

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

VERBATIM REPORT

TWENTY-THIRD MEETING OF THE TARIFF AGREEMENT COMMITTEE
HELD ON THURSDAY, 18 SEPTEMBER 1947 at 2.30 P.M. IN THE
PALAIS DES NATIONS, GENEVA.

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

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CHAIRMAN: The Meeting is open.

The first item on our Agenda today is the recommendation of the Tariff Negotiations Working Party concerning India and Pakistan. This is given in Document W/339 of 17 September.

I might state, in explanation of this recommendation, that a week or two ago Sir Raghavan Pillai of India and Mr. Rahim-tula of Pakistan met the Tariff Negotiations Working Party and explained to them the special circumstances surrounding the mutual trade relations between India and Pakistan.

As Members of the Committee will be aware, India and Pakistan at the present time constitute a customs union. They have constituted one economic unit for several centuries and now that the independence of these two countries has been established there is a difference in their relationship, the exact nature of which it is impossible to foresee at the present time; in fact, it will take some years before the situation is entirely clear.

In these circumstances, the representatives of India and Pakistan wish that some special arrangements should be made to govern their mutual trade relations. Accordingly, the Tariff Negotiations Working Party gave very careful study to this situation and as a result they submitted the recommendations which are given in this paper. These recommendations take the form of a proposed new Paragraph 5 to Article XXIV, together with an interpretative note.

The Tariff Negotiations Working Party felt that, by making this recommendation, they were not creating any precedent, because the circumstances connected with India and Pakistan are of such an exceptional nature that they are not likely to recur for many years.

S.

E/PC/T/TAC/PV/23

Are there any comments on this proposal?

Mr. SHACKLE (United Kingdom): Mr. Chairman, my Delegation regards this as a suitable solution to this problem.

CHAIRMAN: Are there any other comments?

May we then take up the Paragraph 5 of Article XXIV, the text of which is given in this paper. Are there any comments?

Are there any objections to this new paragraph?

Mr. J.P.D. JOHNSEN (New Zealand): Mr. Chairman, I have just one small point. There is already a Paragraph 5 in that Article; this ought to be Paragraph 6.

CHAIRMAN: That is correct.

Mr. J.M. LEDDY (United States): Mr. Chairman, I think the intention here was that this paragraph should replace the present Paragraph 5, which would become Paragraph 6.

CHAIRMAN: Mr. Leddy has pointed out that this Paragraph 5 would replace Paragraph 5 as given on Page 56 of Document T/196, and the present Paragraph 5 would become Paragraph 6.

Are there any other comments?

The Delegate of China.

Mr. D. Y. DAO (China): Mr. Chairman, I presume that when any special arrangement is entered into between India and Pakistan the Contracting Parties will be informed of this fact?

CHAIRMAN: There is no provision in this paragraph for any special steps to inform the Contracting Parties, but, as we know, under other Articles of the Charter, Members of the International Trade Organization are expected to give information regarding their trade relations with various other countries.

Are there any other comments?

Is the paragraph agreed?

(Agreed).

S.

We now take up the interpretative note to Paragraph 5 of Article XXIV. Are there any comments? Is it agreed?

(Agreed).

The Delegate of France.

M. ROYER (France) (Interpretation): Mr. Chairman, there are some ambiguous words there; the words in the French text which are translated into the English text as "once they have been agreed upon". It could mean that they have been agreed upon by India and Pakistan.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R. J. SHACKLE (United Kingdom): I would assume, Mr. Chairman, that this referred to an agreement between India and Pakistan. This is surely a counterpart of the scheme for the formation of the customs union: it is a scheme agreed between the parties. Surely that must be the intention here.

Mr. LEDDY (United States): Mr. Chairman, that is also my understanding.

CHAIRMAN: I think that is clearly the understanding. Is there any difficulty about putting that into French?

M. ROYER (France) (Interpretation): Mr. Chairman, nevertheless I think the text is ambiguous. If the words "once they have been agreed upon" mean that the measures have to be agreed upon between India and Pakistan, it seems to me that these words are not indispensable. On the other hand, if we want to refer here to the procedure for approval by the Contracting Parties (with capital letters), in the case when a customs union is formed, then it ought to be specified.

CHAIRMAN: The Delegate of the United States.

Mr. LEDDY (United States): Mr. Chairman, I find no difficulty with the English text at all; I think it is quite clear.

S:

Mr. SHACKLE (United Kingdom): I should say the same, Mr. Chairman.

CHAIRMAN: Is M. Royer satisfied?

M. ROYER (France) (Interpretation): I have no objection. The French text means exactly the contrary, but it does not matter.

CHAIRMAN: Is it possible for the Legal Drafting Committee to make the French text mean the same?

Are there any other comments on the interpretative note? The note is agreed.

SIR RAGHAVAN PILLAI (India): Mr. Chairman, before we proceed further I should like to express the thanks of the Indian Delegation for the very helpful and constructive attitude taken up by the Tariff Negotiations Working Party and by this Committee on this question, and particularly also for the attitude taken by Mr. Leddy, whose country has a system which is much superior to our own. I would like to thank you also, Mr. Chairman, for the sympathy and understanding shown in handling a matter of such vital concern to us.

CHAIRMAN: I thank Sir Raghavan Pillai for his remarks and I am very glad we were able to find a solution of this question which has met with the unanimous approval of the Committee.

Before proceeding to the next item of business, I wish to raise a question which I have been asked by the Secretariat. Owing to the depletion of staff, the Secretariat are finding difficulty in providing both summary records and verbatim records of these meetings. I therefore take it that it will be in order if for this meeting, and any subsequent meetings we may have, only the verbatim record is provided and not the summary record.

CHAIRMAN: Are there any objections?

The next item on our agenda is the amendment to Article I which the Australian Delegation proposed at our meeting on September 2 last. This is given in document W/337.

The Delegate of Australia.

Dr. H. C. COOMBS (Australia): Mr. Chairman, I do not wish to cover the ground of our preoccupation with this Article again. It has been listened to patiently by this Committee on several occasions and I do not want to burden them with it again.

The substance of our position is that we believe that this Article in its present form requires a concession on the part of our country - my country - that is not necessary to protect the tariff concessions embodied in the Schedules, and which constitutes a change in our commercial policy which we consider should be acceptable only as part of the general statements covering commercial policy which were contemplated in the Charter.

We do not object to the principle embodied in the Article. We think it is a desirable principle in a setting such as that contemplated by the Charter. We do not raise an objection to its inclusion there. But we do believe that its incorporation in the General Agreement requires a unilateral concession in that it obtains a binding of a large number of preferential margins in the absence of corresponding concessions which would make that an acceptable procedure.

Mr. Chairman, however, we have been advised that an Agreement which does not include the Most Favoured Nation clause in the form in which it at present appears would not be acceptable to certain of the Delegations whose participation is really essential to the establishment of the General Agreement. My purpose, therefore, in requiring that the Committee should

give attention to this amendment is merely to make the position quite clear that the Australian Government does not consider the present text of the Article a satisfactory one and considers furthermore that its incorporation in the General Agreement involves a unilateral concession and that therefore we believe its proper place in this form is in the Draft Charter.

Since it is clear, however, that, if the attitude of the Delegations which was expressed when we discussed this matter previously is still as it was then, we cannot expect to have the drafting of the Article varied, we would wish to be understood, therefore, that the position we are placed in is that, since we have been told that the Article in its present form is a necessary requirement in the General Agreement for the participation of those countries, it will be necessary for the Government of my country to decide whether the inclusion of this Article does in fact leave the General Agreement in a form in which it is acceptable to them.

In reaching such a decision of course they will take a wide range of factors into account, including the other benefits and concessions which they may be expected to receive and to make in the negotiations as a whole.

CHAIRMAN: Are there any other comments?

Mr. J. M. LEDDY (United States): Mr. Chairman, I am a bit troubled by the statement of the Delegate of Australia, because, as we have now drafted this arrangement, Australia is one of the key countries, and if it should fail to sign the Protocol of Provisional Application I think that would cause a very serious difficulty indeed. It would, because of the inter-relationships, I think, require a fresh negotiation.

As I understand it, the position of the Australian Government is essentially that they regard the Most Favoured Nation clause as being closely related to the Charter. We regard the Most Favoured Nation clause as being not only necessary to safeguard tariff concessions which we negotiate on particular items, but also to provide a part of the general quid pro quo for any normal trade agreement.

Now, I hesitate to make this suggestion, I am reluctant to do it, but I think that we would be willing to consider the transfer of Article I from Part I of the Agreement to Part II, which would put ^{it} in the same category as other Articles drawn from the Charter in the light of the article now agreed upon with respect to supersession, it being our understanding that this would not change the substantive position as to what would in fact take effect on January 1 1948; that is to say, if countries are prepared to give provisional application to Article I under Part I they would be able to make that application effective even though it were in Part II, which carries with it the qualification that countries will give effect to Part II to the fullest extent not inconsistent with existing legislation.

If that were done, would that help to meet the position outlined by the Delegation of Australia?

DR. H. C. COOMBS (Australia): Well, Mr. Chairman, the suggestion that the United States Delegation has put forward is, we appreciate, a significant concession on their part in an attempt to meet our difficulties. It does not, of course, entirely remove those difficulties, but it would ease our problem to a considerable extent. The most that I could say at this stage is, Mr. Chairman, that we are grateful for the

suggestion, and I would like an opportunity to consult my Government about it.

CHAIRMAN: In these circumstances, I think the best thing to do would be to hold over a decision on this matter of the transfer of Article I to Part II of the Agreement as proposed by the Delegate of the United States until a subsequent meeting. I do not know at what time we could take this matter up; we are coming to the end of our labours; but perhaps if we took it up at the beginning of next week it would be sufficient.

M. ROYER (France) (Interpretation): Mr. Chairman, this is only a practical question I would like to raise. I adhere wholeheartedly to Mr. Leddy's proposal which ought to give a satisfactory solution to this problem, and furthermore it would give satisfaction to a certain number of points which had been raised by other Delegations, including the Delegations of Chile, the Lebanon and Syria. But from a practical angle, and taking into account the fact that the Legal Drafting Committee has to submit to this Committee a draft, and that this draft is urgently requested by this Committee, I would like to know if we could transfer this text as it stands now from Part I to Part II and place it in square brackets.

CHAIRMAN: I think it would probably materially facilitate our work and enable us to have a Report from the Legal Drafting Committee earlier than would otherwise be the case. I should think, however, that would give rise to other problems such as the particular place in which Article II should appear. It would seem to me that, if Article I would be transferred to Part II, there would be no need then to have three Parts to this Agreement and that Article II could be placed at the beginning of Part III before the present Article XXIV.

The Delegate of Belgium.

M. Pierre FORTHOMME (Belgium): Mr. Chairman, I was wondering if we could not solve the problem in this way: decide now to invert Articles I and Article II, then, from the point of view of the Legal Drafting Committee the only thing would be to decide, when the question is being taken up again with the Australian Delegation, if the words "Part II" would be written after Article II, which is ex-article I, or before Article II. That would be a very small change and could be done quite easily without any difficulty.

Now, as to whether the present Article II should stay in Part I by itself or be removed to Part III and there be no Part I, I do think it would be logical to start this agreement by the stipulation that we are going to give treatment to each other's products in accordance with the Schedules, the whole of the rest of the agreement being dependent on that first agreement which is that the Schedules have been established and are going to be accorded to each other. All the rest are the conditions in which the initial and fundamental agreement is going to be applied, consequently we should start by those conditions.

Therefore I think we should keep Part I with only one Article in it.

CHAIRMAN: Monsieur Royer.

M. ROYER(France) (Interpretation): Mr. Chairman, I was under the same impression as M. Forthomme, and I think that we must keep a Part I in the agreement. There is one reason, that is that Part I can only be maintained following the unanimous consent of all the contracting parties.

Now, as regards the place of the present Article I, it seems to me that the best place would be to place it immediately after what will become Article I, that is Article II now, and that we should not insert the present Article I in Part III because the Articles of Part III can only be maintained if one follows the rule of two-thirds majority. And, if I understood rightly, Mr. Leddy's intention was that article I, if transferred into Part II, should be superseded by the corresponding Article of the Charter.

MR. J. M. LEDDY (United States): Mr. Chairman, I was thinking somewhere along the line of what you proposed, that there would just be two parts of the Trade Agreement, Part I, containing all of the Articles drawn from the Charter, starting off with the Most Favoured Nation Articles, and Part II, containing all of the Articles relating to the Schedules and the general application of the Agreement, which cannot be amended except through the Amendment procedure or, in respect of what is present Article II, by agreement among all contracting parties.

I think it makes for a simpler document to have it in two parts than in three.

I would also suggest that the way article II starts off, that is to say in the draft approved by this Committee the other day:- "Except as provided in paragraph 2 of this Article" makes a very awkward beginning for an Agreement. But I do not wish to press this question. I think the Legal Drafting Committee could look into it and debate the question of style and present us with what they think is the best solution.

CHAIRMAN: The Delegate of the Lebanon.

Mr. J. MIKAOUI (Lebanon) (Interpretation): Mr. Chairman, I would like to thank first of all the United States Delegate and also the Delegate of France for this proposal to transfer Article I from Part I to Part II of the Agreement. This solution would give us complete satisfaction and I hope that the Committee will be able to adopt this suggestion.

CHAIRMAN: Are there any other comments?

The Delegate of India.

Mr. B. N. ADARKAR (India): Mr. Chairman, I only wanted to say that we would support the proposal to transfer Article I to Part II in view of the fact that it would give satisfaction to the Delegation of Australia as well as those of Chile, Lebanon and Syria.

CHAIRMAN: Are there any other comments?

Is the Committee then agreeable to leaving it to the Legal Drafting Committee to decide the best way in which to arrange this change, at the same time putting in their Report a note to the effect that a definite decision has not yet been reached with regard to the disposition of Article I? Is that agreed?

Mr. Pierre FORTHOME (Belgium): Mr. Chairman, does this mean then that present Article II will become part of Part III and there will be no Part I?

CHAIRMAN: Mr. Leddy said that he would be satisfied to leave to the Legal Drafting Committee to decide where Article II should go: whether it should go at the beginning as Part I or in some other place. I think that was the sense of Mr. Leddy's proposal: that we do not decide that here but leave it

to the Legal Drafting Committee to work out the best way of arranging the disposition of present Article II.

Is that agreed?

Mr. ROYER (France) (Interpretation): Mr. Chairman, I would like to be perfectly clear on what is intended. If I understood rightly, Article I would be superseded by the corresponding Articles of the Charter, but the present Article II of the Agreement could only be modified unanimously by the contracting parties. I want to be quite clear on this point - that we do not intend to make a change in the substance of this Article.

Now, as regards Part III, Part III could not be superseded by the Charter and Part III of the General Agreement could only be amended following a decision taken by two-thirds of the contracting parties.

CHAIRMAN: The understanding of Mr. Royer regarding the substance is quite correct. If the Legal Drafting Committee should decide to adopt the suggestion that instead of three parts there should only be two Parts, then it would require a consequential change in Article XXX, Amendments, to provide that Article II could only be amended with the consent of all the contracting parties; I think the Legal Drafting Committee could make those changes if they decided that, from the point of view of presentation, that was a better way to proceed. On the other hand, if they decided that Article II should remain at the commencement of the Agreement, the Agreement would then consist of three parts: Part I would be just the present Article II. The important thing they have to take into consideration is the point suggested by Mr. Leddy as to whether it is a good thing to commence an Agreement with the words "Except as provided in paragraph 2 of this Article", or whatever will be adopted with regard to Article II when we come to deal with it in the Report of the Committee.

Mr. R. J. SHACKLE (United Kingdom) I would just make one remark, that if the question of presentation is going to affect to place of Article II, it would be easy to alter the beginning of Paragraph 1 or Article II so as to remove the proviso to a place lower down. A very simple way of drafting that occurs to me is to delete the words : "provided in paragraph 2 of this Article," etc., at the beginning, and they would then be transferred to the end of the sentence, so that the whole thing would read something like this: "(a) subject to the ^{conditions} terms, /or qualifications, set forth therein and (b) to the provisions of paragraph 2 of this Article!" That would avoid that presentational difficulty. It would be easy to get over the difficulty in some such way as that.

CHAIRMAN: Are there any other comments?

The Legal Drafting Committee can take into consideration the suggestions just made by Mr. Shackle. We can also be dealing with it when we come to consider the report of the Sub-committee on Article II.

Are there any other comments?

The proposal therefore to refer the question of the rearrangement of these Articles in accordance with the tentative decision we have reached, has been referred to the Legal Drafting Committee and they will append a Note to the report to the effect that a definitive decision on this change will be taken later.

Before taking up the Report of the Committee on Schedules and the new text of Article II, I would have liked to clear the decks of one outstanding matter in relation to Article XXIV. When we were dealing with Article XXIV, we agreed to defer consideration of the Australian proposal that the first paragraph of this Article should be transferred to Part II. A note to

this effect is given at the bottom of page 55 of Document T/196.

In view of the fact that Dr. Coombs is not present, we will hold this matter over and deal with it later.

We now have to consider the Report of the Sub-Committee on Schedules of the Tariff Agreement Committee. This report is given in Document T/201, and I will call upon Mr. Morton of Australia, the Chairman of the Sub-committee, to present this report.

Mr. C. E. MORTON (Australia). Mr. President. In introducing the report of the ad hoc Sub-Committee which met on Wednesday, 17th September, to consider: (a) the preface to the Schedules of Tariff Concessions set out in Document T/153; (b) an amendment to paragraph 2 of Article II (Document W/287) which to a degree related to similar matters; and (c) a proposal emanating initially from the Czechoslovakian Delegation for adjusting specific rates of duty in the event of a serious depreciation in the par rate of the currency of a country being a contracting party.

I desire to state that agreement was reached on the advisability of making the Schedules an integral portion of Part I of the Agreement, removing all prefatory notes from the Schedules as far as possible, and incorporating in Article II of the Agreement itself the content of such prefatory notes as it had hitherto been considered desirable to have in the Schedules.

The text of Article II, as the Sub-committee recommends it to this Committee, will be found in Document T.201, pages 3 - 5. I suggest it contains no departures in substance from texts agreed upon in Charter discussions.

It was felt that the previous reference to "other

duties or charges" which, after the date of signature of this agreement, were required to be imposed under an importing country's laws in force on the day of signature, might be open to an undesirable degree of misinterpretation, and the reference has been amended to except only such other duties and charges as are directly and mandatorily required to be imposed by legislation in force on that date.

A desirable provision in regard to a country's right to maintain existing requirements as to eligibility for preference has also been incorporated as the final sentence of paragraph 2 of Article II. This of course only affects countries members of a preferential group and the provision is in accordance with the principles stated in paragraph 6 of Article XXXII of the draft Charter. On consideration, this Committee may see an advantage in making this sentence a separate paragraph, which would have the effect of relating its incidence to paragraph 1 as well as to paragraph 2 of the Articles as at present.

The suggested French amendment to paragraph 2 of Article II (which was set forth in W.287) was withdrawn in view of the amended form of the Article proposed in the Sub-committee's report.

Without comment the Sub-committee desires to have the Legal Drafting Committee consider a suggestion for a cross-reference in paragraph 3 (a) of Article I, which suggestion will be found in the second paragraph on page 2 of this Document.

As regards the third matter with which the Sub-committee was requested to deal, I regret to report that opinion was too sharply divided for unanimity to be arrived at.

I note from Document W/341, received this day (18/9/47), that the Belgium/Luxemburg Delegation has presented a proposal for the inclusion of a note concerning adjustment of specific

duties pursuant to appreciation or depreciation of a country's currency under permitted circumstances. I therefore consider the matter to be still sub judice and feel that my comments on the Sub-committee's discussion should not be such as to prejudice any further discussion on the matter in this Committee.

It was agreed that a substantial variation in the par value of a country's currency could render necessary an adjustment of that country's specific rates of duty in its Customs Tariff in certain circumstances. The difficulty of stating criteria which would determine when such circumstances in fact existed was appreciated. It was felt that an attempt to propound such criteria was not desirable as the problem affecting any single country was such as would require it to be studied in isolation.

The principal area of disagreement revealed in the Sub-committee's discussion centred on the question as to whether a country making an adjustment to its specific duties should have the right to do so unilaterally and without consultation with contracting parties to the Agreement at least in respect of particular items covered by its schedule. In this regard four members of the Sub-committee favoured consultation and three were opposed to it.

The Sub-committee was in agreement that it was pertinent for a country having a particular interest in possible changes in the par value of its currency to approach contracting parties bilaterally with a view to securing agreement to the inclusion of a specific provision in the Schedules of that particular country.

CHAIRMAN: I thank Mr. Morton for the very able manner in which he has presented the Report of the Sub-Committee. For the convenience of our discussion, I think we should first of all take up the proposed new Article II, leaving over for the present any discussion with regard to the relationship of a depreciation of currency to specific rates of duty.

Before taking up Article II paragraph by paragraph, are there any Members of the Committee who wish to make any general observations on this Report of the Sub-Committee?

Can we then take up Paragraph 1 of Article II. Are there any comments?

The Delegate of France.

M. ROYER (France) (interpretation): Mr. Chairman, I only have formal comments to make on the text of this paragraph. First of all, referring to the English text I see we say "products described". I think the word which is usually employed in the customs schedules in the Anglo-Saxon countries is "enumerated."

Secondly, I see here, in the third line, "which are the products of the other contracting parties." I think it would be best to revert to the expression used in Article 1; that is, "originating from another country."

Thirdly, I think the words "ordinary customs duties" in the fifth line of this paragraph are somewhat ambiguous, because if there were any extraordinary customs duties they would be dealt with in the second sentence of this paragraph.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. SHACKLE (United Kingdom): Mr. Chairman, as regards the phrase "enumerated and described," I do not think one could agree that should be reduced to "enumerated."

M. ROYER (interpolation): "and described."

Mr. SHACKLE (continued): The words "and described" should certainly be retained.

M. ROYER (France) (interpretation): My intention was to maintain the words "and described."

Mr. SHACKLE (United Kingdom): I should not mind that so much. I fancy the expression "enumerated and described" is a rather common one in trade agreements. Certainly I think we should retain the words "and described."

As regards the second phrase: "products of the other contracting parties" is definitely wrong, because a contracting party is a Government and the products of a Government consist of papers, etc., not consumable goods. So it should certainly read: "which are the products of the territories...."

CHAIRMAN: Can we deal with these suggestions one at a time?

The suggestion of M. Royer, I think, is to take out either the word "enumerated" or the word "described."

M. ROYER (France) (interpretation): No, Mr. Chairman. My suggestion is to put in every case "products described"; in French, "produits repris."

CHAIRMAN: Are there any objections to deleting the word "enumerated"? Is the Committee agreed on the deletion of the words "enumerated and"?

(Agreed)

The next suggestion of M. Royer is in the third line of the English text. His suggestion was that it should read: "which are the products originating from the other contracting parties." Mr. Shackle, I think, suggested, instead of that: "which are the products of the territories of the other contracting parties."

Mr. LEDDY (United States): Mr. Chairman, Mr. Shackle's suggestion would be acceptable to us. If it is adopted, I think the Legal Drafting Committee should look at the other Articles of the Agreement. It is my impression that we have talked about "the products of the contracting parties" throughout the Agreement.

M. ROYER (France) (interpretation): In every place in the Charter the words used are "products originating from the contracting parties."

Mr. LEDDY (United States): Mr. Chairman, I think that is a point in the Most-Favoured-Nation clause only. Throughout the rest of the Charter the expression is used: "the product of any Member country." The reason it is different in the Most-Favoured-Nation clause is that there you are covering both imports and exports; it was just a more convenient phrase to use in that particular clause. By and large, in all the other cases in the Agreement I think the term is: "Products of Member countries or the territories of Member countries."

CHAIRMAN: The Delegate of France.

M. ROYER (France) (interpretation): Mr. Chairman; I would not like to deliver a long lecture on the difference between the origin of goods and the country from which those goods are sent, but we have had a long discussion already on this point when we discussed the Article relating to the Most-Favoured-Nation clause. If we want to have here an expression covering both cases, we have to say it formally. But I would like to give my own opinion and say that we are heading towards conflicts and difficulties if we do.

If here we want to cover both the origin of the goods and the countries from which these goods are sent, we have to consider if we really want to insert such a provision.

CHAIRMAN: Would it meet both points of view if we said: "Which are the products originating in the territories of the other contracting parties"?

Mr. C.E. MORTON (Australia): I would support that suggestion, Mr. Chairman. It is more correct to say "products originating from other countries in the territory of the contracting parties."

Mr. LEDDY (United States): Mr. Chairman, what is the substance of the difference between what we have here and what the French Delegate proposes?

CHAIRMAN: The Delegate of France.

Mr. ROYER (France) (interpretation): Mr. Chairman, I would like to give a practical example. If a motor car is sent from the United States to France via Spain, and if the tariff which is applied to goods imported into France from Spain is different from the tariff which is applied to United States goods, then if we applied the principle of the origin of the goods the duties on the United States car will be applied under the tariff granted to the United States under the provisions of this Agreement.

On the other hand, if the duties which are applied take into consideration, not the origin of the goods but the place from which they are sent, then, as Spain might not benefit from the same advantages as the United States would derive from this Agreement, the customs duty applied on the United States car in transit through Spain might be three or four times higher than the duties which a United States car would normally pay.

Therefore, if we say here: "products of the territories of the contracting parties", the customs officials will have the choice, perhaps, of applying the principle of the origin of the goods or the principle of where the goods are sent from, or even of applying both principles at the same time.

Mr. MORTON (Australia): Mr. Chairman, the matter of origin and provenance is also a separate question and for that reason countries have their own laws, which set out how these matters shall be dealt with.

Having given consideration to the fact that a country may wish to operate those laws in regard to Most Favoured foreign nation countries, and its general tariff, it has been suggested in my report that it may be made a separate paragraph, so that it would have application to Paragraph 1 and 2.

There are very few instances where countries do distinguish between general tariff and Most-Favoured-Nation rates, to the benefit of Most-Favoured-Nation rates. But for the practical purposes of this Article it does not matter a great deal if the wording in Paragraph 1 is: "which are the products of the territories of the contracting parties" or "which are the products originating in the territories of the contracting parties."

CHAIRMAN: "The Delegate of the United States.

Mr. LEDDY (United States): Mr. Chairman, I think the answer is that there is no difference between the products of the territories of the other contracting parties and products originating in the territories. In other words, so long as the product is produced, grown or manufactured in the territory of another contracting party it gets the treatment from whatever place it arrives in.

I do not care whether we say "products of the territories" or "products originating in the territories." All I am saying is that we should use a consistent form throughout the Agreement, so that there would be no question of differentiation. Whichever one we decide to use here, I suggest the Legal Drafting Committee should examine the whole text and make sure it is consistent.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. SHACKLE (United Kingdom): Mr. Chairman, I agree with the observation of Mr. Leddy and I would add that I think if one says "the products of the territories of the contracting parties" there can be no ambiguity. In our own United Kingdom commercial treaties it is usual to say: "The articles, produce or manufacture of the territories." Surely an article which is the product of a territory must be the same thing as an article produced in that territory. The question of acquiring the nationality of some other territory through which it passes in transit cannot change the fact that the product is the product of the territory where it was produced. That being so, it seems to me we do not need to elaborate or lengthen it by introducing the words "originating from."

CHAIRMAN: Can we agree with Mr. Leddy's proposal to have this phrase read: "which are the products of the territories of the other contracting parties."?

Mr. JOENSEN (New Zealand): Mr. Chairman, I would agree with that proposal, but I just want to clear up what might be a point of misunderstanding on the meaning of this paragraph.

If I understand its meaning, it is that goods would be entitled to entry at the rates in the Schedules, irrespective of the country from which they were imported. If they enter an intermediate country merely by way of transit, there is no doubt about it; that is covered by Article V of the Agreement, but where they have entered into the commerce of some third country it is a different matter entirely. In a case like that, they would be covered by the laws of the country providing for such a position. I think Paragraph 6 of Article V makes that quite clear.

CHAIRMAN: This is, I think, a customary way of describing products produced, grown or manufactured when you are dealing with them in reference to a Schedule. There are various forms used by different countries, so I do not think we are deviating from established practice when we say "which are the products of the territories of the other contracting parties." I hope, therefore, we shall be

able to agree on this phrase.

Is that agreed?

(Agreed)

The next proposal of M. Royer is to delete the word "ordinary" before "customs duties" in the fifth line of Paragraph 1. Are there any objections to this proposal?

Mr. LEDDY (United States): Yes, Mr. Chairman. We have two types of charges which we are dealing with in the Schedule. One is the rates of regular tariffs shown in the columns and the other consists of the various supplementary duties and charges which many countries impose on importations. I think it is necessary to provide a distinction between these two types. That is the reason why the words "ordinary customs duties" are used in the first sentence. If we delete the word "ordinary", presumably the products concerned would be exempt from all customs duties other than those shown in the Schedule.

There are charges on importations which are clearly customs duties, but they are not ordinary ones; that is, they do not form part of the regular tariff. This is not an unusual clause at all; it appears, for example, in the Trade Agreement between France and the United States, on both sides.

CHAIRMAN: The Delegate of France.

M. ROYER (France) (interpretation): Mr. Chairman, I am not in agreement with the interpretation given by Mr. Leddy, of this sentence, and I think the conclusion he has drawn could be drawn from the present text. I would like to give an example.

Australia and France have negotiated to reduce the surtax levied by the Australian Government, which is a primage duty. The rate of this primage duty is now 10 per cent and we have negotiated to reduce it to five per cent. But, if we read this first sentence in its present form, although Australia has negotiated with us to reduce this primage duty to five per cent, under the terms of this sentence Australia could still apply a primage duty of 10 per cent because the primage duty would not be included in the words of this

first sentence, and this case would only be referred to in the second sentence.

Mr. LEDDY (United States): Mr. Chairman, the text of this should be considered in relation to the model Schedule which was prepared by the Tariff Negotiations Working Party and circulated.

In a case of that kind, where no ordinary customs duty is shown, provision was made specifically, saying that primage should not be more than five per cent. The idea was that the column at the rate should show the regular tariff. The omission of an item from that column would show that the regular tariff was not bound. You would then have to put a note regarding the products which you want to bind. That is covered here in this particular Paragraph 1 by the subject clause: "Subject to the terms, conditions or qualifications set forth therein."

Mr. MORTON (Australia): Mr. Chairman, the words "ordinary customs duties" did appear in the United States proposal. We did not like it much then, but we did realise that it did have value and distinction, because it established a distinction between the ordinary customs duties and the regular taxes such as primage duty.

CHAIRMAN: The point to which Mr. Morton has just called attention is, I think, relevant. This word "ordinary" has appeared in the New York Draft, in the Draft of the Tariff Negotiations Working Party, and again appears in the Draft of the Sub-Committee, so it has been accepted by us right along, and I wonder if we could not continue to accept it now.

The Delegate of France.

M. ROYER (France) (interpretation): Mr. Chairman, I would have no objection if the word "ordinary" were translated into French by "douane proprement."

CHAIRMAN: Is there any objection to that proposal?

(Agreed)

Are there any other comments on Paragraph 1?

The Delegate of Brazil.

Mr. E.L. RODRIGUES (Brazil): Mr. Chairman, I should like the Committee to examine the last part of Paragraph 1, which reads: "Such products shall also be exempt from all other duties and charges of any kind imposed on or in connection with importation in excess of those imposed on the date of this Agreement."

Besides the ordinary customs duties, we have been imposing also, for several years, two other general charges of the same nature as the customs duties and collected in the same way as included in the document. The first is called "Additional tax of 10 per cent on duties collected" and the other is "Ad valorem duty of two per cent for social security purposes."

They were collected in this way because of the difficulty of showing the rates, and they have indeed the same nature, they are of the same kind, as ordinary customs duties. But in the light of the discussion which we have had here, I believe they will be considered "other duties and charges of any kind" and they will be, if I understand, consolidated in this position. Because of this, I could not understand well the argument of the United States Delegate when he said that if a country wants to bind these other duties and charges they should put a Note. I should like to have some explanation from him about what he said just a few moments ago.

(continued after interpretation)

I should like to have some explanation on those remarks of the United States Delegate. The United States Delegation as well as the French Delegation have said they will consider it that they were not "other duties and charges."

CHAIRMAN: The Delegate of the United States.

Mr. J.M. LEDDY (U.S.A.): Mr. Chairman, I think that this means simply this; that if the regular tariff is bound against increase - suppose it is shown in the Schedule in the right hand column, for example, that the duty is 10 cruzeiros per kilo, that is the ordinary tariff - then all other duties and charges on importation on that product are also bound against increase. Thus if the surtax on duty in this case were 10% ad valorem, in addition to the ordinary customs duty, if this Agreement enters into force, that tax could not be increased to, say, 15%; it would have to remain at 10% ad valorem in respect of that product.

CHAIRMAN: Are there any other comments on paragraph 1?

Mr. R.J. SHACKLE (U.K.): Mr. Chairman, we have amended the concluding words of this paragraph so as to read: "or directly or mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date." That compares with words which appear in the original text in the Working Party's Report

reading: "or to be required or imposed thereafter under laws in force on that date." The object of those changes is, I gather, to eliminate the case where the rate may be varied by some kind of administrative order under a law in force and to make it necessary that it shall be a direct requirement of the law that that charge shall be made.

Now it seems to me that the logical completion, perhaps unnecessary completion, of that idea is to say "at specified fixed rates" and I think that those words "at specified fixed rates" should come after the words "required to be imposed thereafter." Otherwise we should have coming back to us the possibility that the rates may be varied by some kind of administrative action under a Law. I see of course that in the case of anti-dumping and countervailing duties there will have to be variable rates, but anti-dumping and countervailing duties are taken care of in a separate paragraph, that is to say (a) of paragraph 3, and I therefore feel it would be undesirable to add these words "at specific fixed rates" after the words "required to be imposed thereafter."

Mr. J.M. LEDDY (U.S.): Mr. Chairman, I think the suggestion of the Delegate of the United Kingdom, if we accept it, would really make this provision meaningless. It was designed to deal with measures such as anti-dumping duties and countervailing duties and, for example, marketing duties or penalty duties, with the effect that it would simply require the administration to impose a penalty which may vary, you see, if certain violations take place. I am not quite sure that the clause is essential, but I think if it were deleted several of the countries would have to make rather careful examination of all of the legislation to be sure that the duties were provided for in the Schedule. I am rather reluctant to suggest that course, but I think it would be better than to adopt the proposal of the Delegate of the United Kingdom.

Mr. R.J. SHACKLE (U.K.): Mr. Chairman, in view of Mr. Leddy's explanation I do not wish to press this suggestion.

CHAIRMAN: I thank Mr. Shackle for not pressing his suggestion. Are there any other comments?

Is paragraph 1 agreed?

Paragraph 2: are there any comments? Mr. Johnsen.

MR. J.P.D. JOHNSEN (New Zealand): Mr. Chairman, Mr. Morton in his Report suggested that the final sentence of paragraph 2 should be made a separate paragraph in which case it would qualify both paragraphs 1 and 2. I would support that proposal. I think it is necessary, because there are cases where countries do set our requirements before goods can qualify for entry at preferential rates, whether they come from a Most Favoured Nation country or a country with a preferential system like a British country. I know in our own particular case, under agreements which we have made with certain countries outside the Empire, we have given substantial concessions in duty and we have laid down a condition to be complied with to enable the goods imported from such countries to be entered at the specified rates. It would not be right, for instance, if a country outside those countries which enjoy Most Favoured Nation treatment should send goods to a Most Favoured Nation country merely having them shipped from there and admitted at the Most Favoured Nation rates. Therefore I think it desirable that a provision such as that in the last sentence should qualify both paragraphs 1 and 2 and I would support the suggestion made by Mr. Morton in that respect.

CHAIRMAN: The Delegate of New Zealand has proposed that the last sentence of this paragraph 2 should be made a separate paragraph. Are there any objections to this proposal? Mr. Leddy.

MR. J.M. LEDDY (U.S.): Mr. Chairman, the last sentence talks about preferential rates of duty; it does not talk about Most Favoured Nation rates. I understand, then, that making this a separate paragraph does not represent any qualification whatever

of the Most Favoured Nation clause or the application of Most Favoured Nation duties. It does not imply, for example, any direct shipment requirements, which do apply in the case of preferential duties. If that is the understanding, I have no objection to making this a separate paragraph, but I fail to see, in that case, its application to paragraph 1.

MR. C.E. MORTON (Australia): Mr. Chairman, I would suggest that the Delegate of the United States and all other contracting parties to this Agreement should value the Club of which they are members. There will still be non-members outside this Club, whose goods will be, in certain countries, subjected to higher rates of duty. It is valuable that the concessions you have bought should be maintained and it should not be too easy for the products of those non-member-countries to obtain access to the territories party to this Agreement at the rates of duty which are supposed to be reserved for those members of the Club. For example, Spanish goods may be shipped into France and re-packed there and shipped to America. You would not, I take it, like to extend to Spain the benefits of the rates which America has granted to members of the Club. And if you have already requirements in existence on the date of this Agreement, as is specified in the last sentence there, it is fitting that you should be able to apply those requirements on goods coming contrary to the way in which you specify that they must come. Although it refers to entry at preferential rates of duty, that word "preferential" must be considered as concessional; there is a preference also between the rates accorded to members of the Club and those accorded to non-members.

Mr. J. M. LEDDY (United States): Mr. Chairman, during our five weeks in London and six weeks in New York and our five months in Geneva, this problem has been raised, I think, at least ten times on ten different occasions. It has been debated fully and each time the Committee has reached precisely the same conclusion - that there is nothing in the Charter and nothing in this Agreement to prevent any country from satisfying itself that goods do, in fact, originate in a particular other country. Therefore, I think we need add nothing to this Article at all. Countries are permitted to apply the tests they think necessary to assure themselves that a product of France originates from France and is not something which has originated from Spain and merely been repacked in France. But if we have some such provision as is suggested by the Delegate of New Zealand, I think we shall be implying much more than we mean. We shall be implying that countries may attach direct shipping requirements to the Most Favoured Nation rate of duty as they do in the case of preferential rate of duty. That point was also fully debated and it has been agreed that direct shipping requirements would not be permitted.

CHAIRMAN: Mr. Johnsen.

Mr. J. P. D. JOHNSEN (New Zealand): Mr. Chairman, I am in full agreement with what Mr. Leddy said regarding this subject having been considered previously. I do not doubt his conclusion that each country is permitted to determine for itself whether goods do originate in a particular territory. And, quoting from paper T/174, which is the Report to Commission by the sub-Committee on Articles 14, 15 and 24, it says "In connection with paragraph 1" (that is, paragraph 1 of Article 14) "the sub-Committee considers it to be clear that it is within the province of each importing

member country to determine, in accordance with the provisions of its law, for the purposes of applying the Most Favoured Nation provision, whether goods do, in fact, originate in a particular country". Now I would feel quite happy if, in place of this sentence, another sentence were put in conveying the sense of that Report.

Mr. J.M. LEDDY (United States): Mr. Chairman, I had not intended to say anything which would prolong the discussion, but the countries sitting around this table, when they sat as Commission A, thought it was clear, and I do not see any reason why, sitting round the same table in the Tariff Agreement Committee, they do not think it is clearer!

CHAIRMAN: Now is the time that we usually adjourn for half an hour. As we are not making progress at a very rapid rate, and we may do better after we have had some refreshment, I suggest that we now adjourn and return at 5.25.

(The Meeting adjourned at 4.55 p.m. and
reassembled at 5.35 p.m.)

CHAIRMAN: The Meeting is called to order.

When we broke up we were considering the proposal of the New Zealand Delegation to make a separate paragraph of the last sentence in paragraph 2. I do not see in what way this proposal could have very much effect on the substance of the last sentence of paragraph 2, but I do see certain objections to the proposal from the point of view of form.

We already have seven paragraphs to this Article, which is a large number of paragraphs for an Article of this kind, and paragraph 3 starts off with the words: "Nothing in this Article" and this particular sentence starts off with the words "Nothing in this Article" so it would not give a very good appearance if we made a separate paragraph of this particular sentence. I think this particular sentence hardly justifies a separate paragraph. It says something which is very generally agreed upon that any contracting party may maintain its requirements existing on the date of this Agreement as to the eligibility of goods for entry at preferential rates of duty. That is not a matter upon which there is any great measure of controversy, and therefore to put this sentence in a separate paragraph would be giving it, in my opinion, perhaps an importance that is hardly justified. But I do think the objections on the grounds of form are pertinent, and therefore I trust that the proposal will not be proceeded with.

Mr. J. P. D. JOHNSON (New Zealand): In view of the clear understanding of the Committee, Mr. Chairman, that it is within the province of each country to determine, according to the provisions of its law, whether the goods do or do not originate from that country, I would not suggest any modification.

CHAIRMAN: I thank the New Zealand Delegate for not insisting on this proposal.

With regard to the first line I think it would be necessary to delete the words "enumerated and" in order to conform with the

changes made in paragraph 1. Are there any other comments?
Is Paragraph 2 agreed? Agreed.

Paragraph 3. Are there any comments?

M. ROYER (France) (Interpretation): Mr. Chairman, I should like, first of all, to apologise for making a few remarks on this paragraph.

The remarks I want to make refer to the note of sub-paragraph a) and to the words "in respect of an article from which the imported product has been manufactured or produced in whole or in part". I think it would be better if we adopted a draft which could be copied on the draft of Article 3 of the Agreement stating that the importing country could collect at anytime on the import a charge equivalent to the internal taxes levied on similar domestic products under the definition appearing in the General Agreement. It seems to me that the present draft is dangerous.

Take, for example, a country to which we import sweets from Ruritania. You import sweets, the value of which is \$15, and there is a 10% on sugar. Let us assume that you have \$5 sugar in the \$15 sweets. Now if these sweets were produced in Ruritania the tax would be 10% of \$5 which is 50 cents. According to the present draft they would be entitled to levy a 10% tax on the sweets or the candies, that would be \$1.50. Moreover, if in Ruritania a tariff is also levied on imported goods, because this was in the tariff of that country, then Ruritania would be entitled to levy, first of all, a tariff of 50 cents on the sugar contained in the sweets, plus 10% on the sweets themselves - \$1.50 - in all \$2.

Mr. C.E. MORTON (Australia): If you were to take the case of say, white spirit, which carries a high rate of duty, and consider the duty on perfume, you would have a rate of duty on the perfume of 10% and an additional duty on the white spirit contained in that perfume, which would be the equivalent to the

tax which Ruritania charged, so the illustration regarding sugar is perfectly correct.

Mr. J. M. LEDDY (United States): I wonder whether this rather technical and complicated subject could not be better discussed by the Legal Drafting Committee.

I should like to read from the provision of law - it is a provision of an agreement, in a case in which we had a similar article to this, and it was turned over to the Legal Drafting Committee at that time, and they came out with this result:-

"For the purposes of Paragraphs 1 and 2 of Article IV, any material used in the production of an article, shall be considered as having been used in the production of an article subsequently produced, which is the product of a chain of production in the course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production of another article".

That was the attempt of trying to reach a decision, and that is the sort of result we might get if we tried to make this absolutely precise.

CHAIRMAN: Mr. Leddy proposes that this matter be referred to the Legal Drafting Committee and then gives an illustration which seems to indicate that it should not be referred to the Legal Drafting Committee. Do any other Members feel the same way that this Article is not precise enough?

Mr. C. E. MORTON (Australia): I suggest that M. Royer was merely afraid of the implications which he read into it and which were correct.

CHAIRMAN: Are there any other comments? Is paragraph 3 agreed subject to any drafting changes being made by the Legal Drafting Committee? Agreed.

Paragraph 4. Are there any comments? Agreed.

Paragraph 5.

M. ROYER (France) (Interpretation): Mr. Chairman, this drafting regarding this paragraph has already been adopted by the Committee. They have been reproduced here, but they have not been altered by the sub-Committee.

CHAIRMAN: We will therefore take these paragraphs 4, 5 and 6, and deal with paragraph 7 which is a new paragraph. Are there any comments on paragraph 7? Agreed.

We will now pass to that part of the sub-Committee's report which deals with the relationship of depreciation of currency to specific duties. In this connection we have a paper which was circulated this morning by the Belgium/Luxemburg Delegation, which is given in Document E/PC/T/W/341. I will call upon M. Forthomme to explain the Belgian proposal.

M. Pierre FORTHOMME (Belgium): Mr. Chairman, this Document is not exactly a proper proposal for a new Article, or even for a Note; it is rather an attempt to explain what circumstances should be taken into account if we decide either to draft an Article or to draft a typical note to be included at the head of the Schedules.

The aim of what is explained here is to protect a country against the effects of a depreciation in the currency, which alters, in an important fashion, the basis on which that country negotiated concessions in order to become a contracting party to the Agreement. We have tried to take account of the different circumstances attending the depreciation, in order to give countries protection against some of the disastrous effects of a depreciation - without given them an excessive right to readjust rates of duty

to their currencies when that would not be necessary, but in order to maintain a reasonable approximation to the basis on which they negotiated in the first instance. The idea is that the depreciation of currency shows that there is a lack of adjustment, a lack of alignment, ^{the} between/price structure of a country and the general price structure in the world. It can be said that a country by adjusting specific duties, runs the risk of the incidence of those duties falling with a fluctuation in prices, but that is the case where, as long as it is the fluctuation in price, in a general fashion all countries are affected in the same way and over a period of years. Fluctuation of prices are both up and down, and so there is an automatic adjustment over a period. When you get a depreciation, it means that the fluctuations of price have only taken place in one country, in the country having the depreciation, and therefore, it is out of alignment with the general fluctuation of prices. You could even say that the country will then have two sets of fluctuations of price, the world fluctuation and its own particular private ones, so at the moment of depreciation the private fluctuation is made permanent.

There is no chance of going back to the primitive state of affairs. That country has gone up - or rather gone down - a notch and its prices from that day on will continue to fluctuate in accordance with the general fluctuation of world prices, but at a level expressed in its own currency, which will be 50 or 70 or 100 per cent - whatever you wish - higher than the previous fluctuation was.

Therefore we think there is a case for giving a country, in the event of depreciation of its currency, a right which we do not think should be applicable just in case of general fluctuation of prices; that is, to adjust the duties to the new rate of currency, to the new level of prices, after depreciation. So we have put down these different clauses here: (a) if the depreciation exceeds 10 per cent; that is in case, first of all, the depreciation should be important; and, secondly, because any depreciation of more than 10 per cent needs to be approved according to the stated terms of the Articles of Agreement of the International Monetary Fund.

Therefore you have already one element of unilateralism removed by the fact that the depreciation has to be approved internationally.

We have introduced (b) because there are cases where a depreciation of a currency does not affect the price level, because the price level remains exactly the same as before the depreciation. For instance, before the war the depreciation was in order to return to a price level which existed some years previously.

Therefore we have put in the provision, and we found, after objections had been made to us, that the index of wholesale prices was too fragile an element on which to base depreciation. We came to the general incidence of specific rates of duties immediately after depreciation, as compared with the general incidence of

specific duties at the time the party acceded to this Agreement or signed this Agreement.

We put a limit of 20 per cent in order that adjustment of duties should not occur when the difference in the incidence was not important. And we put in (c) because, in certain cases, the difference between the two incidences - probably resulting from the two incidences - might be lower than the amount of the depreciation, in which case, according to our reasoning, the right of the country does not extend to the full extent of the depreciation but only to the amount by which the incidence of the duties has been reduced by the depreciation.

Then the second part: in case of appreciation, we put "may adjust." We see no objection to having it turned into "shall adjust."

I would like to add, Mr. Chairman, that since putting out this Note we have had further objections and our attention has been drawn to the unsatisfactory aspect for certain Delegations of unilateral action. Therefore we have considered the possibility of introducing consultation into this idea of re-adaption to depreciation and we found that we might go on these lines; that it should be recognized that depreciation in the conditions expressed in our Note here gives a right to the countries to re-adapt their duties as a consequence of depreciation, but that the manner in which that right is to be exercised should be the subject of consultation in order to avoid difficulties in international trade.

In view of that, I have drawn up here a tentative draft of what could be a Note which the different Delegations could introduce at the head of their Schedules if they desired to protect their concessions against monetary depreciation. It would be a Note which would read something like this: "It is understood that specific duties and charges included in this Schedule are expressed in, let us say, Czech crowns, of the paper value accepted by the International Monetary Fund at the date of this Agreement. It is agreed that in

case this currency is depreciated in accordance with the Articles of Association of the International Monetary Fund by at least 20 per cent the specific duties and charges may be adjusted in proportion to the depreciation of the currency or in proportion to the decrease in protective incidence as compared with such incidence at the date of this Agreement, whichever is lower. The contracting parties primarily concerned shall enter forthwith into consultation on such adjustments at the request of the ("as an example, I have given the Czechoslovak Government)..... Government"; that is to say, that when a Government has depreciated its currency and wishes to exercise its right of re-adapting its rates of duty it shall ask the countries with which those rates of duty have been negotiated to enter into consultation immediately, in order to determine how such a re-adaption may be made in the best interests of both parties.

CHAIRMAN: Does any Member of the Committee wish to speak on this subject?

Mr. O. COUFAL (Czechoslovakia): Mr. Chairman, on behalf of Czechoslovakia, I should like to support the original proposal put forward here by M. Forthomme and reproduced in Document W/341.

As was clearly stated by M. Forthomme, the thing we want is the possibility, should we be obliged through the force of economic circumstances to depreciate our money, the foreign exchange of our currency, of having the right adequately to adjust the duties. We have been doing that in the past. I have here before me the texts of our French Agreement and of our Belgian Agreement, which contain clauses like that. On the basis of these clauses we have had the right to adjust the rates of our duties when the rate of the Czechoslovak currency has changed by more than 10 per cent.

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I was a little disappointed when I read the report of the Sub-committee of which Mr. Morton was Chairman, because I had the impression that not sufficient understanding was shown for the needs of the countries which have specific duties. I think it must be realized that there is a fundamental difference between specific duties and ad valorem duties. With ad valorem duties there is a constant change of the actual duty, according to the prices, whilst with specific duties there is a stability of the actual duty levied by a country which has specific duties.

Therefore we thought we would find understanding of our needs and that no difficulties would be encountered when we put forward - or when the Belgo-Luxembourg Union puts forward - this proposal, by which there would be embodied somewhere in the Charter or in the General Agreement - or, if that is not acceptable, at least in the lists attached to the General Agreement - a provision whereby we would have the right to adjust the rates of our duties should we be forced to depreciate our currency.

I think I do not like so much the proposal put forward later on in his statement by M. Forthomme, which, as he said, was made after his discussion with the representatives of other countries. If we would have to accept a clause whereby we would be forced, before such a change, to discuss or to fight for our right for an alteration of the rates of our duties with several countries, I am very much afraid it would sometimes take a very long time before we could reach agreement on this matter.

Imagine, Mr. Chairman, say, if ten countries said "No", or asked us to negotiate with them, it might be a year before we could reach agreement. That is why we would like to have the right, and I would make a strong appeal to all the Delegates of other nations to find understanding for this and relieve^{us}/of the difficulties at this stage.

I think that any country which has any fear - any country with specific duties which would take advantage of these clauses which I am advocating here - that she would be losing something for which she was negotiating here, can have recourse to Article XXIII of the General Agreement, which gives any contracting party the right to come to us and negotiate if she feels she has lost something because of the adjustment of the duties.

I think that is all I wanted to say, Mr. Chairman.

CHAIRMAN: The Delegate of the Netherlands.

DR. G. A. LIMSVELT (Netherlands): Mr. Chairman, with reference to this case of specific duties, my Delegation has not yet a specific opinion.

On the one hand it seems natural that a country which has depreciated its currency would be entitled to adjust the specific duties, which would become too low. On the other hand, as the report of the Sub-committee shows, there were seven members present, of which apparently four who may be important members are against the insertion of the Note which has been discussed. Therefore our Delegation would prefer to await the outcome of the discussions.

CHAIRMAN: The Delegate of Brazil.

Mr. E. L. RODRIGUES (Brazil): Mr. Chairman, after listening to the remarks made by the Delegates for Belgium and Czechoslovakia, I have very little to say. But I would like to state at this stage that in order to understand well the position of the country with substantial specific duties we should take into consideration that there are two orders of countries in regard to economic maturity. There are countries which can afford and can maintain a high degree of monetary stability and, in consequence, stability of prices, and there are other countries with a so-called

inflexible economy, like my country, which are always extremely affected by the economic effects caused by other countries, especially in the field of prices, because, as everyone here knows, there are countries which have more responsibility in this matter of price policy.

We have had a very sad experience in this matter and some other countries, as well as Brazil, have a falling currency. In our case, in less than 20 years the value of the dollar, which was eight cruzeiros, fell to 19 cruzeiros.

To understand our position well, it is only necessary to examine the effects of such depreciation. If we are dealing here with an agreement which will be in force for a long period, I do not see any reason for avoiding a provision on the lines suggested by the Belgian Delegate, if, in order to get this change in the Schedule, we are in the condition established in that suggestion, especially in regard to the International Monetary Fund. I believe, if that condition occurred, it could injure the interests of the other contracting parties.

Because of this, I strongly support the first draft of the Belgian Delegate and I declare myself in full agreement with the statements made by the Belgian and Czechoslovak Delegates.

CHAIRMAN: The Delegate of Norway.

MR. J. MELANDER (Norway): Mr. Chairman, I am in general agreement with the original Belgian proposal and with the statement made by the Delegate of Czechoslovakia. I would not have excluded the possibility of reaching a compromise on the solution suggested by the Belgian Delegate in his second statement. I think the main point there is to be able to lay down the rules which will allow countries to make adjustments in time; in other words that these negotiations shall not hold up any adjustment for a year or two. It might be that one could perhaps proceed more or less on the lines suggested in Article 13 of the Charter through which the parties concerned could take measures, make adjustments, pending the outcome of negotiations. I think there is a possibility of reaching a solution on those lines.

Secondly, I would, however, say that I do not think it would be right to include a Note like this in the Schedule, especially as the Sub-Committee dealing with the Schedules has suggested that we take out as much as possible of the Schedules and include it in the General Agreement as such. I think this is a general rule and that it consequently ought to be incorporated in one of the articles of the General Agreement.

The Delegate of France.

M. ROYER (France) (Interpretation): Mr. Chairman, we are not interested directly by this question because we have few specific duties in our tariffs, but we adhere wholeheartedly to the statement which was made by the Czechoslovakian Delegate and it is for reasons of simple equity. If the draft of the Agreement were to be maintained here without any modification, then we would

reach a situation which would be completely unbalanced between those countries which have ad valorem duties, which will rise when the prices rise, and between those countries which apply specific duties, the incidence of those duties decreasing when the prices increase. I think if we were to maintain such a provision, or the lack of such a provision, here, we would compel the countries which apply specific duties to modify those duties and to transform them into ad valorem duties, and I do not think it is to our interest to compel those countries to such action. This is not a result which we should be seeking.

We accept the first 2 points of the Belgium/Luxemburg proposal, but, regarding the incidence, the Belgian Delegation modified its original proposal following some comments we had made, stating that the rate of readjustment should not be greater than the rate of monetary depreciation, even if this were to be done in a period of price increases.

I would nevertheless ask the Belgian Delegation to make a closer calculation, a more thorough and more accurate calculation, of the percentage which they desire to apply, because the manner in which these percentages should be calculated now would lead to a most unsuspected result, depending on the way in which they are calculated.

As to the last proposal I would not agree completely to this proposal because it seems to me somewhat ambiguous, and now it could be read as meaning that, in case of readjustments of the duties, negotiations would take place, and then free concessions might have to be made on the part of those countries wishing to readjust their specific duty. I think a better procedure ought to be followed: that is that the question should be examined by the Committee of the Contracting Parties and that the Committee

should only assure itself that that adjustment has taken place according to the rules laid down in the Agreement, and that no new concessions could be asked from the party readjusting its specific duties if the Committee sees that this readjustment has been honestly carried out and in conformity with the rules.

CHAIRMAN: Are there any other speakers?

MR. R. J. SHACKLE (United Kingdom): Mr. Chairman, I think that the second Belgian type of proposal is more attractive than the first proposal, because I think that the first proposal assumes a degree of almost automatic application which I think in practice does not exist. The earliest forms of the proposal put before us seemed to assume an almost mathematical automatism about these prices, that if you depreciate your money by a certain proportion automatically prices follow in the same proportion and automatically it would be possible to adjust your duty in the same proportion. That I think is not correct and some practical cases have been cited to us to show that it is not correct.

But it does seem to me that, in spite of the qualifications which have been introduced into the first Belgian proposal, that still does assume a certain degree of automatic operation which in practice could not be realised. There would be so many variable and uncertain elements which would come in and there would always be differences of opinion as to how the true results would work out. So I think in fact such a rule would never operate automatically; there would always have to be consultation.

Moreover, if you have a general rule of this kind, by seeking to assume this possibility of automatic action, it might serve as an encouragement to countries sometimes to take action when in fact there was not a justification for taking action. For that

reason I feel that to deal with the matter in the form of a Note to a particular Schedule is the preferable way. I gather that Mr. Forthomme's second proposition was in fact for a model heading to go into the Schedules. I think it is the preferable way of dealing with this matter, if any specific provision on this subject beyond the Consultation Article which already stands now in the Agreement is desirable. That is my general opinion; ~~that countries which would deal with this matter should deal~~ with it by a form of Note in their Schedules, to be agreed between the various countries, the general form to be on some such lines as M. Forthomme suggested.

CHAIRMAN: The Delegate of Belgium.

M. Pierre FORTHOMME (Belgium): Mr. Chairman, I would like to say two things: first of all that I would be willing to follow the suggestion of the French Delegate as to the modification at the end of our second proposition, that instead of consultation there would be reference to the Contracting Parties (with capital letters) as to the application of readjustment.

On the other question, as Mr. Shackle said, it is perfectly correct that the second suggestion of ours would be for Notes to be at the head of the Schedules for countries which did protect their concessions in this way; but I think that it cannot be left to agreement between the countries negotiating as to whether these Notes are going to be put in the Schedules or not. There should be agreement in this Committee as to whether this type of Note is acceptable by the whole of us and whether we authorise any country desirous of putting a Note like that to put it into the Schedule, and this because of the multilateral character of the negotiations here.

P.

If we take an example: I am negotiating with the principle supplier of stuffed owls and I give him a concession on specific duty, on condition that I can put at the head of my Schedule a Note that this specific duty is bound in this matter, and is subject to readaptation in view of depreciation of the currency. Then another producer of stuffed owls says, "We get this concession indirectly but we do not admit that it can be subject to readaptation in the face of currency depreciation" and the whole thing therefore falls through.

Therefore we have to have a general principle here whether we can accept this Note as permissible at the head of any Schedule containing specific duties or whether we do not accept this Note as permissible.

CHAIRMAN: Are there any other speakers? The Delegate of Czechoslovakia.

MR. O. COUPEL (Czechoslovakia): Mr. Chairman, I am in agreement with Mr. Forthomme when he says that in the list there should be a general agreement rather than to leave it to the countries wishing to insert such a clause in their Schedules.

With regard to the remarks of Mr. Shackle, when he expressed the opinion that some country might make such a use of that clause as to increase the incidence of the duties, I believe that we are all about to sign a General Agreement and the Charter here by which we will solemnly declare that we shall not increase the duties, that we will rather lower them. I think every country would have to think twice before doing a thing which could be proved against that country - that it had used that clause in order to raise the duties. Therefore I think it is not necessary that any countries should distrust our attempt to have this clause inserted.

CHAIRMAN: Are there any other speakers?

The Delegate of the United States.

Mr. J. M. LEDDY (United States): Mr. Chairman, we do not quarrel with the idea that some countries, particularly those which use tariffs which are largely or completely specific in nature, and particularly those countries which have some reason to believe that they may depreciate their currencies, may want to include a provision in the Schedules relating to their concessions which envisages the possibility of an upward adjustment of the specific duties because of price increases consequent upon depreciation of the currency. But we do agree most heartily with Mr. Shackle that the circumstances in which increases in specific duties would be warranted, and the extent of those increases, cannot be reduced to a prices formula. It is for that reason that we feel that the inclusion in any country's Schedule of a provision which would permit it unilaterally to increase its specific duties in connection with price appreciation would have the effect of substantially lessening the worth of that Schedule to us.

Now it is not a question as to whether we trust any other Government around this table: we do not distrust the Government of Czechoslovakia or any other Government, but you need reasonably firm agreements between Governments which trust each other. If that were not true we would not be here attempting to draft and write down in terms the behaviour which each of us shall follow with respect to the others in this Agreement. We do think that the only acceptable solution lies in the direction of consultation and negotiation among the parties concerned. We think that M. Forthomme's second draft points in that direction.

We should like to suggest that a draft along the following lines, which represents an amendment to his second and third

paragraphs, might be considered by the countries concerned.

The draft is as follows:-

In case this currency is substantially depreciated consistent with the Articles of Agreement of the International Monetary Fund the contracting parties shall, upon the request of, say, Czechoslovakia, promptly enter into and carry out with Czechoslovakia negotiations directed to such adjustment of specific duties in the Schedule relating to Czechoslovakia as may be warranted by such depreciation in the circumstances.

That recognises the principle; it points the way: it precludes an attempt to obtain unilateral concessions.

With regard to whether "contracting parties" should be in capital letters or not, I have not considered that thoroughly, but I think we should be prepared to accept that. That would mean that we would not have to have the unanimous agreement of all countries, but the Contracting Parties on the basis of voting now set up in the Agreement.

I offer this purely as my personal suggestion. I would have to clear it with my Delegation. But I believe it is just about as far as we are prepared to go.

With regard to the suggestion of a typical headnote, if agreement is reached, I think that procedure can be as follows: that, having agreed upon a typical headnote, those countries which wish to insert such a headnote in their Schedules should notify the Secretariat; the Secretariat will list those on a piece of paper and we shall have a meeting to consider the list.

M. Pierre FORTHOMME (Belgium). Could we ask Mr. Leddy to give us his text slowly so that we could take it down?

CHAIRMAN: Perhaps, after I have made a suggestion, it will not be necessary to take the text down now, because the hour is getting late.

It seems to me that there is still a large measure of disagreement in the Committee on this subject, and I do not think we can reach agreement this evening. The sense of the Committee appears to be that this question should be covered by a note to appear in the appropriate Schedule of those countries who are mostly concerned, that is, those countries who have specific duties for a large number of their tariff items and who expect that their currencies may be depreciated in the near future.

The only Delegate who spoke in favour of excluding an Article covering this question was the Delegate of Norway, and therefore I think if we can proceed on the basis that the majority of the Committee favour a note in the appropriate Schedules. There is also a substantial measure of agreement that we should arrive at the text of a model note which covers the multilateral nature of these negotiations.

I would like therefore to make the suggestion that Mr. Morton call together his Sub-committee again and that they meet tomorrow morning and endeavour to work out a model note which can be presented to us at our meeting tomorrow afternoon, because, with the best will in the world, I do not think we will conclude all our work to-day and I am quite sure members of the Committee do not wish to meet tonight, and therefore it will be necessary for us to meet tomorrow afternoon.

If the Sub-committee could produce a draft by 1 o'clock the Secretariat could see that it is circulated in time for

our meeting. We could then agree upon the text of the model note and we could then give consideration to the suggestions for future procedure such as that suggested by Mr. Leddy, or some other suitable procedure which the Sub-committee may decide. Does the proposal meet with the approval of the Committee?

Agreed

In order that members composing the Sub-committee should have time to consider the suggestion of Mr. Leddy, I will read to them very slowly the text which he proposed.

M. Pierre FORTHOMME (Belgium). I do not remember exactly what was the composition of Mr. Morton's Sub-committee.

CHAIRMAN: Australia, Belgium, Canada, Czechoslovakia, France, the United Kingdom and the United States.

Would it assist if I read out the proposed text suggested by Mr. Leddy? I think it is to take the place of the second and third paragraphs of M. Forthomme's second proposal.

Mr. C. E. MORTON (Australia). In that case it might be possible to have a sufficient number of copies brought to the meeting in regard both to Mr. Leddy's and to M. Forthomme's proposal.

CHAIRMAN: The Secretariat will see that sufficient copies are available for the rest of the Sub-committee, but in case some members would wish to consider Mr. Leddy's proposal I will read it slowly:

"In case this currency is substantially depreciated consistently with the Articles of Agreement of the International Monetary Fund, the contracting parties shall, upon the request of Czechoslovakia, promptly enter into and carry out with Czechoslovakia negotiations directed to such adjustment of specific duties in the Schedule relating to Czechoslovakia as may be warranted by such depreciation in the circumstances."

The Secretariat will circulate this to members of the Subcommittee in the morning.

We now have a few minutes left, and I wonder if we might dispose of the item I introduced earlier in our meeting, which relates to paragraph 1 of Article XXIV. Members of the Committee will note on page 55 of Document T/196, that we had reserved a decision as to whether paragraph 1 of this Article should be transferred to Part II or retained in this Article. The Australian Delegation have proposed that the paragraph should be included in Part II.

Dr. COOMBS (Australia) We are prepared to withdraw the suggestion, Mr. Chairman.

CHAIRMAN: The other question to be decided is about the square brackets around the last words of this paragraph in the Protocol of Provisional Application. I take it that these can be removed. Is that agreed?

Agreed.

I think we have now done sufficient for to-day. To-morrow we will take up the Note regarding Germany, Japan and Korea which is given in Document W/340, Revision 1, this being a revised text submitted by the Delegation of the United States. We will also deal with the Annexes.

Since we have not got very much to do to-morrow, I suggest that we only meet at 3 o'clock and carry through until we finish.

Mr. J. MELANDER (Norway). Mr. Chairman, before we dispose of our work to-day I would like to raise a question concerning the remaining work of this Committee. As you all know, not only the Norwegian Delegation, but also other Delegations, would very much like to liquidate their obligations here as quickly as possible, and I may say that I myself have been instructed to leave on Saturday in order to advise the Commission which the

Government has established to consider the draft for the Charter.

Now the point is that we have practically settled all the texts here, and as far as I can gather it is only really the point which was raised by the Australian Delegation to-day about the switching over from Part I to Part II of Article 1, and these two points which remain for to-morrow, which are still outstanding, apart from the Sub-committee dealing with the Schedules

I should think all that could be covered by Saturday, or at any rate Monday, and the question is then, whether it would be possible to start dealing with the Legal Drafting Committee's work immediately or whether it would be possible to let the Legal Drafting Committee prepare its work completely and then take it up. In that case I would suggest that the Legal Drafting Committee's report was finished and circulated to Delegates and that it was taken up at a later date, say round the 10th October, for final approval by the Committee here, so that everything was in order until the signature of the Final Act. If that is not considered a practical solution, I would suggest that we at any rate start dealing with the Legal Drafting Committee's report as quickly as possible and even, if necessary, in bits and pieces.

CHAIRMAN: I do not think it would be a very practical suggestion to hold over the consideration of the Legal Drafting Committee's report until the 10th October, because by that time practically all the delegations would be liquidated down to a few experts on tariff schedules; but I do believe it might be possible, and I shall ask the Chairman of the Legal Drafting Committee to inform us, to take up part of the Report of the Legal Drafting Committee on Saturday morning. If we do not finish Saturday morning, we will continue on Saturday afternoon; but I do not think it is perhaps asking too much of the Legal Drafting

Committee to submit the whole of their Report by Saturday. Probably it would be necessary to have a meeting one day next week to consider that part of the Agreement which they may not produce by Saturday. I will ask the Chairman of the Legal Drafting Committee what he thinks of this suggestion.

M. ROYER (France) (Interpretation). Mr. Chairman, I think that the Legal Drafting Committee could terminate to-morrow its work on Part III of the Agreement, and that Part III of the Agreement can be circulated so that it can be taken up for examination on Saturday morning.

Taking into consideration the fact that Legal Drafting Committee which dealt with the Charter and the present Legal Drafting Committee is composed of almost the same members, our Committee would have liked to have an opportunity of reviewing the whole of the Agreement, but of course, if that is not possible, Part III will be ready for discussion on Saturday morning.

Referring to Mr. Leddy's proposal to transfer Article 1 from Part I to Part II of the Agreement, I think that it would be useful and, anyhow, the French Delegation will make a proposal in that sense, that provisions should be inserted in the Protocol of Provisional Application stating clearly that the governments will be able to apply provisionally the provisions of Article 1. This might delay, of course, the examination of the Protocol of Provisional Application. That is the only point outstanding.

CHAIRMAN: That point will have to be taken up when we come to the definitive decision with regard to the transfer of Article 1 to Part II.

I propose that we meet to-morrow at 3 o'clock and finish up the remainder of our work, and then on Saturday morning take up the report of the Legal Drafting Committee on Part III, or such text as they have been able to submit. Is that agreed?

The meeting is adjourned.

The meeting rose at 7.30 p.m.