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

VERBATIM REPORT.

TWENTY-SIXTH MEETING OF THE TARIFF AGREEMENT COMMITTEE  
HELD ON TUESDAY, 23 SEPTEMBER 1947 at 10.30 A.M. IN  
THE PALAIS DES NATIONS, GENEVA.

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

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CHAIRMAN: We have had circulated this morning the Report of the Legal Drafting Committee on the Final Act, Preamble and Part I of the Agreement. This is given in Document T/211.

We have also had circulated this morning the Report of the Legal Drafting Committee on the Protocol of Provisional Application of the General Agreement on Tariffs and Trade, which is given in Document T/213.

The Legal Drafting Committee have also been able to finish most of Part II, up to Article XVII. This is given in Document T/212.

I will call upon the Chairman of the Legal Drafting Committee to explain why it has not been possible for the Legal Drafting Committee to complete all its work in time for today's meeting.

M. ROYER (France) (Interpretation): Mr. Chairman, the Legal Drafting Committee had a much heavier task to perform than was anticipated. In fact, when we examined these texts we found that the draft of the Charter contained a certain number of errors and a lack of concordance. Therefore it was not possible to translate the Articles of the Draft Charter into the Agreement without altering slightly some of the Articles.

The Legal Drafting Committee worked late into the night to enable it to complete its work on the text of Part II. Last night we completed the draft Articles of Part II, but we still have to examine the Annexes and the Protocol, including the Interpretative Notes.

I think the wisest plan would be to enable the Legal Drafting Committee to meet this afternoon and complete its work on Part II, so that the Committee could take up the examination of Part II tomorrow morning; that would mean that the whole of Part II could be examined tomorrow morning.

The work performed by the Secretariat was considerable, owing to the difficulties arising from the fact that the two texts, French and English, had to appear on the same page, and of course the brackets and amendments had to be shown clearly in the draft which is now before the Committee. The Secretariat worked during the night and therefore it is possible that a certain number of material errors may have slipped into the draft which you now have.

These are the general comments I wanted to make and in the course of the discussion and examination of this draft I shall be ready to answer any questions.

CHAIRMAN: I am sure we are all very much indebted to the Legal Drafting Committee and the Secretariat for the Herculean efforts they put forth in order to produce a text for us to consider this morning, and it is no fault of theirs that they have not completely succeeded in their task.

I think we might proceed this morning with the consideration of the documents we have before us and perhaps when the time comes to adjourn for lunch we can consider whether or not it would be worth while to meet this afternoon or to leave the entire afternoon free for the Legal Drafting Committee to complete its work.

If that procedure is agreed, I propose we take up first the Report of the Legal Drafting Committee which is given in Document T/211. This concerns the Final Act, Preamble and Part I of the General Agreement.

Is that agreed?

We will take up first the Final Act, which is given on Page 2 of Document T/211.

The first paragraph of the Final Act.

The Chairman of the Legal Drafting Committee.

M. ROYER (France) (Interpretation): Mr. Chairman, before we examine the various paragraphs of the Final Act, I would like to state that the Legal Drafting Committee examined the question of knowing whether two distinct copies of the Final Act - that is to say, one French copy and one English copy - should be established or whether it would be possible to establish only one bilingual draft.

As the Agreement and the Annexes will not be signed but will appear only as Annexes to the Final Act, the Legal Drafting Committee was of the opinion, finally, that one document would be sufficient - if possible, a printed document - and in that document the English and French texts would face each other. We therefore proceeded on the assumption that only one bilingual document would be established; that is the document which appears before you now as Document T/211.

CHAIRMAN: Are there any comments on the form in which the Legal Drafting Committee have prepared the Final Act?

I take it, therefore, that the Committee is agreed on preparing the Final Act in this form.

Are there any comments on the first paragraph of the Final Act?

Mr. E. McCARTHY (Australia): Can you tell me, Mr. Chairman, why the words "between their representatives" have been <sup>in fact</sup> translated into French as "through their representatives"?

M. ROYER (France) (Interpretation): Mr. Chairman, the reason why the Legal Drafting Committee made that modification in the text was to avoid a wrong interpretation which might have been construed from the text adopted by the Committee. In fact, the

words "between their representatives", coming before the words "at Geneva", the interpretation might have been given that the text referred to the permanent representatives of the Powers at Geneva.

CHAIRMAN: Are there any other comments on Paragraph 1?

Mr. McCARTHY (Australia): I should like to say another word of explanation on that, Mr. Chairman. I think it was at our instance that the introduction of representatives at that stage at all was made. The point which we were really trying to convey - upon instructions - was that the representatives actually framed the Agreement for consideration by the Governments. That was really our point all along; that the point of this Final Act was to establish the text and then subsequently to submit it to the Governments.

The word "through" rather suggests that the Governments are actually establishing the text, not the representatives. It could be read that way, I think, and it seems to me at any rate to be a substantial change in substituting the word "through."

CHAIRMAN: The Delegate of the United States.

Mr. Winthrop G. BROWN (United States): Mr. Chairman, could the point of the Legal Drafting Committee and the Delegate of Australia be met by simply transposing the words "at Geneva" and saying: "At Geneva on April 10, 1947, initiated negotiations through their representatives"?

CHAIRMAN: The Chairman of the Legal Drafting Committee.

M. ROYER (France) (Interpretation): May I ask where you would put the words "through their representatives"?

Mr. BROWN (United States): I would suggest: "Having initiated negotiations at Geneva on 10th April, 1947, between their representatives, directed to . . ."

CHAIRMAN: Or "initiated at Geneva."

Mr. BROWN (United States): I would suggest we put a comma after the word "representatives."

CHAIRMAN: The Delegate of Belgium.

Baron P. DE GAIFFIER (Belgium): We had the same problem; it looked as if it were the representatives who were directed to the substantial reduction of tariffs.

CHAIRMAN: The latest suggestion of Mr. Brown is to have the paragraph read as follows: "initiated negotiations between their representatives, (comma) at Geneva . . .". Would that meet the point of the Delegate of Australia? I think it would meet the objections of the Legal Drafting Committee. Is that agreed?

(Agreed).

Are there any other comments on the first paragraph?

(Agreed).

Are there any comments on the second paragraph?

(Agreed).

Are there any comments on the third paragraph?

(Agreed).

The formula: are there any comments?

M. ROYER (France) (Interpretation): Would it not be better, in the English text, to say: "DONE at Geneva in a single copy."?

Mr. R.J. SHACKLE (United Kingdom): I see no objection, Mr. Chairman.

CHAIRMAN: Are there any objections? The English text will then read: "DONE at Geneva in a single copy."

The Delegate of the United States.

Mr. BROWN (United States): Mr. Chairman, if this is to be a single document, I notice that the French and English texts differ; the names of the countries do not always appear in the same place.

M. ROYER (France) (Interpretation): Mr. Chairman, this is due to a mistake when this document was roneographed. It is extremely difficult to have the two names appear on the same line in the document which is now before us, but what we want is that the names of the countries in French and in English face each other, and that the signature should appear in between and underneath the two names. For example:

For the Commonwealth  
of Australia

Pour le Commonwealth  
d'Australie

and in between, and underneath, the signature.

CHAIRMAN: In other words, the English order of the alphabet would be followed and the names of the country in the respective languages would appear one against the other.

Are there any other comments?

Agreed.

That disposes of the Final Act.

#### Part I.

We can now take up Part I of the General Agreement which commences on page 7 of document T/211.

Preamble.

Paragraph 1 of the Preamble.

Are there any comments?

Agreed.

Paragraph 2 of the Preamble.

Are there any comments?

Agreed.

Paragraph 3 of the Preamble.

Are there any comments?

Agreed.

The formula in the Preamble.

Agreed.

Article I. General Most-Favoured-Nation Treatment.

M. ROYER (France) (Interpretation): Mr. Chairman, we are now starting the examination of Part I, that is to say, the Articles which have been taken over completely from the Charter. Acting on instructions, the Legal Drafting Committee did not wish to make any modification in the form of the draft Articles of the Charter. Nevertheless, on certain points we proposed that it would be necessary to re-word the texts in a slightly different form. This is for the reason that at times the drafting of the Charter was obscure or was not consistent with our purposes.

CHAIRMAN: The Delegate of the United States.

Mr. Winthrop BROWN (United States): Mr. Chairman, the United States Delegation circulated this morning paper W/343 with a suggestion for the addition of an Interpretative Note in Annex I. That Note refers to this Article and I would like to be permitted to explain the reasons why we suggest it to this Conference.

You all recall that early in the deliberations of this Committee we suggested that, since there were certain preferential internal taxes in certain countries, we having one particularly on coconut oil, Article I should include a reference to preferential internal taxes specifically, making them subject to negotiations in the same manner as tariff preferences. The feeling of the sub-Committee on Article XIV was that, since that situation was probably limited and that there were not many taxes of that kind, it would be preferable if possible to take care of them specifically as individual cases in the different Annexes, and Delegations were requested to advise the Committee of any such taxes that they have, and Delegations did so.

The United States Delegation notified the Committee of the

existence of its preferential tax on coconut oil and of our desire and willingness to transform that into a tariff preference and make it subject to negotiation. The possibility to do that is taken care of under the decision of the Committee by a comment in Annex A which enables us to change that tax into a tariff preference without violating the rule here and makes it subject to negotiation. However, it will require legislation for us to do that. By the drafting of Article I, wherein it refers to Most-Favoured-Nation treatment with respect to all matters referred to in paragraphs 1 and 2 of Article III it would require us to take that legislative action immediately because of the position of Article I in the General Agreement. We could not take that legislative action until we give definitive effect to the Agreement and therefore we have suggested this Interpretative Note in W/343 which would make it clear that our obligation to correct that situation would be on the same basis as all other obligations in Part II. I believe this is quite consistent with the decisions of the Committee, but we wanted to make it quite clear, and therefore we have suggested this Note.

CHAIRMAN: Are there any comments on the proposal of the United States Delegation?

Are there any objections to the inclusion of this Interpretative Note in the Annex?

Agreed.

This Note will then be the first Note in the Annex of Interpretative Notes which is Annex I.

M. ROYER (France) (Interpretation): Mr. Chairman, I think this note only refers to paragraph 1 of Article I, therefore the reference should be inserted to paragraph 1 of Article I.

CHAIRMAN: Are there any objections to the reference to paragraph 1 of Article I?

We will let the reference be to paragraph 1 of Article I, unless the Legal Drafting Committee ascertains that it should have a broader reference.

Are there any other comments on paragraph 1?

Agreed.

Paragraph 2.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, I notice a typing mistake. The word "description" in the fourth line on page 10 should be "descriptions" in the plural.

CHAIRMAN: "Descriptions" should be in the plural, as Mr. Shackle points out.

Are there any other comments on paragraph 2?

Agreed.

Paragraph 3?

Mr. Winthrop BROWN (United States): Mr. Chairman, a small technical point. I think it might be clearer if the word "but" replaced the words "and which"; "and which" might be interpreted as referring back to the product rather than the margin of preference.

CHAIRMAN: The United States Delegation proposes that, after the word "Article" the word "but" should be substituted for the words "and which". Is that agreed?

Mr. Winthrop BROWN (United States): Mr. Chairman, in subparagraph (a) we suggest that the first line should read "in respect of duties or charges on any product described in . . . ." and so forth, the reason for that being that later on it says "if no preferential rate is provided for" and that might be interpreted to apply only to a preferential rate on a customs duty. Now, in certain of the cases

in the Schedules you will have only primage referred to, or you will have surtax only referred to, or you will only have the ordinary custom duty referred to, and the way it is now drawn up might conceivably be interpreted that if no preferential rate with respect to any one of those items were classified, the others would not be bound. Therefore, if you said "in respect of duties or charges on any product" it would make it clear that anything not referred to was bound. And, as a consequential change, the same thing should appear in the first line of sub-paragraph (b).

CHAIRMAN: The United States Delegation proposes that the first line of sub-paragraph (a) and the first line of sub-paragraph (b) should read: "in respect of duties or charges on any product".

M. ROYER (France): (not interpreted)

CHAIRMAN: Are there any objections to this proposal?

Agreed.

Are there any other comments on paragraph 3?

Mr. Winthrop BROWN (United States): It is quite clear that it does involve the same change in the first line of sub-paragraph (b)?

CHAIRMAN: Yes, I have made that clear. Are there any other comments on paragraph 3?

Paragraph 3 is agreed.

Article II - Schedules of Concessions.

M. ROYER (France) (Interpretation): Mr. Chairman, we had to modify somewhat the text of Article II and our reasons for doing so are the following:

We saw that it was advantageous to take up again a few lines of Article II which had been adopted by the Commission because

whatever the skill of the Committee which drafted this article, nevertheless it did not appear certain that all the obligations were covered, in fact, by the provisions of Article II; therefore we took over the general formula which appeared in the original draft of Article II and we added some paragraphs to cover certain points to make these points more specific.

Furthermore, the Legal Drafting Committee examined the relations between the two following sub-paragraphs, the first relating to the treatment under the Most-Favoured-Nation clause and the second relating to the treatment under Preferential Rates. The Committee had inserted, to link up those ideas, the following words: "Except as provided in paragraph 2 of this Article ...." etc. The Legal Drafting Committee did not consider this link-up quite appropriate and preferred to make a distinction between the two categories of commitment, and in the first sub-paragraph the commitments relating to the first part of the Schedule are mentioned, and in the second sub-paragraph the commitments relating to the second part of the Schedule are mentioned. Someone might say that with such a disposition a duplication might occur, a duplication relating to countries having the advantage of preferential rates - that that country would have two sorts of advantages; but, in fact, that country has this double advantage because it benefits in the treatment under the Most-Favoured-Nation clause and on the other hand such a country benefits also from preferential rates and the advantages deriving from the second part of the Schedules. That was the second point.

Now, as to the third point, we changed the clause relating to special conditions and special clauses described in the Schedules. We thought it was necessary to make such a change because in fact under this Article, if the ordinary customs duties had to be consolidated, the consolidation of the additional taxes did not

appear quite clearly, and it was necessary to bring about such a change to make it quite clear.

CHAIRMAN: Are there any comments on the general remarks of the Legal Drafting Committee?

We will then take up Article II sub-paragraph by sub-paragraph.

Paragraph 1 (a). Are there any comments?

Approved.

Paragraph 1 (b).

Mr. Winthrop BROWN (United States): Mr. Chairman, it is simply a question of clarification. I understand that some countries will not have a Part I and Part II Schedule as they have no preferential arrangements; so would it not be referable simply to say "Subject to the provisions of sub-paragraph (c) of this paragraph the products described in the Schedule of any contracting party . . . . ." and so forth. Because in the case of countries which have no preferential arrangement they will not have any Part I and Part II.

CHAIRMAN: I think in that case the difficulty could be got over by each Schedule putting in the words "Part I" even if there is only Part I, and the fact that there is no Part II to that Schedule would indicate that sub-paragraph (c) does not apply. Do you think that would get over the difficulty? In that case I think that we should ask the Secretariat and the Delegations concerned to see always that if they have only Part I to their Schedule it should be described as Part I.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, might it not be possible to meet this point in another way? - To say "the products described in the Schedule, or in Part I in cases where there is also a Part II, ". That would avoid putting Part I at the head

of a whole lot of Schedules with no Part II.

M. ROYER (France) (Interpretation) Mr. Chairman, I think that from a practical point of view it would be better to have the same title in every Schedule and to have Part I and Part II and if there is no Part II just put the word "Nil" after Part II. Otherwise we shall have a very cumbersome mechanism if we have only Part I in certain Schedules and two Parts in other Schedules and sub-titles with (a) (b) (c) for overseas territories.

CHAIRMAN: Are there any other comments?

Baro. Pierre de GAIFFIER (Belgium)

M. ROYER (France)

} These remarks  
} applied only  
} to the  
} French text.

CHAIRMAN: The Delegate of Norway.

Mr. J. MELINDER (Norway): Mr. Chairman, just one point regarding this Schedule. We have already completed our Schedule and we have not indicated either Part I or Part II because we have only had Part I, but, of course, I have no objection to indicating Part I and then Part II Nil. But I think we ought to have the same system as a uniform rule for all purposes of this agreement: so I take it that it will be understood that other parties will do the same, and the Secretariat will arrange that we have the same system.

CHAIRMAN: The Delegate of the United States.

Mr. Winthrop BROWN (United States): One point on sub-paragraph (b) at the top of page 14. The paragraph provides that products in Schedules should be exempt from all other duties or charges of any kind beyond certain levels. Here again there are certain products which will be in certain Schedules where the only thing intended to be dealt with is primage or a particular charge to which the article is subject. Under the language as now drafted, the

effect would be to combine customs duties and every other charge on such products. So I think it should be made clear that the binding here only applies to products in which a customs duty has been bound. That could be accomplished by adding, after the words "Such products" the phrase "in respect of which a maximum rate of ordinary customs duty is provided for in the respective Schedules".

CHAIRMAN: Are there any objections to the proposal of the United States Delegation?

M. ROYER (France) (Interpretation): Mr. Chairman, I wonder if the solution which Mr. Brown has just proposed is a good solution for this case. Let us take the case of two items, first haberdashery and, on the other hand, the case of optical glasses which will appear in the list. For the first case, if items such as haberdashery, appearing in the list of these goods a consolidation of the customs duty and of the primage duty will be achieved. For the other case, the optical glasses, there will be no consolidation of the customs duty but only of the primage duty. Now it seems to me that under the solution just proposed by Mr. Brown there would be a juridical distinction between these items, haberdashery on the one hand, and optical glasses on the other. Therefore, it seems that optical glasses would be excluded from this sentence here, and I wonder if, in the one case, consolidation of the primage duty would be provided for by this sentence, that is for the haberdashery goods. It seems to me that the solution which had been adopted by the Legal Drafting Committee, and referring to sub-paragraph (a) to cover all the points not mentioned in paragraph (b), is the best solution and it seems to me that the text proposed by Mr. Brown would make a distinction between two cases between which there ought to be no distinction.

Mr. Winthrop BROWN (United States): Mr. Chairman, I really should not be arguing this point, because we would be perfectly prepared to see it in the way it is, because it would get us more than we had bargained for in the negotiations. But the fact is that in a case where a country has simply bound the rate of primage, that is all they have bound, whereas if they have bound the customs duty they have also bound the other charges; and I think the two matters are quite distinct and should be differently treated.

M. ROYER (France) (Interpretation): Mr. Chairman, I would like to know if Mr. Brown does not interpret in the second sentence the words "other duties" as meaning that if a primage duty is consolidated then the customs duty has to be consolidated also.

Mr. Winthrop BROWN (United States): That is precisely the way I do interpret it and that is why I think it is wrong.

M. ROYER (France) (Interpretation): It seems to me the words "other duties" mean duties other than the ordinary customs duty.

Mr. Winthrop BROWN (United States): As I say, Mr. Chairman, we gratefully receive the bonus.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, it seems to me that Mr. Brown's drafting is the correct one, because surely where only, for example, the primage duty is consolidated, the intention and the purpose was not, in this case, as an incidental result to consolidate the ordinary customs duty, and if we are not to have that automatic result I think that for reasons of clarity Mr. Brown's phrasing is desirable.

CHAIRMAN: I cannot help feeling that there is a lot in what M. Royer says, that the phrase "other duties" refers to duties other than ordinary customs duties.

Mr. Winthrop BROWN (United States): In that case, Mr. Chairman, we should be binding also other charges. But if that is the intention, we are very happy.

Mr. C.E. MORTON (Australia): Mr. Chairman, we have bound in a number of cases the primage duty only, and we were aware of the doubt as to the interpretation which was going to be given to this particular paragraph. If it is not entirely clear that what we are doing in such cases is the binding only of the primage duty, we want to have time to have some further thought.

We think that Mr. Brown's amendment does make the point clear as far as we are concerned. My only thought was that by the addition of his words he might be taking away from other goods the right of primage.

M. ROYER (France) (Interpretation) Mr. Chairman, I do not have to defend this text as the Report of the Legal Drafting Committee, because, in fact, we did not alter this text at all but took it in the way it was sent to us by the Committee, which had adopted it. Nevertheless, I think that, looking at this sentence from a juridical angle, it seems to me that the words "other duties" exclude the ordinary customs duty, and that if the primage duty is consolidated this does not mean that the ordinary customs duty will also be consolidated. But nevertheless, there is a substantial question at issue here and in the case of commitments which have been taken in the Schedules, not concerning customs duty but accessory duties (and I do not refer here specifically to duties such as primage but to duties which could be monopoly duties, for instance) we ought to determine whether we wish to maintain all

those accessory duties or not, and I think the Committee ought to make a decision on this point. It must be decided whether the Committee thinks fit to maintain these accessory duties at their present level and whether it would not be an advantage to write something in concerning these duties making it perfectly clear.

CHAIRMAN: Are there any other comments? Is the Committee agreed now to adopt the wording suggested by Mr. Brown or would the Committee wish to have this subject studied further by the Legal Drafting Committee with a view to submitting a revised text?

Mr. E.L. RODRIGUES (Brazil): Would Mr. Brown be good enough to read out again the text of his amendment?

CHAIRMAN: Mr. Brown has proposed that after the words "Such provisions" in the fourth line of the English text on page 14 the following words should be inserted: "..... in respect of which a maximum rate of ordinary customs duty is provided for in the respective Schedule."

Dr. G.A. LIMSVELT (Netherlands): Mr. Chairman, I would prefer to have some more time to study the implications of the suggestion just made.

CHAIRMAN: May we then leave it to the Legal Drafting Committee to study the question further and submit to us a proposal at our Meeting tomorrow.

M. ROYER (France) (Interpretation): Mr. Chairman, I think it would be useful if the Legal Drafting Committee could add to its numbers for this examination a certain number of experts.

Mr. R.J. SHICKLE (United Kingdom): I wonder, before we leave this matter for the Legal Drafting Committee to tackle, Mr. Chairman,

whether it might be as well to attempt to define how I, at any rate, see it.

I gather it is the intention that, where a maximum rate of ordinary customs duty is bound, as a natural consequence the subsidiary charges will also be bound. In cases where only some particular subsidiary charge has been bound, such as primage, there is no need to make any specific mention here because that will be taken care of in the particular Schedule.

That is the way in which the matter appears to me, and it might be useful perhaps to study it in order to get the position clear before the Legal Drafting Committee once more tackles this question.

CHAIRMAN: Do any other Members of the Committee wish to make any comments before this matter is referred to the Legal Drafting Committee? Mr. Brown.

Mr. Winthrop BROWN (United States): I would like to call attention to the fact that the same problem comes up at the bottom of page 15.

CHAIRMAN: The Committee is fully agreed that this subject should be referred to the Legal Drafting Committee for further study and, in accordance with the request of the Chairman of the Legal Drafting Committee, I propose that we add, in the capacity of experts, Mr. Morton and Mr. Rodrigues to consult with the Legal Drafting Committee when dealing with this question. Is that agreed?

Agreed.

Before leaving sub-paragraph (b) I would like to revert to the question which was raised by Mr. Melander. I think the Committee is agreed that in the case of every Schedule the words Part I should appear. The Chairman of the Legal Drafting Committee has also proposed that in the case of those Schedules which have no Part II the words Part II should also appear with the word "Nil". I should like to know if that also meets with the approval of the Committee. Is that agreed?

Agreed.

Are there any other comments on sub-paragraph (b)?

Mr. J.P.D. JOHNSEN (New Zealand): Mr. Chairman, there is a small typographical adjustment needed, in the seventh line on Page 14. The word "on" should be inserted after the word "imposed."

CHAIRMAN: Yes; the word "on" should come after the word "imposed" in line 7.

Are there any other comments on sub-paragraph (b)?

(Agreed).

Sub-paragraph (c): the same question arises in connection with the last part of this sub-paragraph. That also will be studied by the Legal Drafting Committee.

Are there any other comments on sub-paragraph (c)?

(Agreed).

Paragraph 2: the heading; sub-paragraph (a).

M. ROYER (France) (Interpretation): Mr. Chairman, as regards sub-paragraph (c), the Legal Drafting Committee did not change the draft, although it thought it was not perfect. The Legal Drafting Committee agreed to the following interpretation; that the word "equivalent" here means that if a duty is imposed on an article because a duty is imposed on part of the content of this article, then the duty should only be imposed regarding the particular content of this article. For example, if a duty is imposed on perfume because it contains alcohol, the duty to be imposed must take into consideration the value of the alcohol and not the value of the perfume; that is to say, the value of the content and not the value of the whole.

CHAIRMAN: Are there any other comments? Is Paragraph 2 (a) agreed?

(Agreed).

Sub-paragraph (b): (Agreed).

Sub-paragraph (c): (Agreed).

Paragraph 3:

M. ROYER (France) (Interpretation): Mr. Chairman, regarding the French text of paragraph 3; the brackets which are placed around the word "sa" are badly placed; they should be placed around the word "ses".

CHAIRMAN: Are there any other comments?

Paragraph 3 is therefore agreed.

Paragraph 4: Are there any comments?

(Agreed).

Paragraph 5.

Mr. SHACKLE (United Kingdom): Mr. Chairman, in the fourth line of the English text on Page 19 the comma should come out immediately after the square brackets: "under paragraph 1 of this Article."

CHAIRMAN: This comma will be omitted.

M. Royer.

M. ROYER (France) (Interpretation): Mr. Chairman, I would like to say that the Legal Drafting Committee would prefer to mention the concessions here in relation to the Schedules themselves and not in relation to paragraph 1 of this Article, which only refers indirectly to the concessions. We would prefer to refer directly to the concessions.

We made some modifications in the draft itself; some are purely formal modifications but others have a wider scope. First of all, on Page 19, eleven lines from the bottom, we replaced the word "proper" by the word "competent" - "other competent authority."

We thought it was wise to make that change because we thought this decision could not be made by a lower administrative official: let us say, for instance, that a decision could not be made by a junior customs controller, and therefore we made that change.

We added, in the following line, the words "to the effect" after the words "has ruled", because in certain cases decisions can be made which apply only to particular instances. We wanted to provide here for the possibility of applying these decisions to other cases and we thought this provision should have a wider scope.

The other changes which we made in the draft are purely formal changes.

CHAIRMAN: Are there any other comments?

Mr. C.E. MORTON (Australia): Except in regard to the word "competent", Mr. Chairman. The customs controller might be the really competent authority but not the proper one.

CHAIRMAN: Does Mr. Morton raise any objection to the use of the word "competent"?

Mr. MORTON (Australia): The word "proper" is better.

CHAIRMAN: Is there any objection to the use of the word "proper" instead of "competent."?

Mr. RODRIGUES (Brazil): Is it the same thing, Mr. Chairman?

U. NYUN (Burma): Mr. Chairman, I suggest we should use the words "other proper and competent authority."

Mr. SHACKLE (United Kingdom): Mr. Chairman, I do not think there is the slightest difference between the use of the word "proper" and the word "competent."

CHAIRMAN: The Australian Delegate has suggested, as I proposed, that we should use the word "proper." The representative of Burma has suggested that we should use both words. Perhaps the safest thing would be to return to the original text and just use the word "proper." Is that agreed?

M. ROYER (France) (Interpretation): There are a few typographical errors in the French text. In the middle of Page 19 the word "elle" should be dropped, after the words "était prévu", which are underlined. Two lines further down the "e" in "parce que" should be deleted and replaced by an apostrophe. The words "il est" should also be in brackets; therefore the part of the brackets after the word "dont" and before the word "reconnu" should come out, so that the words "dont il est reconnu qu'il a été envisagé au moment de la signature du" are in brackets.

CHAIRMAN: Are there any other comments on Paragraph 5?

(A-reed).

Paragraph 6 (a):

The Delegate of the United States.

Mr. BROWN (United States): Mr. Chairman, I think the word "Schedule" in the fourth line should be "Schedules."

CHAIRMAN: We will add an "s" to the word "Schedule" in the fourth line.

M. ROYER (France) (Interpretation): Mr. Chairman, the first time the Contracting Parties were mentioned in capital letters was in Article VI, but now you will see that in Paragraph 6 (a) the Contracting Parties appear for the first time in capital letters. I think this is the proper place to insert the brackets which now appear on Page 14 of Document T/212, where it says: "THE CONTRACTING PARTIES" acting jointly as provided for in Article XXV."

CHAIRMAN: Is there any objection to the addition of these words?

(Agreed).

Are there any other comments with regard to Paragraph 6 (a)?

(Agreed).

Paragraph 6 (c): Are there any comments?

(Agreed).

Paragraph 7: Are there any comments?

(Agreed).

We can now take up the Protocol of Provisional Application, as given in Document T/213.

Paragraph 1: There is a Note by the Legal Drafting Committee on Page 3.

Mr. SHACKLE (United Kingdom): Mr. Chairman, as regards that note, I think on the whole we would prefer to keep in this text "not inconsistent with existing legislation." These words have a more direct relevance, I think, to the matter in hand here. The words "to the fullest extent of their executive authority" were more appropriate in relation to the principles of the Charter.

CHAIRMAN: Are there any other comments?

I take it then that the Committee is in agreement with leaving the existing wording of sub-paragraph (b).

Are there any other comments on Paragraph 1?

(Agreed).

Paragraph 2: Are there any comments?

Mr. SHACKLE (United Kingdom): Four lines from the end, the word "for" in "for such application" should be replaced by the word "of".

CHAIRMAN: The word "for" will be replaced by the word "of."

Is Paragraph 2 agreed?

(Agreed).

Paragraph 3: (Agreed).

Paragraph 4:

M. ROYER (France) (Interpretation): Mr. Chairman, I would like to draw the Committee's attention to the changes we have made in the draft of this paragraph. It seemed there was a contradiction between the draft of former Paragraph 4 and the draft of Paragraph 1. The former Paragraph 4 stated that the Protocol would remain open for signature until June 30, 1948 to all Governments which would not have signed the Protocol in Geneva. This was not quite accurate, because in fact the key countries had the right only to sign the Protocol until the 15 November; their right to sign the Protocol expired on that date. We therefore thought it best to distinguish between the three following cases: first, signature in Geneva by key countries or other countries; secondly, signature by key countries not in Geneva, but only until 15 November 1947; and then the right of all other countries to sign the Protocol until 30 June 1948. For this reason the Legal Drafting Committee proposed the text which is now before you.

CHAIRMAN: Are there any comments? Is Paragraph 4 approved?

(Agreed).

Paragraph 5: Are there any comments?

M. ROYER (Interpretation): The Legal Drafting Committee proposes another draft for the French text which would be more elegant than the one which appears now.

CHAIRMAN: Are there any other comments on Paragraph 5?

(Agreed).

Paragraph 6: (Agreed).

The formula: Are there any comments?

M. ROYER (Interpretation): Mr. Chairman, the way the document is arranged and the placing of the signatures is not what we asked for. The words "For" in the English text and "Pour" in the French text should appear at the beginning of the line; the signatures should appear under these words and the date of signature should appear in every case facing the signature itself, on the same line.

CHAIRMAN: The Delegate of the United States.

Mr. BROWN (United States): Should it not be "DONE at Geneva in a single copy", in the same way as before?

CHAIRMAN: Yes; the wording will now read: "DONE at Geneva in a single copy."

Are there any other comments?

The formula is agreed.

Mr. BROWN (United States): Mr. Chairman, I assume that the date would be 1947, without a comma after it.

CHAIRMAN: We have now finished with the Protocol of Provisional Application. In the time left to us before lunch, I would like to clear up some matters which are still outstanding with regard to the Annexes.

We have had circulated this morning a United Kingdom proposed text of the Final Note, dealing with areas under military occupation. I wonder if the Committee would be agreeable to take this up now, in order that the Legal Drafting Committee can include it in their text of the Interpretative Notes when it is submitted to us tomorrow.

I am now informed that there is a new text of this Final Note. I have sufficient copies in the English language, but the translation has not yet been made into French. Therefore I think it would be better to leave this matter until tomorrow.

We have some other questions in connection with the Annexes. The first arises in connection with Annex A. The words "and hams" are still in square brackets.

Mr. SHACKLE (United Kingdom): Mr. Chairman, as regards those words, I think for the moment they must stay there in their square brackets, because their fate is dependent on negotiations which are still going on.

CHAIRMAN: The words "and hams" will continue to make us hungry every time we look at them. They will remain in square brackets.

The United States Delegation have a reservation on the Note to Annex D. May we know whether that draft reservation still stands?

Mr. BROWN (United States): Mr. Chairman, that point has been taken care of by the suggestion made this morning on the interpretative Notes.

CHAIRMAN: I take it that Annex D is approved.

The words "Southern Rhodesia, 1 May, 1941" in Annex G still have square brackets. May those square brackets be removed?

Mr. SHACKLE (United Kingdom): Yes, Mr. Chairman, they may.

CHAIRMAN: Annex G is therefore now complete.

We still have the question of separate percentages for India and Pakistan, in Annex H.

The Delegate of India.

Mr. S. RANGANATHAN (India): Mr. Chairman, I have not had time to consult the representative of Pakistan, who happens to be in London, but I do not see any very serious difficulty and I suggest that provisionally the figures may be put at 2.8 for India and 0.5 for Pakistan. These figures must be deemed to be only provisional and if there is any further discussion or variation afterwards, either with regard to India or Pakistan, I shall communicate with the Secretariat and yourself.

CHAIRMAN: I thank the Delegate of India for having made that proposal, which I understand is subject to confirmation by Pakistan. I would therefore propose that we insert these percentages in Annex II with square brackets round them. When the Delegate of India has heard from the representative of Pakistan, if he will kindly inform the Secretariat, we will have those square brackets removed.

As we still have some time left before lunch, we might take up some of the Articles in Part II, beginning with Article III. These Articles are in the Report of the Legal Drafting Committee which is contained in Document T/212.

Part II: Article III - National Treatment on Internal Taxation and Regulation - on Page 2. We have a note from the Legal Drafting Committee.

M. ROYER (Interpretation): Mr. Chairman, the Legal Drafting Committee only wish to point out the difference of drafting which appears in Paragraph 1 and Paragraph 3 (b). It seems that the cases, if not quite the same, are similar. The draft of Paragraph 3 (b) says: "No contracting party shall, formally or in effect, restrict the mixing, processing or use of a product of which there is no substantial domestic production," etc. As this draft is different from the draft of Paragraph 1, we wanted to point out the difference.

CHAIRMAN: The Delegate of the United States.

Mr. BROWN (United States): My understanding was that the word "domestic" was left out here advisedly, just to take care of the case in which the internal tax might be used to give a preferential advantage. Therefore the present text should be retained.

CHAIRMAN: Are there any other comments?

I take it then that the Committee is in accord with retaining the present wording.

Are there any other comments on Paragraph 1?

(Agreed).

Paragraph 2: Are there any comments?

(Agreed).

Paragraph 3: Are there any comments?

(Agreed).

Paragraph 4: Are there any comments?

Mr. SHACKLE (United Kingdom): There is one very small matter of taste, Mr. Chairman. I should like a comma after "1947" in the last line on Page 4.

CHAIRMAN: We will add a comma there. Are there any other comments on Paragraph 4?

Mr. JOHNSEN (New Zealand): There should also be a comma after "1939" in the last line but one.

CHAIRMAN: I take it the New Zealand Delegate will not insist.

Is Paragraph 4 approved?

(Agreed).

Paragraph 5.

M. ROYER (Interpretation): To make compensation for the comma asked for by Mr. Shackle, I am ready to drop a comma in the French text after the word "achats."

CHAIRMAN: Is Paragraph 5 agreed.

(Agreed).

Article IV - Special Provisions relating to Cinematograph Films. The heading and Paragraph 1.

Mr. O. COUFIL (Czechoslovakia): Mr. Chairman, I think this Article has only one paragraph; therefore the figure "1" should come out.

CHAIRMAN: Yes. The heading is agreed.

Sub-paragraph (a): Are there any comments?

Sub-paragraph (b): Any comments?

(Agreed).

Sub-paragraph (c): Are there any comments?

(Agreed).

Sub-paragraph (d): Any comments?

(Agreed).

Mr. SHACKLE (United Kingdom): Mr. Chairman, before we leave this Article I would like to say I have submitted to London the questions which led to our putting in a reservation to this Article. I hope within a day or two I shall receive a reply which will enable that reservation to be withdrawn, but at the moment I am not in a position to do anything.

CHAIRMAN: Since this Article is part of Part II, and the sense of the Committee has been that there is no need for reservations, I take it the United Kingdom Delegate will let us know in the course of the next few days if this reservation can be

withdrawn.

Article V - Freedom of Transit. Paragraph 1.

Mr. SHACKLE (United Kingdom): In the third line on Page 8 there should be a comma after "territory" - "across such territory."

CHAIRMAN: Are there any other comments? Is paragraph 1 approved?

(Agreed).

Paragraph 2: (Agreed).

Paragraph 3: (Agreed).

Paragraph 4: (Agreed).

Paragraph 5: Are there any comments?

M. ROYER (Interpretation): The final "a" has not been printed in the word "accordera" in the fourth line of Paragraph 5.

CHAIRMAN: Is Paragraph 5 approved?

(Agreed).

Paragraph 6: Are there any comments?

(Agreed).

Paragraph 7: Any comments?

(Agreed).

Article VI - Anti-Dumping and Countervailing Duties. On Paragraph 1 we have a note by the Legal Drafting Committee.

Mr. SHACKLE (United Kingdom): Mr. Chairman, I should think the point of the Legal Drafting Committee could be met by adding the words "or charge" after "No anti-dumping duty". If we do that there will be fewer consequential alterations in subsequent paragraphs. It would occur in the sixth line of Paragraph 3, two lines from the end of Paragraph 4, and two lines from the beginning of Paragraph 5. I should think we might make that addition.

CHAIRMAN: The Delegate of the United States.

Mr. BROWN (United States): Mr. Chairman, I frankly hold my hand on this subject, but I understand that this Article has been most carefully considered during the deliberations which led to its drafting in connection with the Charter and that the words which it is suggested should be added were left out advisedly. I think we should adhere to the text of the Charter and not get into a technical discussion of whether or not the addition of the words "or charge" is an important modification or an unimportant one. There is a long history to it and I think we ought to adhere to the present text.

Mr. SHACKLE (United Kingdom): Mr. Chairman, I should be prepared to drop my suggestion. I think the point is actually covered by Paragraph 7.

M. ROYER (Interpretation): Mr. Chairman, I do not think we can keep the text of the Charter, because in the text of the Charter there is a difference between the English and French texts and we have to make a decision one way or the other.

Mr. MORTON (Australia): Mr. Chairman, the decision arrived at in the Sub-committee, the Tariff Negotiations Working Party and this Committee was that this Article referred solely to a dumping duty. No measures or other charges should be taken into consideration in it and actually what an anti-dumping duty is, is spelt out. There should be no reference to anti-dumping or other charges.

CHAIRMAN: Can I take it then that the English text will be maintained as it is in the Charter and that the French text will conform to the English text?

(Agreed).

M. ROYER (Interpretation): The French text has already been amended, because the words "ni à des droits" already appear in square brackets.

Mr. SHACKLE (United Kingdom): Mr. Chairman, before we leave this paragraph I have a microscopic point. In the second line the words "the territory" should, I think, be "a territory." The reason is that there are certain contracting parties which have more than one territory. If we do that, the same change should be made in the fourth line of Paragraph 5, on Page 13, and we should say: "any product of a territory of another contracting party."

Mr. Brown calls my attention to the fact that the same change should be made in the fourth line of Paragraph 1: "imported into a territory of any contracting party."

M. ROYER (Interpretation): I am afraid, Mr. Chairman, that we would have to change the draft of all the Articles. In fact, the text of the Charter was amended at Mr. Fawcett's request and we adopted these words as meaning the collective territories of a contracting party; not one of its territories, but the whole of its territories.

Mr. SHACKLE (United Kingdom): I cannot question Mr. Fawcett's opinion, but I must say we have had this procedure in all our treaties.

CHAIRMAN: I think it is wise that this Article should not deviate from the Charter text; therefore I am glad that Mr. Shackle has dropped his suggestion.

are there any other comments on Paragraph 1?

Paragraph 2: are there any comments?

(Agreed).

Paragraph 3: any comments?

(Agreed).

Paragraph 4: any comments?

(Agreed).

Paragraph 5. We shall delete here the reference to Contracting Parties acting jointly. . These words will appear now in Article II, where the words "CONTRACTING PARTIES" first appear in capital letters.

Are there any other comments on Paragraph 5?

(Agreed).

Paragraph 6.

M. ROYER (Interpretation): Mr. Chairman, the French text of Paragraph 6 is not very elegant. Although up to date we have made only the bare minimum of changes, so as to keep this text in harmony with the Draft Charter, nevertheless I wonder if it would not be wise to take a little more liberty with the Draft Charter so as to get a more elegant text here. This, of course, applies to the French text.

CHAIRMAN: Is the Committee in accord with the request of the Chairman of the Legal Drafting Committee to take more liberties with the French text of the Charter in order to make it more in conformity with the English text?

(Agreed).

Are there any other comments on Paragraph 6?

(Agreed).

Paragraph 7: are there any comments?

(Agreed).

I think it is now a convenient time for us to terminate our session this morning, in order to give sufficient time for the Legal Drafting Committee to work this afternoon and take up with us tomorrow morning all the other matters which they wish to have dealt with.

The Committee will therefore adjourn until 10.30 a.m. tomorrow and the meeting of the Tariff Negotiations Working Party which was arranged for tomorrow morning will be postponed until tomorrow afternoon.

The Legal Drafting Committee will meet this afternoon at 3 o'clock. Will Mr. Morton and Mr. Rodrigues kindly also make themselves available.

The Meeting is adjourned.

The Meeting rose at one o'clock.