in Part II is Article III, National Treatment on Internal Taxation and Regulation. Are there any comments with regard to this Article?

The Delegate of Australia.

Dr. H.C. COOMBS (Australia): Mr. Chairman, as I stated when we discussed this question generally, it seems to me that the onus of proving whether an Article should go into the General Agreement should lie with those who want it, and we do feel that there is a certain amount of difficulty about this

Article.

This Article in the Charter had two purposes, as I understand it. The first purpose was to protect the items in the Schedule or any other Schedule concluded as a result of any subsequent negotiations and agreements -that is, to ensure that a country offering a tariff concession could not nullify that tariff concession by imposing an internal tax on the commodity, which had an equivalent effect. If that were the sole purpose and content of this Article, there could really be no objection to its inclusion in the General Agreement. But the Article in the Charter had an additional purpose. That purpose was to prevent the use of internal taxes as a system of protection. It was part of a series of Articles designed to concentrate national protective measures into the forms permitted under the Charter, i.e. subsidies and tariffs, and since we have taken over this Article from the Charter, we are, by including the Article, doing two things: so far as the countries become parties to the Agreement, we are, first of all, ensuring that the tariff concessions they grant one another cannot be nullified by the imposition of corresponding internal taxes; but we are also ensuring that those countries which become parties to the Agreement undertake not to use internal taxes as a system of protection.

Now, for my Delegation, we have no objection to accepting that general idea that internal taxes should not be used for protective purposes; but in the same way as we expressed our attitude on Article 1, we believe that this is a general undertaking which should be accepted when the Charter comes into force.

Since our last meeting, Mr. Chairman, I have thought a good

deal about this question, because I did offer at an earlier meeting to withdraw any objections I had to these Articles if it could be shown that they were necessary for the protection of the tariff Schedules. I was a little worried by a point that was made by the Indian Delegation in which he suggested that if what we proposed in relation to Article 1 - and the same criticism would apply to Article III - were done, we would make a difference between those countries which were already members of a preferential system and those who were not.

Since that meeting, I have thought that over a good deal and I feel quite certain that that criticism is not a valid one. There is, however, a distinction involved between groups of countries as a result of these Articles and there is a distinction between those countries which accept the General Agreement before the Charter comes into force (that will include the key countries and any other countries which so accept it) and countries which do not. Now, countries which do not accept the General Agreement, if they are already members of a preferential system, will be free to increase those preferences. If they are not members of a preferential system, they will be free to establish preferential systems, if they wish to do so: they would be free to establish protection by internal taxation.

Now, it is true that when the Charter comes into force any action which they had taken of that kind would become null and void, because the Charter clearly provides that only action taken before 10 April 1947 is valid, but there is that distinction, and I suggest that it is quite an important one, that those countries, which either accept because they are key countries or agree for other reasons to sign the Draft Agreement, are accepting here commitments in advance of the countries which do not sign the General Agreement but wait for the Charter to become operative.

You may well say that since they are willingly entering into the Agreement that difference is no more important than the fact that they are accepting tariff reductions when other countries who are not signing the General Agreement have themselves not yet accepted. But there is a difference - tariff reductions are part of the bargain, and it is fair to say that any part of the Tariff Agreement which is related to that bargain is properly included and properly acceptable by the countries which accept the General Agreement in advance.

Referring to this Article in particular, as I say, it has two purposes. The first is to protect the tariff reduction schedule, and the second is to preclude the use of internal taxes as a means of protection. The first is clearly related to tariff bargains so far concluded; the second is not related to tariff bargains, it is related to general policy on commercial matters adopted in the Charter. Therefore, we feel the same doubts about this Article as we did about Article I, that is, if it were confined to the commodities described in the schedules it would be unacceptable,

but insofar as it involves a commitment by countries participating in the General Agreement in advance of the Charter, to abstain without a general acceptance of the principle from the use of certain types of commercial policy measures, we believe it goes beyond what is a legitimate provision for a trade agreement.

CHAIRMAN: The Delegate for the United States.

MR. W. BROWN (United States): Mr. Chairman, I shall be brief. It has been suggested that this clause as now drafted goes beyond what is the legitimate content of a trade agreement. As far as internal taxes are concerned, it falls into precisely these terms covering the same subject matter as is in every trade agreement which the United States has.

I agree with Dr. Coombs' analysis of the two purposes of this clause, and we attach great importance to the achievement of both those purposes. We attach the greatest importance to the inclusion of this Article in the General Agreement. It is one of several Articles which we think are indispensable to an agreement which would be satisfactory from our point of view.

I would also like to add that we were very much impressed by what the Delegate for India said yesterday, and despite the very excellent speech of Dr. Coombs we still think that the Delegate of for India has a strong point.

CHAIRMAN: The Delegate of Australia.

Dr. COOMBS (Australia): Mr. Chairman, I would like to disagree with Mr. Brown. He said that this Article in this form - or substantially in this form - was a standard part of the Agreements which the United States have concluded.------

Mr. BROWN: The clause in question deals with taxes.

----- This is the relevant Article from an Agreement concluded between the United States and Mexico: "The Articles, produce, manufacture, of the United Mexican States, enumerated and described in the Schedules . . . shall, on their importation . . . be exempt from ordinary customs duties in excess of those set forth and provided for in the said schedules, subject to the conditions therein set out. The said articles shall also be exempt from all other duties, taxes, fees, charges or exactions imposed on or in connection with importation . . .", which clearly limits the other taxes to those specified.

Mr. BROWN (United States): I have not got the Agreement before me, but I would like to look at some of the other Articles in it.

CHAIRMAN: The Delegate of Norway.

Mr. J. MELANDER (Norway): Mr. Chairman, when we start to discuss these Articles included in Part II, I think it is right that one should try to make up one's mind right at the start as to the principles which should underlie the treatment we are giving to these Articles. I think then the basic principles

ought to be the following: we are now concluding a General Agreement on Tariffs and Trade; we have negotiated tariff reductions and bindings and we have more or less preliminarily agreed that certain essential clauses will have to be attached to or included in this General Agreement, so as not to make the tariff reductions and bindings worthless. That is the reason why we have included in Part I, in Article I, for example the Most-Favoured-Nation clause. That is the basis underlying Article II and that is - or, in our view, ought to be - the basis for inclusion of the Articles in Part II.

We feel that the basic principle ought to be, in so far as the tariff reductions and bindings which we have negotiated are concerned, that we must agree in principle to including safeguards to protect these particular items.

Consequently we agree fully with the principle set forth by the Delegate of Australia, that one has to split up this Article III into those two categories of cases: one dealing exactly with the items which are included in the tariff negotiations, and the other being a general part of commercial policy.

As regards the part relating to commercial policy, I do not agree with the statement of the Delegate of the United States, that this ought to be included as a normal part of a commercial treaty. We are not going to conclude a normal commercial treatyhere. We are concluding a Tariff and Trade Agreement, on the assumption that we shall get a Charter which will regulate the general commercial policy, and not only the commercial policy but the other aspects of our economic policy.

That is the reason why we feel that in this limited Agreement we should include those parts of the general Charter which are essential to safeguard the tariff reductions and bindings to which we have agreed, but nothing more.

CHAIRMAN: The Delegate of Australia.

Dr. COOMBS (Australia): Mr. Chairman, I would just like to make a correction. I was incorrect in stating that there was no provision of this sort in the Agreement which I quoted. The clause I quoted was not the relevant one. There is a clause fully corresponding to the one which we are discussing.

Mr. Winthrop G. BROWN (United States): I am greatly relieved.

Dr. COOMBS (Australia): That does not mean there ought to be one.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R.J.SHACKLE (United Kingdom): It is a fact also that there is a corresponding clause in the Agreement between the United States and the United Kingdom and, what is more, so far as internal taxes are concerned, there is a corresponding provision in every commercial treaty which the United Kingdom has made since at least the beginning of this century, with very few exceptions. It is, so far as we are concerned, an absolutely essential principle of treaty-making.

That is for the case of internal taxation. It is not the same with internal regulation; in this case we have an important difference, namely, that here we have the special provisions about quantitative restrictions. If there were no provision

corresponding to this as regards internal restrictions, one could apply quantitative restrictions internally.

As regards the Norwegian suggestion, that all this should be confined to what is strictly necessary to safeguard the tariff concessions, I would like to say that those tariff concessions have been negotiated on a general basis and do not affect only the products which were involved in the negotiations but the whole structure of trade. If those assumptions are invalidated, then the basis on which the tariff negotiations have been negotiated is also invalidated. That is all I have to say.

CHAIRMAN: The Delegate of Belgium.

M. Pierre FORTHOMME (Belgium) (Interpretation): Mr. Chairman, if I consider the discussion just taking place, it seems to me that we are now distorting the spirit with which we started our negotiations and the will which we had when we came here to reduce world trade barriers. It seems to me that we are now considering this Tariff Agreement which we want to draft as a simple Trade Agreement and that we are looking for precedents in former bilateral Trade Agreements which were concluded between countries and in which it is true there was a certain amount of "horse-dealing", with the result that every point was taken up and, after much bargaining, solved, but every point was solved one by one.

It seems to me that the Trade Agreement which we are now discussing had, anyhow in its origin, a quite different character: there were negotiations and bargainings and maybe, on certain Articles and certain items in discussion, a certain amount of "horse-dealing," but nevertheless these negotiations were taken up in the general framework of the will to reduce trade barriers and also not to increase world protectionism. It may not have been our intention to freeze completely the existing tariffs, but nevertheless we had the spirit to avoid an increase in the existing protectionism.

It seems to me that the idea would be to limit the abstention from increasing the tariffs, or the abstention from increasing the protection, only to those items which have been under negotiation and under discussion here. This is, to my mind, a mistake, because it seems that one is saying that we should limit the preferences and limit the imposition of internal taxes, and that this should only be done in the Charter. It was stated here that there would be differences in the groups: differences between those groups which would make these undertakings before signing the Charter, and the other groups which would only commit themselves after signing the Charter. But this, it seems to me, is not a

correct argument. In fact, the Agreement is and has to be a part of the Charter, if there is to be a Charter, and I think, if it is sound to make provisions for limitations in the Charter, then it is quite normal and sound to make the same limitations in the General Agreement.

The United Kingdom Delegate stated that the negotiations proceeded on the assumption that there would be a limitation of protectionism and this constituted the basis of all the negotiations, and I think the United Kingdom Delegate was right. And, if I consider this question from another point of view, if we were to abstain from increasing the tariffs and the internal taxes only on those articles which are under negotiation, then we would give a wrong interpretation and a wrong meaning to the General Agreement.

I think we are all here because we play an important part, if not a preponderant part, in world trade, and therefore we have a special responsibility to discharge as regards others in the world economy and if we undertake here certain commitments it is because we have to set the example to other nations. We must show that the very spirit of this Agreement for us is to undertake more than the others, before the others, and to encourage others to do the same.

CHAIRMAN: The Delegate of New Zealand.

Mr. J.P.D. JOHNSEN (New Zealand): Mr. Chairman, with respect to the remarks of the Delegate of the United Kingdom and also of the Delegate of Belgium, although it is true that the general aim of these negotiations is to avoid any general increase in tariffs - the whole object of them is of course to reduce tariffs and other barriers to trade - I do not think it is accepted that the use of increased tariffs is absolutely prohibited. If that were the case, of course, countries which at present have very low tariffs,

probably no tariffs at all on certain goods, would not be able to afford protection to developing industries.

The difficulty my Delegation has in connection with this particular Article is that, although the use of Tariffs is permitted in such cases, the use of other measures in place of tariffs and which should be permitted to be used legitimately in place of tariffs - because tariffs are not suitable to the purpose - is precluded. Those means cannot be employed.

Now I do not think that at this particular stage there is any necessity to make any commitment except in respect of articles negotiated under the Trade Agreement.

For that reason I feel very much along the same lines as the Delegate of Norway and, while I have no objection at all to the inclusion of paragraph 1 of Article III, I should prefer that the remaining sections of this particular Article should not be included since they are unnecessary at this stage to afford protection to negotiated articles.

CHAIRMAN: The Delegate of China.

H.E. Mr. WUNSZ KING (China): Mr. Chairman, I think this Article III is also a Chinese hobby; therefore I would like to say something about it, if not too much. You will recall that the Chinese Delegation has made at least two reservations in regard to this Article in the Charter. Now the Charter is still, as my Chilean colleague has put it, an unborn mother. Therefore I do not think that the child is entitled to a less favourable treatment from the hands of the Chinese Delegation.

As I understand, certain basic provisions are to be introduced into the Agreement in order to safeguard the tariff reductions and bindings, and that I think is very proper and very legitimate. But if we are to include basic provisions we should confine

ourselves to the inclusion of those provisions only; and I am not at all sure whether this Article and other Articles are really basic provisions in that sense. I have had the pleasure of pointing out on one occasion that only those stipulations or provisions which are absolutely essential for the purpose and which have the most direct bearing on the question of tariff reductions should be included and no others.

Now, if I remember correctly, Mr. Brown, the United States Delegate, on one occasion told us that the main idea that we should include in the Agreement some of those provisions is because, according to him, the way those provisions got into the Charter - I am quoting his words - in the first place is because they have been customary in Trade Agreements in the past. Now I have a very limited knowledge of Trade Agreements, but I heard with a good deal of interest the remarks of my United States and Australian colleagues in the matter of existing or former Trade Agreements and this leads me to refer myself to an Article in the Commercial Treaty between China and the United States - I hope Mr. Brown has a copy at hand. I might be permitted to read one Article, and this is Article VIII of the Commercial Treaty between China and the United States concluded on 4 November 1926. It reads:

> "Articles the growth, produce or manufacture of either High Contracting Party, imported into the territories of the other High Contracting Party, shall be accorded treatment with respect to all matters affecting internal taxation no less favourable than the treatment which is or may hereafter be accorded to like articles the growth, produce or manufacture of such other High Contracting Party".

Now this national treatment is limited to like products and no mention is made in this typical Commercial Treaty of competitive or substitutable products. Therefore it seems to me that it is

certainly not customary to extend this sort of treatment to competitive and substitutable products, and if there is any provisions to be included in our present Agreement for the purpose of safeguarding tariff concessions, the inclusion of the first sentence of the first paragraph should be sufficient to serve our present purpose.

Dr. Coombs is right in his analysis of this Article, if I understand him correctly. The purpose of this Article is twofold: (1) it is to protect tariff concessions and (2) it is to preclude the use of internal taxes as a means of protection. Now, what we are anxious about and what we are keen on is to include certain provisions which have for their purpose the safeguarding and protection of tariff concessions, and I think for this purpose the inclusion of the first sentence of the first paragraph should be sufficient.

I am also interested in what our Belgian colleague has said. If I understand him correctly he says that any General Agreement is to be and has to be part of the Charter, and I think he is quite right in saying that, and I should add that his argument would be very valid if we had already a Charter which was finally adopted and then we had to conclude an Agreement as a part of the Charter; but unfortunately this is not the case. I would like to repeat: the Charter according to our Chilean colleague is an unborn mother. Now we are trying to baptise the child before the birth of its mother. And such being the case I really wonder whether the argument put forward by the Belgian Delegate is altogether valid.

It seems to me that the situation is this: that certain delegations would like to see the Article as a whole deleted altogether, and certain others would like to have the textual reproduction of the whole Article. Now, as Chinese people are always full of the spirit of compromise, I certainly am no

exception to it, and therefore I would like to suggest as that compromise, and faithful to the doctrine of the Golden Mean, that we might, if it is agreeable to the Committee as a whole, include in this Agreement the first sentence of the first paragraph, and the second paragraph - I mean the whole paragraph which seems to include a South African hobby too. I mean to say that the whole second paragraph should also be included. But all the rest should be left to its fate.

CHAIRMAN: The Delegate of Belgium.

M. Pierre FORTHOMME (Belgium): Mr. Chairman, I very much fear that the gynaecological simile which has become a favourite of this Committee is somewhat misleading. It appears to me that the Charter and the Agreement are not to be the fruit of the loins of Man, but, let us hope, of his reason, and that therefore there is no question of the one giving birth to the other, or the one making the other one suffer the consequences of illegitimate birth.

It seems to me that the Agreement is, more exactly, a stage and a preparation, setting the scene upon which it will be possible to build a workable Charter, and that therefore we cannot object to the inclusion of certain things in the Agreement because the Charter is unborn. We may believe that the provisions put into the Agreement now will have to be changed when the Charter acquires ultimate form, but meanwhile I do not think that we can do any better than reason on the Charter as it is here, and include the provisions of the Charter as they are here, in order to fulfil the purposes we are seeking here, which is the protection of the concessions we have negotiated here.

CHAIRMAN: The Delegate of Norway.

Mr. J. MELANDER (Norway): Mr. Chairman, it seems as if the discussion is more or less developing into the same sort of discussion as we have had previously, and I think perhaps it may be permissible to make some more general remarks about the basis on which we have been negotiating here.

We have not been negotiating the tariffs on the assumption that we shall have a Charter with the exact texts of the Geneva

Charter. We have been negotiating on the assumption that we shall get a Charter on those lines, and a Charter including all the main Chapters, and - perhaps this is the most important - that we shall get a Charter which will obtain almost universal acceptance, so that the universality of the Charter of the I.T.O. is, in our view, just as important, if not more important, than the exact texts.

We have, in other words, negotiated these tariff reductions and bindings on the assumption that they will be part of the structure of foreign economic policy which will come into force, we hope, in the course of next year. Consequently, we have always been of the opinion that the right solution would be to incorporate none of the provisions from such a general Charter in an Agreement of this kind dealing with tariff reductions and bindings.

On the other hand, I must say that we have accepted and we acknowledge the points which have been made by some Delegations, namely, that if we conclude a limited Agreement dealing with tariff binding and reductions, it is only fair that these items shall be safeguarded against contravention. For that reason, we do not see any objection, in principle, to including those parts of the future general Charter which are considered essential by the majority of the parties here represented, but limited to the items which we have negotiated.

That does not mean that we in any way support any policy of restricting world trade - on the contrary, we have more interest in the expansion of world trade than most other countries represented here, I think with the only exception of New Zealand. We certainly hope that we shall get a universally acceptable Charter and that the tariff negotiations here will be just one

minor aspect of the whole structure. That is the basic principle on which we are acting, and that is the reason why I have accepted the principle suggested by the Delegate of Australia in this particular respect.

Now, with regard to some points of detail referred to by the Delegate of China and the Delegate of New Zealand - I will take first the suggestion of the Delegate of China that paragraph 2 of Article III should be incorporated whilst the other paragraphs 3, 4 and 5 would not be incorporated.

H.E. Mr. Wunsz KING (China): And also the first sentence of paragraph 1.

Mr. J. MELANDER (Norway): Yes. I think that our view would be that in that case we should introduce a measure or a clause which would be more strict than the Charter as it now stands, because paragraph 2 of Article III must be read in the light of the exceptions and the principles laid down in paragraphs 3, 4 and 5, and the same applies to the first sentence of paragraph 1 also. Consequently we feel that if we are going to have a general rule at all (which, as I said, we do not think is right) then, in any case, we feel that we should include all the exceptions to the general rule.

As regards the point raised by the Delegate of China in regard to paragraph 1, we would have no objection to deleting the second sentence and maintaining the first if we are going to have a general rule at all, but we do not think that is right, I repeat, and the same applies to the point made by the Delegate of New Zealand. If one is having paragraph 1, one ought to have at least paragraph 5; but that is only on the assumption that one is having general rules, and, as I say, we think it is right to split it up so that you have a division on the lines suggested by the Delegate of Australia.

CHAIRMAN: It would seem as if the well intentioned efforts of the Delegate of China to propose a compromise solution have not proved very successful. I therefore take it that the Chinese and New Zealand Delegates will not be desirous of pursuing their suggestion. We are therefore confronted with the maintenance of the Article as it is and the other school of thought, which is represented by Dr. Coombs and Mr. Melander, who have suggested that the Article be confined to protecting the effect of tariff concessions.

The Delegate for Cuba.

DR. G. GUTIERREZ (Cuba): I am very sorry, Mr. Chairman, that I am not going to bring any light into this discussion, but only express a fear.

We have followed with great curiosity all the discussion and bright thoughts which we have heard this afternoon and in the preceeding afternoons - With the same curiosity that we would have watched a group of wise men trying to solve the problem of squaring the circle or the great physical problem of perpetual motion. We are now trying to furnish a house that has not been built. We have learnt through experience in my country that you cannot put the carriage before the horse, and that is exactly what the world of experts is doing in Geneva - they are putting the carriage before the horse, that is to say, the Agreement before the Charter.

I confess that I do not know how that can be done, and that is why I do not intervene in the discussion of the wise people who are doing such things.

Several days ago we dared to submit a proposal to this Committee, when the whole of the Committee wanted to sign the Agreement on the

30th September and not one day afterwards, which was impossible, that the best thing would be to take from the Agreement all the Articles related to the Charter and wait until the last day of the World Trade Conference and then sign the Agreement with a reference to the Charter, already approved as a whole. I was so unanimously defeated that I did not insist. I only knew through the papers distributed afterwards that, also unanimously, the Committee had been wise enough to leave the date of signature open until the 28th February 1948.

If that is so, why are we going over again the same problems which we have gone over for five months in relation to every one of the Articles that we are putting into the Agreement. Is it that there is a fear that there is going to be no International Organization of Commerce? If that is the fear - and we in our Delegation are beginning to have that fear that there is not going to be an International Organization of Commerce or a Draft - then these Articles would be of very little use to us because they unbalance absolutely the whole of the discussion that we have had here for five months.

Besides that, I think - if it has not been changed - that our date dead-line for the discussion of the Articles of the Agreement is September 12th. We are still on Article III and this little document has 33 Articles. According to the progress that we are making, we are covering one Article a day so that I think we shall still be discussing in October. That is why I do not even wish to bring any suggestions into the discussion, but I will sit here and say "No" every time anybody wants to make a change in the text, or, in cases where you want to minimise the text and cut it, I will say "Yes". That is all, Mr. Chairman.

CHAIRMAN: The Delegate for China.

H.E. Dr. WUNSZ KING (China): Mr. Chairman, I think you will allow me to say that I am rather distressed to hear that the efforts which have been made by the Delegate for New Zealand and by myself are said to be unsuccessful. While I certainly bow to your ruling, I do not share your pessimism. I do not know how the Delegate for New Zealand feels, but for my part I do think that, inasmuch as we are being confronted with difficulties from day to day, any compromise solution should be welcome, and in view of the considerable support given by the Delegate for Norway, and in view of the lack of opposition from any other part of the floor, I am inclined to think that my efforts, as well as the efforts of the Delegate for New Zealand, are quite successful.

CHAIRMAN: The Delegate for New Zealand.

MR. J.P.D. JOHNSEN (New Zealand): Mr. Chairman, I agree with the Delegate of China that it is a reasonable deduction, that, in view of the lack of opposition, there must be some support of the proposal that was put up.

However, I would like to have defined, if I might, the actual proposition that was put up by the Delegate of Australia to which you referred. What was proposed in that connection?

DR. H.C. COOMBS (Australia): Mr. Chairman, the proposal which I put forward - at least, the argument which I put forward and which would have led to a proposal - was to introduce after the words "the products of any contracting party", in the first and second paragraphs of this Article, the words "being products described in

the schedules". That would give effect to the limitation of this Article in the way in which I described. Unfortunately, however, our Chairman has ruled that we cannot put forward amendments. Therefore, if that ruling is inflexible, we are faced with the alternative of taking the Article as it stands or of opposing its inclusion altogether.

I would like to add, Mr. Chairman, that, while I agree fully with your interpretation of the situation that it would be unwise for us to embark upon a reconsideration of the content of these Articles, I feel that a proposal that does not alter the content but limits the area of application is in a different category from one which proposes a change in content. We are not objecting to the intention of this Article, but merely put forward the view that, for the purposes of the General Agreement, the area of its applicability should be different. I am not sure whether, in that sense, you regard our proposal as acceptable in view of your ruling.

CHAIRMAN: My rule, of course, is one which is designed to enable us to get on with our work in the time at our disposal, and therefore should be regarded as more or less inflexible. No doubt occasions will arise on which we see that exceptions to this rule may be necessary on account of some circumstances which cannot be foreseen at this time, but we can give consideration to them as they arise.

As for the particular case raised by the Delegate of Australia, I should think that it is a basic change of substance to an Article which is included in Part II, because the text is common both to the Charter and to the Trade Agreement. Therefore, it would be upsetting the basis upon which it was included in Part II.

CHAIRMAN: The Delegate of Chile.

Mr. F. Garcia OLDINI (Chile) (Interpretation): Mr. Chairman, I shall not speak now either of the mother or the son, because I fear the Belgian Delegate would make me come down from the level of miracles or monstrosities to the level of a hospital ward, but, whether we mention the fact here or whether we do not, the difficulties are still facing us, and I am reminded here of Galileo, when he said that, nevertheless, the world revolves.

The Chilean Delegation made two reservations regarding this Article when the Charter was under discussion; these reservations pertained to the same situation which was mentioned by the Chinese Delegate, and it might be of no importance to consider them during the discussion of the General Agreement, because we could always mention these reservations again at the time of signature of the Final Act.

Nevertheless, to transfer provisions from the Charter to the General Agreement, when all the difficult situations are not solved, seems to me to be piling up difficulties on top of one another.

When we discussed the other day the possibility of eliminating Part II of the Agreement completely, and when that solution seemed almost acceptable to many Delegations, proposals were put forward straight away to reduce the scope of Part II and to change the text of Part II. If I remember correctly, at that time the United States Delegate said that a text containing only half a dozen provisions would be completely sufficient to safeguard the benefits and concessions which might have been obtained and which had been obtained during the negotiations.

It seems to me that we are now forgetting this suggestion and if we had not forgotten it we might have avoided toiling for a long time and we might have avoided many of the difficulties which now confront us.

We are discussing this Agreement Article by Article and now we are told by the Chair, in the course of discussion on Article III, that no modification can take place because this text is the text of the Charter. This would mean, of course, that we intend to make the Agreement a replica of the Charter, and therefore it would not be possible to insert provisions which would only tend to safeguard the benefits and the advantages resulting from the negotiations.

The situation which would face us would be that Delegates would be compelled either to accept this Article as a whole or to reject it entirely. This might be a good tactical approach from the point of view of certain Delegations, because the majority of the Committee, being faced with the dilemma of having to choose between including provisions relating to the national treatment of internal taxation and regulation and including nothing at all, will certainly prefer to include something; that is, to include the whole Article or to include nothing at all, which would mean to reject it entirely.

Might we not put the question in this way: whether the Committee would prefer to transfer completely the text of Article III from the Charter into the General Agreement, or whether the Committee wishes only to insert here provisions to safeguard the benefits and advantages derived from the negotiations?

If the Committee adopts the first solution - if it decides to transfer the Article from the Charter as a whole - then the discussion is closed. On the other hand, if the Committee decides that it prefers to insert only provisions to protect and safeguard the results of the negotiations, then I

think it would be wise to name an ad hoc sub-committee which would draft provisions to replace that Article.

CHAIRMAN: The Delegate of India.

Mr. B. N. ADAKAR (India): Mr. Chairman, we are asked to express our views on two propositions which are now before us. One is, in accordance with the procedure of examining Part II Article by Article, whether Article III should stand or not. The other proposition before us is whether the scope of this Article, or subsequent Articles in Part II, should be limited to the products which are the subject of negotiations.

So far as India is concerned, we do not feel strongly about either of these two propositions and we are quite prepared to concur in either of them, but at the same time we must say we do not feel happy about either of them.

As regards the first proposal, whether or not this particular Article shall stand in the General Agreement, we are placed in a difficult situation. Unlike some of the other Delegations which have spoken, our opposition to Part II being included in the General Agreement does not arise from any specific reservations to the contents of the Articles in Part II. We hope that by the time we come to sign the Agreement we shall be in a position to sign it without reservations to specific Articles, or else we will not sign it at all. That being the case, our opposition to Part II being included is based on general grounds. I will not repeat those grounds but, since the point has been raised, I will recapitulate them.

I would only state that we must have regard, when making reservations to Part II, to certain important and basic propositions. It seems inevitable that when the Organization

calls upon a new Member to negotiate tariff concessions, it must stipulate - as has been stipulated in the relevant Article of the Charter - that the results of the negotiations with the new Member will be incorporated in the General Agreement. It seems to us there is no escape from that. They will, under the Most-Favoured-Nation obligation, have to extend the benefits to countries which are not signatories to the Agreement.

Proposal No. 2 is that if the General Agreement contains not merely tariff concessions but a great deal more - if it covers issues of commercial policy, and so on - then we have to decide whether a country which has signed the General Agreement and also signed the Charter could simultaneously be party to two different types of obligation.

It was pointed out recently, by the United Kingdom Delegate, I believe, that such a situation might give rise to difficulties, but he did not state what the difficulties were. That is our point of view also: if a signatory of the General Agreement could be simultaneously a party to two different sets of obligations.

Therefore we come to the third proposition, that, so far as issues of commercial policy are concerned, it follows from the first two propositions that the provisions of the General Agreement cannot materially differ from those of the Charter.

If that is the position - and it seems that these three propositions have not been seriously challenged - then is it not true that we must be prepared to have a General Agreement which will embody the Charter provisions which will eventually be adopted? If that is the position, I do not understand why

we should be so anxious to have them incorporated in the General Agreement here and now. If the reason is that the Charter may not be eventually adopted, could we not provide against that contingency by saying that if the Charter is not adopted the signatories shall meet again and consider the matter further.

Just as these particular provisions are essential for safeguarding the value of tariff concessions, similarly there are other provisions which are not incorporated here which are equally important for the purpose of safeguarding those tariff concessions. But surely, I think, some countries will maintain that in giving the tariff concessions they have given, they have taken account of parts of the Charter. Were it not so, there would be no reason for the last sentence in the Protocol, that, if the Charter does not come into existence, then the signatories shall meet to consider in what manner the General Agreement shall be supplemented.

If that is the position, it seems to us that the arguments in favour of including all the Articles in Part II do not appear so strong. Therefore our position in regard to this main issue is governed by the guiding consideration and we shall find it extremely difficult to express views on individual Articles. If, of course, some way is found out of the difficulties I have mentioned, then we shall have no objection to including the whole of Part II and there will be no action, so far as we are concerned, on individual Articles.

The second proposal, as to whether the scope of Article III, or subsequent Articles, should be limited to the particular products which are the subject of tariff negotiations, causes us some doubt. We stated on another occasion that the Articles at present included in Part II do not merely serve the purpose

of safeguarding the tariff concessions, but that they include issues of commercial policy which might properly be so related.

While that is the position, we do not think it would be practicable to mutilate these Articles and to confine them only to the particular products which are the subject of negotiation. It might be easy to do that in this particular Article - National Treatment on Internal Taxation and Regulation - but it may not be possible to do that with other Articles, for example, in the case of tariff valuations. It will not be easy to decide what tariff valuations shall apply.

Similarly with other Articles about customs formalities. There also the issue is a wider one and it will not be possible to limit it to the particular products which are the subject of negotiation. Nor would it be safe to state in a categorical manner that nothing should be done to impair tariff concessions, because some exceptions have been recognized in the body of the Charter itself. For example, in the Balance-of-Payments Article no exception has been made to the effect that when quantitative restrictions are required to safeguard balance-of-payments such restrictions shall not apply to products which are the subject of negotiation.

Similarly, there are other exceptions which are recognized in the general elimination of quantitative restrictions but we do not make any specific exception in favour of products which are the subject of negotiation.

It seems to us that these provisions are an essential part of the whole and by mutilating them we shall be landing ourselves in a position of extreme uncertainty.

As was apparent in the course of the suggestion made by the Delegate from China, if we include in Part II only the first sentence of paragraph 1 and the whole second paragraph of Article III we shall be leaving out the exceptions which have been recognised as justifiable.

For these reasons, Sir, we think it would be very difficult to split this Article into its component parts, and therefore, if these component parts are to be included, it might be preferable to include them as they are, but at the same time that is subject to basic difficulties, I submit, on the main issue as to whether this wider provision for quantitative restrictions should be allowed to stand in view of the fact that it cannot in any way detract from the major provisions already adopted in the body of the Charter.

At the same time we should be quite willing to fall into line with either of the two proposals which have been put before us.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, I would like to suggest to the Committee that there is already an important element of compromise in the fact that this Article is in Part II; that fact means that, pending the definitive entry into force of the Agreement, this Article will only apply in each accepting country in so far as it is not inconsistent with their existing legislation.

Well, we have now postponed the date for the definitive entry into force of the General Agreement until after the Havana Conference. From that it follows that no delegation will have to take a final decision involving changes in its laws until the results of the Havana Conference are seen. Up to that time no-one will have his hands tied and those who want to wait to see the

results of the Havana Conference will be able to do so. When the results of the Havana Conference are seen the question will come up of replacing this Article by the corresponding text which is produced by the Havana Conference. In the meantime those who are applying this General Agreement provisionally will be able to get out of it at two months' notice.

I suggest that all those facts in themselves constitute a very important measure of compromise in this Article.

As regards the suggestion that the Article be split, that its scope be limited to particular products which are the subject of tariff concessions, I entirely agree with the Indian Delegate that it would be most regrettable to mutilate this Article in this way, and I think it would be quite inconceivable to do it in the light of the other Articles which stand in Part II.

So it seems to me we are faced with a straight choice of including this Article in Part II or removing it altogether. It does seem to me that if this Article were to disappear or to be mutilated or considerably weakened, that would call in question the whole basis on which the tariff negotiations themselves have been negotiated and would therefore call into question the whole possibility of bringing into force these negotiated concessions.

Therefore I suggest, in view of all these considerations, that we should keep this Article in Part II; and as I have pointed out before, that will mean that those who are not prepared to accept it at once will not be compelled to make their choice until they have seen the result of Havana.

CHAIRMAN: The Delegate of Belgium.

M. Pierre FORTHOMME (Belgium): Mr. Chairman, I would like to make clear that everything I have said previously should indicate that we disagree with any attempt or desire to change

anything in Part II as it stands now. We think it should stand as it is, and for this reason: we had suggested a possible elimination of practically the whole of Part II by cutting it down to what we considered bare essentials, but it immediately appeared that other delegations had views different from ours as to what would be the bare essentials, and therefore it was found that any attempt to pursue that course I had outlined would simply lead us to go over again the ground which the Tariff Working Party had gone over already very exhaustively in preparing the present draft of an Agreement and it would be simply working for a long time again to arrive probably at the result we have now.

Therefore we consider that Part II should be taken as it is: that there should not be any chipping away of a little piece here and a little piece there, because that would lead to a competition of the different delegations to try to get eliminated from the Agreement the parts they do not like, and we would be turning this Agreement into a Gruyere cheese, and probably a smelly one at that!

CHAIRMAN: The Delegate of Canada.

Mr. L.E. COUILLARD (Canada): Mr. Chairman, we seem to have reached the stage where Delegates are stating briefly and simply their position. I should like to do likewise for the Canadian Delegation.

For various reasons which have been advanced, we favour the retention in Part II in toto of Article III. We have for that four main reasons, and briefly they are as follows. Without expanding on them - one, that if we took out of Part II or mutilated seriously Article III as it now stands, we would be retreating from positions of existing international commercial policy. As Mr. Forthomme very well pointed out, leading the world in devising new up-to-date 1947 streamlined methods of international policy would not be leading but retreating.

Our second reason is that it is in accord with present Canadian commercial policy. Dr. Coombs was good enough to point out to the United States Delegate that their United States/Mexico Agreement does contain s similar clause. We have a similar clause in the Canada/United States, Canada/Mexico Agreements etc. We would find it very difficult to go back on such undertakings.

The third reason, which was pointed out by Mr. Shackle, is that Article III as it now stands has been the basis of our negotiations here in Geneva, which brings me to our fourth reason, namely, that it is necessary to protect not only scheduled items in the Agreement, but, indeed, all items for all our exports and the exports of any country. If that is not done, then every item which does not appear in the Schedule would have to be reconsidered and possibly tariff negotiations re-opened if Article III were changed to permit any action on these non-scheduled items.

I should also like to refer to a very important point which Mr. Shackle made, namely, that we are, as it stands now, making an important compromise in the fact that Article III stands in Part II and not Part I of the Agreement.

CHAIRMAN: The Delegate of Norway.

Mr. J. MELANDER (Norway): Mr. Chairman, as there seems to be doubt in the minds of some Delegations as to whether it would be practicable to split the Articles in Part II in the way suggested originally by the Delegate of Australia, it might perhaps be possible to reach a compromise solution on these lines, namely, that we cut out all the Articles from Part II and that we rely on the principles of the Charter in the form described in the last paragraph of the Protocol, that is, that the parties to the General Agreement undertake to "observe to the fullest extent of their authority the principles of the Draft Charter, and, should the Charter not have entered into force on November 1st 1948, to meet again to consider in what manner the General Agreement should be supplemented".

That covers, as far as I can see, the fact that the negotiations have been conducted on the assumption that commercial policy, as drafted in the Geneva text, shall be applied, more or less; and secondly, it takes care of the point that whilst some Delegations -some six or seven as far as I can gather - find that the Articles included in Part II now are essential, I should imagine that very many Delegations feel that in order to counter-balance these items, generally in the Commercial Policy Chapter, we must have the other Chapters, especially the Economic Development Chapter and the Employment Chapter, on the same lines. If we treat them on the same basis, we can move the whole lot into

Part II, which I gather is perhaps a bit difficult for some Delegations to swallow, or I suggest we move the whole lot out and have them in the Protocol.

CHAIRMAN: The Delegate of China.

H.E. Mr. Wunsz KING (China): Mr. Chairman, I would say, at this late hour, that the Chinese Delegation does not have very strong views on paragraphs 2, 3, 4 and 5 of this Article, although we may not feel too happy about certain detailed points in these four paragraphs. But as to the second sentence in paragraph 1, we had and we still have some strong views.

In proposing the deletion of the second sentence, we have no intention at all of mutilating the body of that paragraph. We have always been of the opinion that this sentence from "Moreover" to the words "their reduction or elimination" should not be there. This sentence, or any similar stipulation, has never appeared in any of the Trade Agreements: therefore, it is not a customary provision -all the more so, as it has not even appeared in either the London or the New York drafts of the Charter.

I am sorry to say, therefore, that I do not readily admit the failure of my efforts unless I hear some convincing arguments in reply to this point, and so far I have not heard any convincing argument in this sense. However, in the interests of the work of the Committee I would like to add that I am very much attracted by the latest compromise solution proposed by our colleague from Norway, and I think his compromise solution is very helpful, because it would very much simplify our task and procedure.

CHAIRMAN: The Delegate of the United States.

Mr. Winthrop BROWN (United States): Mr. Chairman, the suggestion of the Delegation of Norway seems to be an invitation to the Delegation of the United States, and I think also some other Delegations, to make over again the speeches which they made two sessions ago. I would hesitate to take up the time of the Committee to do that, and I would just like to say that for the reasons which I endeavoured to express, it would be quite impossible for the United States to accept a Trade Agreement that did not contain certain basic general provisions: that we have never done so before and would not be able to do so at this time.

It was quite clear from the deliberations in London, in the London Report -the whole context in which the invitations to these negotiations were sent out and in which the negotiations have taken place - that there would be a General Agreement and that it would have certain basic provisions in it, and if we are to make tariff concessions (and I am sure that there are many other Delegations who feel as we do) they must be safeguarded by certain general provisions, and they must be in the form of a definite Agreement.

Now, we have no objection to this: that the general provisions be put into effect provisionally and under the various safeguards which have been suggested during the course of these discussions, such as the fact that they would be superseded by the Charter, unless a party objects, and there would be consultation: in other words, the suggestion made by Dr.Coombs the other day. But I really am afraid that beyond that we cannot go. We must have that kind of safeguard for our tariff concessions, and not only that, but that much of a general consideration for our tariff concessions, if we are to enter into

an Agreement here.

Now, as to the point of the Delegate of China, that the second sentence of Article 15 is new, I would call his attention to the first paragraph of Article 15 of the New York draft, which was the origin of this second sentence of the present Article III, and state that the reason why that sentence is put in there is because if it were not, it would be open to any country to impose an internal tax upon a product which it does not produce, but upon which it has made a tariff concession, for the purpose of protecting some similar product which it does produce, and therefore to be able to completely nullify the tariff concession which it granted, and I submit that that is a legitimate and sound reason for the inclusion of that provision.

CHAIRMAN: The Delegate of Syria.

MR. H. JABBARA (Syria) (Interpretation): Mr. Chairman, I had no intention of intervening in the debate, because Article III is included in Part II, and Part II, as we know, must be revised at a later date. Also, Syria is among the countries to which a time limit has been granted to reconsider the situation in the light of decisions taken at the Havana Conference. Nevertheless, I would like to ask a number of precisional questions on the second sentence of paragraph 1.

In certain countries there are different means of communications - motorcars, railways, animals used to transport goods, and even camels, and of these different means of communication which belong to the same category, that is to transportation, if we import, are they all included in this category, because, for instance, if we impose a tax on motorcars we will also have to impose a tax on camel transportation or railway transportation, which might be considered as a substitution? There are countries where rice is used instead of wheat and in this case, if a tax is imposed on the import of wheat, will a tax need to be imposed on the import of rice?

These, Mr. Chairman, are the clarifications which I would like to have.

MR. R.J. SHACKLE (United Kingdom): Mr. Chairman, this is rather a frivolous interruption, but I cannot help feeling that the camels of Syria and Lebanon must be extremely speedy beasts to be considered as similar products to motorcars!

MR. M. MOBARAK (Lebanon) (Interpretation): A camel is much faster than a motorcar, Mr. Chairman,

CHAIRMAN: The Delegate for China.

H.E. Dr. WUNSZ KING (China): Mr. Chairman, I simply wish to express my thanks to the United States Delegate for his explanation, because, if I am not mistaken, his explanation seems to confirm the point which I raised, that is, that in none of the existing trade agreements or in the London or New York Draft Charters has ever appeared such a stipulation as that which now appears in the second sentence of paragraph 1 of Article III. If I may, perhaps, be permitted to quote his own words again which are found in the Verbatim Report, document E/PC/T/TAC/PV/6 of the 28 August 1947 on page 8 - he said: "This Trade Agreement, in our opinion, should include the essential provisions which are customary in trade agreements dealing with tariffs". Further on he continues to say: "As we see it, the proposal we are making is that we should continue with that practice of having certain general basic provisions customary in trade procedure included to safeguard the tariff concessions which we give to each other".

Because of my limited knowledge of trade agreements, I have not been able to find in any of the existing trade agreements any provisions of that sort. Therefore, I take it that this stipulation is by no means customary and therefore it should be deleted.

CHAIRMAN: I would like to point out that the reason why we made the ruling that there should be no amendments of substance to these Articles in Part II was that we did not want to have a repetition of the debates which took place in the Preparatory Committee,

because for many weeks these questions were discussed and I believe decisions were reached, so far as it was possible to reach decisions which had to have reservations attached.

Now, I am not familiar with this particular paragraph 1 of Article 18 of the Charter, but I should have thought that this matter had been gone into very thoroughly when the Charter was being discussed. Therefore, I would like to avoid the Committee being involved again in the repetition of a long and lengthy discussion which took place, lasting several weeks, when the Charter was being discussed, and so I do not think that there is much point in pursuing this further.

The question before us is a relatively simple one of whether to include or not this particular Article III in the General Agreement. I think we should try to confine our remarks to this subject.

The Delegate of the United Kingdom.

Mr. R.J. SHACKLE (United Kingdom): Well, Mr. Chairman, what I was going to say is rather against your ruling and perhaps it would be better not to say it, but if I am to say it, it is this: The fact that we have not had a stipulation like this in other commercial treaties - I refer to the second sentence of paragraph 1 - is not necessarily a conclusive argument, because we are living in a developing world, in a world in which synthetic substances are rapidly replacing natural primary products. Surely it behoves every producer of natural primary products to think that, if he maintains a tariff concession on his products, he may find it circumvented by an internal tax which is designed to stimulate the use of a synthetic substance. That, I would say, is the justification for this particular sentence.

CHAIRMAN: The Delegate of New Zealand.

MR. J.P.D. JOHNSEN (New Zealand): Mr. Chairman, in the light of your ruling, I feel that I have got to support the deletion of this Article.

DR. G.A. LAMSVELT (Netherlands): Mr. Chairman, I am of the same opinion as the Delegate of Belgium and we should like to see Article III inserted in Part II.

CHAIRMAN: Well, I think I can sum up the debate which has taken place.

We have now been discussing this Article for three hours, and all points of view have been put forward very clearly and each Member of the Committee has had an opportunity of expressing to the Committee his opinion on this particular Article. Dr. Coombs mentioned when he commenced the debate that it was up to the countries who favoured the retention of this Article to give their reasons and prove necessity for its inclusion. I do not know if the countries which have spoken have convinced Dr. Coombs or not, but the way it seems to the Chair is that certain Delegations have said that they consider this Article necessary if they are to grant tariff concessions which they are to accord in the General Agreement on Tariffs and Trade.

The position, therefore, is that if the concessions are to be granted by the countries, namely, the United States, United Kingdom, Belgium, Netherlands, Canada and some others no doubt, this Article is necessary for inclusion.

Therefore, I think we can leave this Article/having had ample all Delegations opportunity to express their views, and we can pass on to the next

Article. We will return to this Article in our second run through, in which case the other Delegations will have made up their minds whether they can accept this Article.

The Delegate of China.

H.E. Dr. WUNSZ KING (China): Mr. Chairman, I feel that I cannot set my conciense at rest without adding a word of thanks to Mr. Shackle for his explanation, but in spite of it I feel I am not quite convinced, because I have not heard any reply to my argument that this stipulation, which is the second sentence of paragraph 1 of Article III, is non customary in character.

Therefore, I will maintain my view and the action of my Government in this regard, will, if necessary be guided accordingly.

CHAIRMAN: The Delegate of the Lebanon.

MR. M. MOBARAK (Lebanon) (Interpretation): Mr. Chairman, Dr. Coombs has asked for arguments which would convince him. We have heard no arguments, we have only heard expressions of 'diktat' telling us that this is the moaning, take it or leave it. Therefore, I do not think that any arguments were put forward.

CHAIRMAN: I think we might continue with this discussion indefinitely. As I said, this is the first run through of these Articles. We will have a second run through; then we shall see if it is possible to obtain agreement.

We now come to Article III A - Special Provisions Relating to Cinematograph Films. In Document W/312 we have a Note by the Secretariat: the text approved by the Preparatory Committee on this subject has been included in the revised draft of the General Agreement for the reason that cross references to this provision appear in other Articles previously included.

The Delegate of the United Kingdom.

Mr. SHACKLE (United Kingdom): Mr. Chairman, as regards this Article, I would like to recall that it is the subject of a reservation by the United Kingdom. That is a reservation of a purely provisional kind. It was made as a result of certain discussions taking place elsewhere, which I sincerely hope will come to a satisfactory conclusion. If they have a satisfactory outcome, our reservation will be withdrawn and we shall have no objection whatever to the inclusion of this Article.

CHAIRMAN: I should like to obtain the sense of the Committee as to whether or not this Article should be included.

Mr. Winthrop G. BROWN (United States): Mr. Chairman, this Article is an exception to the rule on national treatment which would be covered by the preceding Article, to permit countries to give the necessary protection to their film industry. If it were not in, the provisions for national treatment would prevent what the Committee has agreed to be the most appropriate type of protection for films. It is for that reason, I assume, it was included in the Agreement.

CHAIRMAN: The Delegate of India.

Mr. B. N. ADAKAR (India): Mr. Chairman, in accordance with the views expressed, that if Article III A is to be included it should be included with all its exceptions, we would support the remarks just made by the United States Delegate, that Article III A should be included.

CHAIRMAN: Are there any objections to the inclusion of Article III A?

As there are no objections, I take it the square brackets in Paragraph 4 (b) of Article II and the square brackets round Article III A will be removed in our next text.

Mr. SHACKLE (United Kingdom): That, Mr. Chairman, will be on the understanding that our reservation is maintained for the time being?

CHAIRMAN: Due note will be taken of that reservation for the time being.

The Delegate of Brazil.

Mr. R. ALMEIDA (Brazil): Mr. Chairman, we understand from the text of Article III A, Paragraph 1(a), combined with Article III, Paragraph 4 (a), that nothing in this Article prevents the imposition of the exhibition of a short national film in all cinematographic exhibitions.

CHAIRMAN: Are there any other comments?

I take it that the inclusion of Article III A is approved.

Article IV - Freedom of Transit: are there any comments?

Mr. L.E.COUILLARD (Canada): The Canadian Delegation would favour the deletion of Article IV as not being directly concerned with the main essential safeguard of tariff concessions.

CHAIRMAN: The Delegate of the United States.

Mr. Winthrop G. BROWN (United States): As I indicated some meetings ago, our feeling toward this group of Articles which we are now about to consider, going on from Article IV to Article IX, is that none of them is really essential to this Agreement and they might well be deleted. If, however, the Committee disagrees with that and wishes to retain some of them, making a choice between them, we feel that Articles IV, V and VI are probably the ones which should be retained.

CHAIRMAN: Are there any other comments?

The Delegate of Norway.

Mr. J. MELANDER (Norway): Mr. Chairman, we would regard the inclusion of Article IV in Part II as essential.

CHAIRMAN: Are there any other objections to the inclusion of this Article? I take it then that the sense of the Committee is that this Article should be included.

Article V - Anti-Dumping and Countervailing Duties: are there any objections to the inclusion of this Article?

I take it then that the Committee has no objection to the inclusion of Article V.

Article VI - Valuation for Customs Purposes.

The Delegate of France.

M. ROYER (France) (Interpretation): Mr. Chairman, the French Delegation attaches the greatest importance to this Article VI. In fact, we think it is essential that specific rates should be fixed for tariff valuation; that is an essential guarantee of the concessions which will have been granted here. We think this ought to be a firm undertaking, to be placed on the same footing as the other undertakings of the Charter.

The answer given to that statement was that we could not bind the Powers which have not been represented here, prior to the Havana Conference. Therefore the Agreement which we are now discussing is, of course, between the Powers represented here, and it was decided that during the provisional application of this Agreement the legislation should only be modified at the time of the ratification of the Agreement.

For the reasons which I have just expressed, I would propose that the words "at the earliest practicable date", appearing in Paragraph 1 of Article VI, should be deleted, so as to place this undertaking on the same footing as the other undertakings of these Articles.

CHAIRMAN: The Delegate of the United States.

Mr. Winthrop G. BROWN (United States): Mr. Chairman, we would have no objection to the inclusion of this Article. I participated in the discussions which led to the drafting of the text which it contains. I do know that they were lengthy and carefully carried out and there was probably some good reason for every word, if not for every comma, which is in this Article.

I take it the language is precisely the same as in the Draft Charter and I certainly could not at this meeting agree to any modification of it without taking advice. I do think it has been threshed out very carefully; it is the same as the wording of the Charter and it should not be changed.

CHAIRMAN: The Delegate of Czechoslovakia.

H.E. Mr. Z. AUGENTHLER (Czechoslovakia): Mr. Chairman, I would like to say that during the whole afternoon I have felt like a child in the week before Christmas. I only wanted to

say that we support the proposal of the French Delegation.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. SHACKLE (United Kingdom): Mr. Chairman, I would like to point out that in the Charter a Note appears against Paragraph 1 of Article VI. It is a Note suggested by the Secretariat for inclusion in the Protocol of Interpretative Notes, in Document W/318. That Note reads like this: "Consideration was given to the desirability of replacing the words 'at the earliest practicable date' by a definite date or, alternatively, by a provision for a specified limited period to be fixed later. It was appreciated that it would not be possible for all contracting parties to give effect to these principles by a fixed time, but it was nevertheless understood that a majority of the contracting parties would give effect to them at the time the Agreement enters into force."

I presume that Note would be retained as a commentary on Paragraph 1 of this Article, as it was included as a commentary on the corresponding Paragraph 1 of the Article in the Charter.

CHAIRMAN: I should like to ask the French and Czechoslovakian Delegates if the inclusion of this Note in the Protocol of Interpretative Notes would not meet the point that they have raised.

M. ROYER (France) (Interpretation): Mr. Chairman, we would be satisfied with the insertion of such a Note at the foot relating to this paragraph if the other delegations accepted that, for other Articles stating commitments, other Notes also would appear in the same way.

CHAIRMAN: The Delegate of the United States.

Mr. Winthrop BROWN (U.S.A.): Mr. Chairman, I am advised that the Technical Committee which produced this draft spent two days on this precise point. I think that fact illustrates the wisdom of your ruling that we should not go into the matter of texts at this juncture.

CHAIRMAN: The question as to where the Interpretative Notes should go was decided at a previous meeting, and the Secretariat have submitted a draft which we will consider later, a Draft Protocol of Interpretative Notes which is given in document E/PC/T/W/318. In this Protocol there appears the number of each Article and in the case of Article VI this particular Note is given as it was read out by Mr. Shackle. I do not see that we could, therefore, very well go back on our previous decision and include this Note at the foot of the Article, because that would be going back to the whole question of Interpretative Notes which I hoped was one question which was definitely decided.

Are there any other comments on Article VI?

Mr. J. MELANDER (Norway): Mr. Chairman, we do not see much difference between the text as it stands and the French amendment, and personally I should not be inclined to believe that we have any objection to it in its substance, but I think there is much force in the statement of the United States Delegate here that if we once start amending texts which are included in the Charter we certainly run the risk of starting again negotiations which have been going on through the last couple of months; and that is the reason why I think we ought not to make any amendments, even small amendments, to Articles from the Charter. Either take them or leave them.

CHAIRMAN: I thank the Delegate of Norway for having given support to the ruling which I had made earlier in this meeting. Are the Delegates of France and Czechoslovakia satisfied now to leave the matter where it is?

M. ROYER (France) (Interpretation): We are not satisfied, Mr. Chairman. We bow to your decision, but nevertheless we think it is regrettable not to insert a provision here to safeguard the tariff concession. This is an essential provision, and we are avoiding here inserting the strongest guarantee, which is, in fact, the definition of the tariff valuation. It seems to me we have not followed that absolute and strict rule of not modifying the Articles of the Charter when we are inserting them in the Agreement: that has not been the case everywhere, and some adjustments have been made, and it seems to me somewhat illogical not to write in here, as I have said, the strongest guarantee for the concessions which are being made.

CHAIRMAN: Are there any other comments?

Do the Committee agree with the inclusion of Article VI?

Agreed.

I think we had better break off now. We will meet tomorrow at 2.30 p.m. and will commence with Article VII.

The Meeting is adjourned.

(The Meeting rose 6.15 p.m.)