UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL

PREPARATORY COMMITTEE

of the

INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report

of the

TWELFTH MEETING

of the

PROCEDURES SUB-COMMITTEE

of

COMMITTEE II

held in

Room 243, Church House, Westminster,

on

Saturday, 16th November, 1946

at 10.30 a.m.

CHAIRMAN: DR. A.B. SPEEKENBRINK (Netherlands)

(From the Shorthand Notes of W.B. Gurney, Sons & Funnell, 58, Victoria Street, Westminster, S.W. 1.)
THE CHAIRMAN: I will open this meeting with a word of thanks to Mr. Loddy, our Rapporteur, who has done such useful work in preparing this draft. I think Delegates will require some time to study this draft before we have a discussion on it. On the other hand, we are very short of time, so we cannot postpone it till, say, next week. I was wondering, therefore, whether it would be as well to adjourn the meeting, to give everybody a chance to study the draft in detail, and meet again this afternoon at 3 or 4.30. Perhaps 4.30 would be preferable, which would give everybody ample time to study it and decide on the questions they might wish to ask. If we do not do that we will get a very confused discussion. In any case, we will have Monday morning in which to discuss it, and perhaps even Monday night.

MR. McKINNON (Canada): Shall we not go on tonight?

THE CHAIRMAN: I think tonight will be all right. I am quite prepared to start now. What would Delegates prefer? I feel that if we study it Mr. Loddy would be available to give all kinds of information for which Delegates might ask. I do not see much use in starting the discussion on this draft until everybody has really digested it.

MR. LECUYER (France): (interpretation) : I agree that it is indispensable that we should have time to consider this document. It is a difficult document, and for me the difficulty is greater because I have to have it translated into French. However, difficulties occur even for those who are familiar with English. The importance of this document is such that we certainly need several hours in which to study it. I would like to roughly say at the outset that, although I have only perused it, I think it is a remarkable document, and even before the discussion I think we should thank the Rapporteur for the work he has achieved. It is a document remarkable for the clarity and method which it displays, and I think that after the Conference it will remain as the basis of many studies. In order that we may have enough time to study it I would suggest that we meet not at 3 and not at 4.30, but at 5 p.m. this afternoon - and we
could even go on tonight. I am always at the disposal of the committee. In any case, I think we should have time to examine this text.

THE CHAIRMAN: I am also prepared to meet tomorrow, because I am here at the service of Delegates. I do feel that it would be preferable to adjourn now to avoid confusing the discussion, which would be a pity. Would Delegates be agreeable to adjourning now and meeting again at 5 o'clock this afternoon?

MR. McKINNON (Canada): The Canadian Delegation would be agreeable to that, provided we could go on tonight.

MR. ALAMILLO (Cuba): I am willing to work at 5 this afternoon, tonight and tomorrow, because I believe this is something that we have to clear up.

MR. ADARKAR (India): I agree that even before we start the discussion of this most complicated document we should thank Mr. Liddy for presenting a very lucid analysis of the problem involved. I suggest that after tonight's discussion it would be convenient to adjourn till Monday morning so that we might have time to consider some of the issues involved here during the weekend.

THE CHAIRMAN: We would meet on Monday in any case. I want to have this cleared up as soon as possible because it still has to go into the main Committee II, whether the other nations will have certain questions to ask. It is a very important document, and we should have ample time to discuss it. Every country taking part in this conference will want to examine it at the beginning of next week, therefore we should clear the text as soon as possible.

MR. ADARKAR (India): We will not have time to discuss this in Delegations while our discussion in the committee is going on. I think it is most essential - at least from the point of view of the Indian Delegation - that we should have Sunday free for quiet study and discussion with the other members of the Delegations.

MR. McKINNON (Canada): Could we face the issue whether we meet on Sunday at, say, midnight after we have been discussing it for several
hours, when we can see what progress we have made?

THE CHAIRMAN: I am agreeable to that.

MR. ADARKAR (India): Yes.

THE CHAIRMAN: It is agreed then that we adjourn and meet again at 5 o'clock this afternoon.

(The Meeting rose at 12.02 p.m.
For Verbatim Report of afternoon session, see E/PC/T/C.II/P.10/PV/12, Part 2.)
THE CHAIRMAN: We have now had some time to study the paper which our Rapporteur prepared for us, and we have now to agree to the way in which we shall discuss it. The first part is more of a summary of what has been agreed to, or is in the Charter, with regard to tariff negotiations. The second part is more difficult because there we come to the actual procedure. I would like to deal with it in two parts - first, the more general part. After hearing any general observations on that, we can then go on to the more difficult part. The first part will be down to page 6, and the second part from page 6 onwards. Are there any remarks on the first part before we go on to the draft itself?
MR ADARKAR (India): A number of observations have been made in these six pages which are not acceptable to the Indian Delegation. As you will remember, Sir, the whole principle embodied in paragraph 1 of Article 18 was regarded as unacceptable to us, unless very substantially qualified, and the same principle finds repeated expression here. Therefore, if there is no discussion on the first six pages, it should not be assumed that those pages are acceptable to the Indian Delegation.

THE CHAIRMAN: To be quite clear on this: we discussed Article 18 and so on, and we had some argument on that, and I understood that you reserved your position on that; but I did not understand that the whole thing was unacceptable to you, as you now say.

MR ADARKAR (India): I said that the suggestions contained in that paragraph that all members of the Organisation could negotiate for a substantial reduction of tariffs, was not acceptable to some members, at least of this Committee, the point being that, so far as India is concerned, she is unable to agree that members could negotiate for a substantial reduction of tariffs irrespective of the peculiarities of their position. It is quite true that the negotiations are going to proceed on a selective basis, and still the intention is that the nett result of the whole process of negotiations should be a substantial reduction of tariffs, that those countries which will not use tariffs for the purposes of their economic development may either have to maintain or to raise tariffs; and although they may be able to offer certain reductions, the nett result of their negotiations with other countries cannot be capable of being described as a substantial reduction of tariffs. Therefore, since that very principle is in question here, I find it difficult, Sir, to endorse remarks such as the one which occurs on page 2 under "Basic commitment to negotiate", that "Each Member would be committed to enter into negotiations, upon the request of any other Member, directed to the substantial reduction of tariffs and the elimination of tariff preferences". As it stands, it states something which is quite inconsistent with the particular economic policy that countries like India have in view.
THE CHAIRMAN: If I may comment on this one moment, I think that when we discussed this it was always said that every member should put forward his argument for not having certain items in negotiations, for even being obliged to raise certain tariffs, and generally give an argument as regards this position (that is what we always call a selective basis, I think); and that when we discussed the question of the substantial reduction of tariffs, that was meant in a more general way, that the outcome should be a substantial reduction of tariffs as a whole. If I may remind you, in addition, the binding of the low tariff should be equal to the reduction of the high tariff; that works in the same way because that country could reduce its tariffs. Is not that right?

MR HAWKINS (U.S.A.): Yes, that describes it.

THE CHAIRMAN: Perhaps we could clarify it a little bit more in that paragraph, that Mr Adarkar mentions. I think it has always been our understanding.

MR ADARKAR (India): The expression made by you would clarify the position so far as countries with low tariffs are concerned, but where a country, like India, likes to retain full liberty to use tariffs to whatever extent is necessary to assist her economic development, it is by no means certain that the results of her negotiations with other countries would be capable of being described as a substantial reduction of tariffs. It may be that even after the negotiations that tariffs may remain at a fairly high level. We are unable to subscribe to the principle that a substantial reduction of tariffs by itself is a desirable objective, irrespective of the stage of economic development that the different countries find themselves in.

MR HAWKINS (U.S.A.): I can only say that I think that represents a very fundamental difference in viewpoints. I see no way of reconciling that viewpoint with ours.

THE CHAIRMAN: That would mean that in that case they would not take part in negotiations.

MR ADARKAR (India): Mr Nehru has suggested an amendment in the memorandum.
relating to the Spring negotiations, and that merely visualised negotiations on a selective basis. India would be quite prepared to participate in the Spring negotiations, or in later negotiations, on the understanding that she would be expected to do nothing more than to offer such selective reduction in her tariffs as are consistent with the needs of her own economic development and the general purposes of the International Trade Organization.

THE CHAIRMAN: I think that formula would be acceptable to every country, but not with the other additions that you put here.

MR HAWKINS (U.S.A.): I am a little confused. I understood the Delegate of India not to say that India would be prepared to enter into negotiations with the objective of effecting a substantial reduction of high tariffs, or the binding of low tariffs. If that is the understanding of his position, it seems entirely and absolutely inconsistent and at variance with the provisions of Article 18.

THE CHAIRMAN: Yes.

MR HAWKINS (U.S.A.): I do not think it does much good to attempt to cover up what seems to be as much an issue as that.

MR DEUTSCH (Canada): I do not think any amendment would meet the position that the Indian Delegate has just set forth, and I would suggest that he simply reserves his position on this paragraph, which is, after all, only a preamble to the main part of the memorandum.

MR ADARKAR (India): To give precise shape and form to the amendment I have in view: it is this, I cannot draft it at this stage. But may I indicate briefly what exactly we have in mind. It is just this, that the suggestions contained in this memorandum, that a substantial reduction of all high tariffs is desirable, irrespective of the purposes which the high tariffs serve, is not acceptable to India. The other suggestion contained in the same memorandum, that all members should negotiate for substantial reductions of tariffs, irrespective of the needs of their economic positions, is also not acceptable. India would like to use tariffs as an instrument
of economic development, and she would therefore like to reserve full

liberty to maintain or to raise tariffs to whatever extent is necessary to

achieve that object. She would therefore agree to nothing more than

negotiating for such selective reductions in her tariffs as are consistent

with the needs of her own economic development and the general purposes

of the International Trade Organisation.
This is quite in conformity with the stand which the Indian Delegation has taken with regard to the Spring negotiations at other meetings.

DR. COOMBS (Australia): This matter is of some interest. While listening to the Indian Delegate my first impression was that the point he was raising would have been covered by the phrase which is certainly in Article 18 in its original form, but it does not appear in the first part of this document. There, in Article 18 (1) the words which I think are fairly important are "mutually advantageous." So far as I can see, those words do not appear in the first three pages of this memorandum, where references are made to these negotiations. It does seem to me that that is a rather important point, because the inclusion of the words "mutually advantageous" would imply that if a duty was of sufficient importance to a country such as India then the price which would be required, so to speak, in negotiations to warrant their reduction of it would need to be very high indeed — in fact, perhaps impossible — before a negotiation in relation to that particular item could be regarded as mutually advantageous. I merely put that point forward as a suggestion. It does seem to me that the omission of those words is at any rate something which requires some explanation, since they were quite clearly part of the previous draft.

THE CHAIRMAN: In any case, we could take over Article 18 (1) to a greater extent than on page 2 of this memorandum. Still, even then I wonder whether we would be entirely out of the difficulty.

DR. COOMBS (Australia): Preceding each reference to negotiations could we have the phrase "mutually advantageous"?

MR. ALAMILLA (Cuba): I call attention to the fact that on page 5 it says:

"General nature of negotiations

The Charter provides that tariff negotiations shall be on a 'reciprocal' and 'mutually advantageous' basis."

I think that clears everything that has been said before, because this is not a reproduction of the Charter but only an explanation of it.
THE CHAIRMAN: We also got a selective, product-by-product, basis. I think that again meets it. But the fundamental position of the Indian Delegate creates some problems. In what is said about the general nature of negotiations I think we have covered your point, Dr. Coombs.

DR. COOMBS (Australia): I do not know whether that necessarily makes the references which directly precede it entirely satisfactory in the absence of such a clarification. It does seem to me that there is an essential difference in meaning between negotiations directed to the substantial reduction of tariffs and the elimination of tariff preferences, and mutually advantageous negotiations directed to the same purposes.

THE CHAIRMAN: Mr. Adarkar, if we change paragraph 1 in the way proposed by Dr. Coombs and have further reference to part 5, and perhaps where need be put in those words, I think you would still like to reserve your position. We could then go on with this memorandum without embarrassing you too much.

MR. ADARKAR (India): Of course, it would be consistent to reproduce the language of the Charter. At the same time, even with regard to the language of the Charter our point was that it should make some recognition of the fact that the level of tariffs depends on the stage of economic development of each country, and the purpose which the tariffs serve. It was for that reason that I suggested there should be a link up with some arrangement that is contemplated in relation to the economic development. But since that is not being done we shall have to consider some amendment of this portion here and now. Or, we might leave it over with the reservation that we come back to it later stage; or, alternatively, the Indian Delegation might be permitted to reserve its explanation.

MR. McKINNON (India): Surely the point of the Indian Delegate is met by the sentence on page 5, which says the negotiations should be conducted on a "basis which will afford an adequate opportunity for taking into account the circumstances surrounding each product on which a concession may be considered."
You see, it says "each product." If the country considers that the product is not one on which it might or should give a concession, then that product does not need to appear in the schedule to the agreement that may be reached.

THE CHAIRMAN: There is only one difficulty. This morning I received a paper, which perhaps I might mention now. It was a draft message to Committee II from the Joint Committee on Industrial Development, reading as follows:

"In the light of recommendations regarding industrial and general economic development which the Joint Committee proposes to make to the Preparatory Committee, the Joint Committee requests Committee II to make a provision in Article 18 of the chapter dealing with Commercial Policy, so that in relation to the undertaking to reduce tariffs and to eliminate import tariff preferences, the Organization and other Members should, when considering the contribution which a Member can make to a reduction in tariffs, take into account the height of the tariff of that Member, and the need, if any, of that Member to use protective measures in order to promote industrial and general economic development."

There is then another paragraph with regard to Article 20, which does not concern us here. That is a message received officially in draft. I think it comes from the Joint Committee on which Dr. Coombs has taken part in the discussions. Perhaps this is the real point which the Indian Delegate is making. We must now see what to do with this amendment.

MR. McKINNON (Canada): That means that for the moment we are abandoning the procedural memorandum and reconsidering Article 18?

THE CHAIRMAN: Yes, because if we want to clear this we have to discuss that as well. In any case, we have to return to it later. We cannot leave it open, since we have received this message from the Joint Committee, and I do not think we can cover that in the main Committee II. We should deal with it here. We are supposed to deal with Article 18, and this is an addendum to Article 18. Has the report of the Joint Committee been passed by the main Committee, or is it simply something from a drafting group?
MR. COOMBS (Australia): It certainly has not been approved by the Joint Committee as a whole. I think the position is that the Drafting Committee went through the Rapporteur's draft of the report this morning and directed him to make certain changes and amendments in it, and that process of amendment is still going on.

THE CHAIRMAN: Which countries were in that Committee, may I ask?

MR. COOMBS (Australia): Speaking from memory, they were India, the United States, the United Kingdom, Australia, France and Brazil.

THE CHAIRMAN: This is rather a funny situation, in one way and another. The Joint body accepted that, but members of several Delegations present here are raising certain difficulties in this Committee.

MR. COOMBS (Australia): I have only one suggestion I would make. While I think Committee II is bound to take notice of a message of this sort, it is not bound to deal with the problem in precisely the same place as the Joint Committee has suggested. I am not quite sure what you view is about the place in which that proviso should be made; I think the Joint Committee has suggested Article 18, but if it seems more appropriate to you to embody it in the procedural memorandum, that is entirely for Committee II to decide.

THE CHAIRMAN: In any case we cannot get out of it; we have to discuss it here in connection with these first pages that we are concerned with now.

MR. HAWKINS (United States): I think there is a very necessary and definite relationship between this proposal for consideration in connection with Article 18 and the action taken by the Joint Committee. As far as I know the Joint Committee is producing a draft the effect of which would be that tariff commitments or other commitments might be modified in cases in which it was desired by a country to develop a particular industry. Is that, in general, roughly what the draft now will provide?

MR. COOMBS (Australia): I think so, yes. I am a little uncertain about the position in relation to messages to other Committees. I am afraid I have forgotten at the moment precisely where we have got to. I think perhaps it
would be as well if we left that point for the moment while we confer with the Secretary of the Joint Committee and find out precisely what the present position is. Certain draft Articles were approved by the Drafting Committee but not by the Committee itself, and I think there were certain messages also approved by the Drafting Committee, but on that point I am not entirely certain. The Draft Report itself is still in process of preparation. If we pass on for a few minutes I will try and find out.

THE CHAIRMAN: Then we will leave that point open. Are there any other remarks on the first part of the memorandum we are now discussing?

Mr. Hawkins (United States): There is one point; I am not sure of its relevancy but I think I should mention it. You remember that there was a question of quota preferences on certain products, which was raised in the full meeting of the Committee, and a small group was set up to discuss those preferences and suggest what might be done about them. Is this the appropriate time to bring that up?

THE CHAIRMAN: I think it would perhaps be wise, because we shall be concerned with it in any case in this memorandum.

Mr. Hawkins (United States): My only reason for bringing it up is that the Delegate of Chile had a particular interest in it and all I can do now is to report that the number of those preference quotas, so to speak, preferences given in the form of quotas rather than tariffs, is very limited. It applies only to meat. I can only report it as a fact, without offering any suggestions as to what to do about it at the moment. I do think that fact should be before the Committee.

THE CHAIRMAN: Is that Article 19?

Mr. Videela (Chile): Article 8 (2)(a).

THE CHAIRMAN: I cannot quite follow where it should be. Article 8 (2)(a) refers to "Preferences in force exclusively between territories in respect of which..... shall provide a list of such territories... incorporated in an annex to this Charter". I cannot quite follow it because I think it came under the Committee on quantitative restrictions, of which we are still awaiting the report.
MR. HAWKINS (United States): I am not clear where it comes up, Mr. Chairman.

MR. VIDEILA (Chile): If I may explain - this was referred to a special sub-committee when we were discussing Article 8, and that special sub-committee was composed of four members, the United Kingdom, the United States, New Zealand and Australia. When the opportunity arose I asked to be invited to that sub-committee because Chile is one of the exporters of meat. Besides Chile there are two or three other countries, Argentina, Uruguay and I think Newfoundland. We have had a quota imposed by the United Kingdom since 1933 and this quota was increased in recent years. I have here documents up to 1939. Under Imperial Preference an allocation is given to the countries concerned, I think Australia and New Zealand principally, and then there is a percentage or quota for foreign countries. Of that percentage or quota, 60 or 62 per cent was allocated to Argentina, 15 per cent to Chile, and I think 14 per cent to Uruguay, with a small quota to Newfoundland.
THE CHAIRMAN: Yes, but may I just interrupt you now, because I think this comes down to a quantitative restriction.

MR. VIDELA (Chile): But it is excluded from the quantitative restrictions.

THE CHAIRMAN: In any case it is perhaps a matter for a special Sub-Committee, but it would have to come back to the Committee on Quantitative Restrictions, because it is in effect a quantitative restriction and not a preference, because preferences are entirely within the Commonwealth and not with other countries.

MR. VIDELA (Chile): Is it Article 8?

THE CHAIRMAN: I should like to have first a report from the Committee on Quantitative Restrictions which is dealing with Article 19, and if they think they cannot deal with it, and that it should be dealt with by us, then we can go on with it.

MR. VIDELA (Chile): But we have finished with Article 19 in the Committee on Quantitative Restrictions and we did not refer to this matter, because it was referred to a special Sub-Committee.

MR. HAWKINS (United States): I think the history of this is that in the full Committee this question was raised by the Australian delegate and it was left with the four countries named to consult about it. Now there has been no time to have what you might call a committee meeting. I raised the question now because I had found out by inquiry from some of the members what the scope of these quote arrangements are, and they are very limited. They are limited simply to meat. Now I am only reporting that to this Committee for its information and we have no recommendations as to what should be done about it, so the question that arises is whether, since it involves a preference, it should be dealt with by this Committee, or by the Quantitative Restrictions Committee because it is a quota.
THE CHAIRMAN: Mr. Coombes is not here, but personally I should say it belongs to the Quantitative Restrictions Sub-Committee, because in my opinion it is nothing else but a quantitative restriction, and let them deal with it, and if they cannot deal with it let them refer it to us, but for the time being I would not like to occupy much-needed time with this memorandum at this point.

MR. ALAMILLA (Cuba): Mr. Chairman, I would like to make a general remark in relation to this document. We have been going over it, and with regard to the first six pages I would only have to offer a very few drafting modifications, but I am very much afraid that if we start to read over this memorandum we are only going to reopen every one of the questions with which we have been dealing at all our previous sittings, and that is not going to serve any purpose. We have drafted the Articles and we have to stand by them, and I think the reopening of the question now by reading all these matters is only going to complicate the situation and not to clear it up at all. I am very much afraid of that. I do not oppose it if you want to go on with it, but I really suggest we should try only to reach an agreement on some kind of procedure and leave all these explanations to be given as subsequent explanations in order that we all have a perfect picture of what we have done, instead of taking what we have already, with so much work, agreed upon, and trying to interpret it as a kind of supplementary Charter.

Mr. McKINNON (Canada): Mr. Chairman, I have been waiting for an opportunity to suggest, with all due respect to the Chair, that our discussion is entirely out of order. We met to discuss the Procedural Memorandum. We took four hours or three hours off to read it, and I think we are thoroughly out of order. However, instead of making that point of order I would strongly support the point of view put forward by the delegate of Cuba,
that we should not attempt to go into every line and word of this as if it was a new Charter, which it does not purport to be. It is a paraphrase of the Charter, or of the main provisions, kindly provided by the Rapporteur so that we did not have to review the whole Charter, but leading to a discussion purely on procedure.

THE CHAIRMAN: I entirely agree with you, Mr. McKinnon. The only thing I asked for were general remarks on the first part, and only then came the question of that new amendment from the Joint Committee, which had a definite bearing on the memorandum so we had to discuss that.

So if there are no other general remarks to be made this can be left. I think perhaps before it is adopted the language may have to be more in conformity with the Articles we have adopted, to prevent any misunderstandings, but I think a closer reading will see to that.

MR. ALAMILLA (Cuba): I would not like to think that we had to approve these six pages, because then we should have to go into every line, but I think it should be considered only as a memorandum offered by the Rapporteur in order to clear our minds. That is my suggestion.

MR. LECUYER (France) (Interpretation): Mr. Chairman, I quite agree with what the delegates for Cuba and Canada have said. We are not here to approve this document. This is only an instrument of work for our Sub-Committee and it is not a document which later on will be submitted either to the Preparatory Committee itself or to another body. I think, therefore, we have to consider the procedure to be adopted in the subsequent negotiations. It is most interesting for us to read and consult this document, and if any particular delegation has comments to present, let them do it, but we are not here to approve it formally.
THE CHAIRMAN: I only find one difficulty here, gentlemen. We, when we go home, will have to give our Governments an idea of what will go on in Geneva, what we have to prepare ourselves for and what will be the rules governing these negotiations. You cannot do that simply on a report of a Rapporteur which has not been approved by any Committee of this Conference. I think they would say "That is all very nice, and it was a nice idea of Mr. Loddy's, but we want to know whether this is really the procedure and whether these are really the guiding rules which will be adopted". I think that is the difficulty. It is not so much the first part of it, but the second part of it. In my opinion we must certainly reach agreement on that if possible, otherwise I do not know where we will be in Geneva. I do not know what Mr. Hawkins' idea is?
MR HAWKINS (USA): Mr Chairman, you have just expressed my ideas. It seems to me that you need at least an outline on agreed procedure, and that it should not be only ideas of the Rapporteur or of this sub-Committee, but of Committee II and of the whole Preparatory Committee. The Preparatory Committee is going to take over this very difficult and complicated task of negotiations, as I understand it will, and there should be agreement as far in advance as possible as to what procedure is going to be followed. Then countries can prepare accordingly. Now I recognize that there are questions here which will be difficult to resolve; it may be that we cannot, and have not the time, to resolve all of them, but I should think we ought to try to resolve as many as we can.

MR VIDELA (Chile): Mr Chairman, I am not prepared to give my approval to this report, unless I am quite satisfied that the quotas are going to be eliminated or are going to be negotiated. But I must say that I am quite satisfied with the preparation of the report and I join in the congratulations that have been offered to our Rapporteur because it is a very clear and very comprehensive document. In that connection, I wish to say that I fully agree with the Cuban delegate in regard to accepting the drafting of the report, but not to approve it.

THE CHAIRMAN: Yes. I would like to have the views of other delegations here because I do feel that it is very important the point that has been raised. If we do not approve a document of this kind, may be you will say, "Yes, but the more general remarks we make are with reference to the Charter"; but I think it has to be taken as a basic document and if there are any misunderstandings then the various countries will be able to deal with them. But we know know exactly when we go home what will be the rules that will guide our negotiations and also what we have to prepare for. I think that is all we are here for.

MR SHACKLE (UK): Mr Chairman, I would like to say that I think this sub-Committee was set up for the express purpose of approving procedure - indeed, that is its title - and I think that we should not have discharged our
task if we did not approve a document setting out the procedure which we contemplated for the tariff negotiations next spring. It is very necessary, in fact, that we should have working rules agreed before we go into those negotiations next spring; otherwise, we shall not know where we are; so that I think certainly so far as this paper deals with the modus operandi of the negotiations it is very necessary that this sub-committee should approve it.

THE CHAIRMAN: Any other remarks?

MR ADARKAR (India): Mr Chairman, I am sorry to take up the time of the sub-Committee, Sir. This document falls into two parts, as you have stated: the first five pages deal with general observations, and the portion from page 6 onwards deals with rules to be observed in negotiations. But even in the first five pages, Sir, certain points have been raised which were intended to be covered in this memorandum for the proper understanding of Article 18; for example, on page 2 you will find, Sir, there are two paragraphs which deal with the procedure in the event of failure to negotiate and machinery for carrying out procedure set forth in (2) above. We were given assurances that the particular manner in which paragraph 3 of Article 18 was to be interpreted for the purpose of these negotiations was going to be explained in the memorandum, and the explanation we find here; so that it is portions like this which are of vital interest. Whatever the misunderstandings or misconceptions we may carry in our mind in regard to Article 18, these portions will continue. That is one point, Sir. Secondly, in paragraph 2 of the Introduction there are certain matters which are within the purview of other committees. For instance, there is a statement here that Members of the I.T.O. would undertake "to abandon generally the use of quantitative and exchange restrictions for protective purposes." That is a point which is I understand being very hotly debated elsewhere, and on which to my knowledge there has not yet been any agreement. Matters like this could not properly be included here, and we are not competent to approve of any portion which contains such statements. The reason why I drew
your attention, Sir, to this discussion on page 2 of the procedure in
the event of failure to negotiate is because it was understood in the
course of our discussion of paragraph 3 of Article 18 that the United
States representative would like the results of the negotiations next
spring to be taken as a standard with reference to our judging, as to
whether or not a member had failed or had not failed to carry out his
commitments under paragraph 1. It was explained to us that the countries
which will be taking part in the spring negotiations represent a fair
cross-section of international trade; and what they will agree should
be regarded as fairly representative of countries in various stages of
development and therefore that should be taken as a guide on which to
decide whether or not a member has or has not failed to carry out his
commitments. That particular idea I expected to find incorporated here.
It is not here. What is stated here is: "If a Member should fail to
carry out its commitment under 1. above, those countries which had carried
out such commitments by negotiating tariff agreements could be authorized
to withhold the benefits of such tariff agreements from the non-complying
country." There is a singular reasoning involved here: that a country
should fail to carry out its commitment under 1. above has to be
interpreted in the light of paragraph 1 and paragraph 1 only; and it
is, therefore, all the more necessary that we should qualify this
explanation. But even then, when it is explained that the results of
the initial negotiations would set the standard for other countries,
even when it is explained that way, the principle might not be wholly
acceptable to the Indian delegation, because the point of view which they
have throughout been advocating is this, that the ability of a country
to offer tariff reductions should be judged largely, if not wholly,
by the xxxxxx reference to the requirements of its own economy, and
what other countries have done cannot be regarded as a fair standard. The
standard should be not merely what other countries have done, but also
what the country itself can do, with due regard to the obligations it has
to its own population and the obligations it has to improve its own economic
conditions.
MR ALAMILA (Cuba): I would like to make a point on this, and maybe we can avoid a discussion. We have been studying this memorandum as much as we can in the few hours that we have had, and we find that up to page 10 there are only interpretations of Articles that we have dealt with here for a long time and in regard to which each one of us has explained his point of view and ideas, and we have drafted it in such a way that they may be subject to interpretation in the future. Now, from page 10 on is when we really start with procedures. I believe that we ought to do this: Now that we have drafted the Articles, let us leave the interpretation and let us start on page 10 and forget all the rest; let us deal only with the rules of procedure and let us study those rules of procedure. Then we come to Miscellaneous Rules of Guidance. I think that is a very modest title, but I think after that we come to some very useful rules which we could really study and try to reach agreement on.
As a point of order has been raised, I must answer it. To a great extent I agree with the remarks of the Cuban delegate, but we cannot forget that there were certain points on which some delegates made certain observations, and it is right that we should take due note of the remarks made. Therefore I think the discussion we have had has been useful, but I do not suggest that we read this paper now page by page and adopt each clause. That was not the intention and we could not do it after only a few hours' study. I am quite prepared to leave the discussion on the first pages now, but not permanently.

Mr Alamilla: May I remark again that I do not want to avoid discussion. The only thing is that reservations have been made on those points which are under discussion. All the work has been done, and by redrafting this again in the way of a memorandum merely means going back on our work. Therefore I suggest we keep that part. We cannot approve it because, if we did that, we would have to go over it word by word and reopen the discussion. Let us get on to the memorandum on procedure and discuss it. The other part would be presented by the Rapporteur. It is very useful and we can take it home and study it, but this part on procedure is something on which we should really take action in order to be useful to the future negotiations.

The Chairman: It still leaves the point raised by the Indian delegate that he expected clarification of article 18, and the position of certain countries in this memorandum, and that point we cannot skip. However, I think we have discussed it now and we must make some headway, so perhaps we can now come to the second part and perhaps the third part also of this memorandum which gives miscellaneous rules of guidance for the coming negotiations. We have three rules already. We ought to start from page 6.
because they are put in there. There is also some clarification and elaboration of what is in the draft Charter.

M. R. ALAMILLA (Cuba): I am sorry, but I believe -

THE CHAIRMAN: May I continue for a moment? We can return to that later on if need be. Do members feel able to study the miscellaneous rules of guidance and then come back to the first pages of this memorandum later?

M. R. ALAMILLA (Cuba): Very well.

M. R. SHACKLE (U.K.): It seems to me that the matter on pages 6 - 8, and also 9 is very important, and it is essential that we should get it clear because it interprets a great deal of a few sentences in Article 13 which are by no means explicit in themselves. In fact, as regards the first sentence of Article 18 (1) (b), "All negotiated reductions in most-favored-nation import tariffs shall operate automatically to reduce or eliminate margins of preference..." we left explicitly on the understanding that we would first discuss this memorandum on procedure and then return to that afterwards. So we cannot exempt ourselves from discussing pages 6 - 8.

M. R. ALAMILLA (Cuba): I do not object.

THE CHAIRMAN: Then we will start with pages 6 - 10. Those pages are now open for discussion.

SEÑOR VIDELLA (Chile): Is the quota to be negotiated or eliminated? If it is to be "eliminated", the word "automatic" will be redundant, but if "negotiated", I attach very great importance to it. I think that is within the scope of this discussion. I have here a note which says: "No sheep or mutton or lamb shall be imported into the United Kingdom except under a licence issued by the Board of Trade unless accompanied by a certificate in a form....."

THE CHAIRMAN: I have taken note of your point, Mr. Videla, and you are free to raise it at a later stage of the discussion.
MR. SHACKLE (U.K.): The last paragraph but one on page 6 reads:

"The second rule to be followed in the negotiations is that negotiated reductions in most-favored-nation rates of duty shall operate automatically to reduce or eliminate margins of preference."

There is a point arising on that sentence. I think we ought to be clear about the word "negotiated". If I understand this aright, there are two ways in which most-favored-nation rates of duty may be reduced. In the first place they may be reduced by direct negotiation; in the second place, if a preferential rate of duty on the same commodity should be reduced then, in virtue of the fact that the margins of preference must not be increased, it will follow that the most-favored-nation rate is brought down to the same extent that the preferential rate is brought down. That, so to speak, is an indirect way of reducing the most-favored-nation rate. I take it that when here the word "negotiated" is used, that refers only to the first meaning; that is to say, the reduction by direct negotiation and not to the indirect one. I would like to know whether the Rapporteur thinks that is a correct interpretation. If so, I think we might possibly slightly amend the wording to make the point clear.

THE RAPPORTEUR: Yes, that is a correct interpretation.

MR. SHACKLE (U.K.): In that case, might I suggest a slight alteration in the wording? That we knock out the word "negotiated" in line 2 and make it read "reductions in most-favored-nation rates of duty where these are the result of direct negotiation", and then continue as before.

THE CHAIRMAN: Do you think that is agreeable?

THE RAPPORTEUR: Yes.

THE CHAIRMAN: Then this amendment is adopted.

SEÑOR VIDELA (Chile): May I reserve my position?

THE CHAIRMAN: We take note of the reservation of the Chilean delegate.

MR. SHACKLE (U.K.): I have one or two other questions to raise on
this passage. My first question, which I would like to get clear, is this: that although in a particular case a request for a modification of a preference will be made to the country which gives the preference, it is the country enjoying the preference which stands to lose by the reduction of the preferential margin and, consequently, it is entitled to be compensated for that reduction. That leads me to my second point, which is that if adequate compensation is not forthcoming, the country which enjoys the preference is entitled to withhold consent, leaving the country according it a straight choice between refusing, on the one hand, to make a concession on the item and, on the other hand, announcing the preference agreement with the other country, with all the consequences that would entail. I would like to ask whether that commends itself to the Rapporteur as a correct interpretation of how this process would work out?

THE RAPPORTEUR: I think that the provisions in the Charter answer that point regarding the effect of prior international commitments and negotiations. The first rule was that prior international commitments shall not stand in the way of negotiations. The second was that action resulting from the negotiations shall be understood to require either the consent of the party to the preferential agreement, or termination of the preferential agreement in accordance with its terms. If you have those two principles, and follow them to a logical conclusion, you will find that they have to be granted or the preferences thrown out. Just that choice.
MR SHACKLE (United Kingdom): Thank you. I think that perhaps a point which may not be entirely cleared up in that way is the question: From whom the compensation would be looked for? Would it be looked for from the country which accords the preference or from the country which enjoys it?

THE RAPPORTEUR: I wonder if that is a point on which you can lay down a rigid rule. "All countries concerned will be a party to the multilateral negotiations envisaged": I should think that would be a question that would take care of itself, since every country would see exactly what it was getting before it was expected to give up what it had.

MR SHACKLE (United Kingdom): Yes, Thank you.

THE CHAIRMAN: Are there any more questions to be asked or observations to be made?

MR ADARKAR (India): With regard to this rule that "all reductions in most favoured nation rates of duty, where these are the result of direct negotiations, shall operate automatically to reduce or eliminate margins of preference": I have just one more comment to offer: the object of these negotiations is to achieve a reduction or elimination of the existing margins of preference. For this, two things are necessary: firstly, that there should be some agreement with regard to the date with reference to which it should be decided what the existing margins are. Secondly, that those margins should be reduced. These I believe to be the only two or the two most important things. On this basis, there are more than one ways of achieving the reduction in the existing margin of preference. We could, for example, take the rates existing on a particular date, say the 1st July, 1939; the rates as given in this example happen to be 50 and 30. Then we could achieve a reduction in the preferential margin of 20, the difference between 50 and 30, by reducing the most-favoured-nation rate from 50 to 45 and the preferential rate from 30 to 28, the margin being reduced from 20 to 17. That is to say, the original margin was 20, and that is the difference between 50 and 30. We now reduce the margin from 50 to 45 and the preferential rate from 30 to 28. That is one way.
of reducing the margin. The other way of reducing the margin is that which is suggested here by the Rapporteur, or which is contemplated in the Draft Charter of the United States Government; that is, when the most-favoured-nation rate is reduced from 50 to 45, the margin should be automatically reduced to the difference between 45 and 30. The original margin was 20. Now it is reduced to 45 minus 30, which is 15. This is only one of the ways of reducing the margin. I do not understand why we should agree to this particular way of reducing the margin, even though it is likely to result in a greater reduction in preferential margin than the first method which I described.

It may be that this will result in a greater reduction of preferential margins, but is it not at least equally probable that the disadvantages involved in this method may make it necessary for certain countries to be extremely cautious in regard to the reductions they offer in the most-favoured-nation rate? I think the method suggested in this subparagraph (a) on page 6 is likely to hamper the process of reductions of tariffs more than the method suggested by me; that is to say, all that we insist on is that preferences resulting from the negotiations should be smaller than the preferences existing at a particular date. We shall then have fully complied with the commitment which is implied in the Charter, namely, that we should negotiate for a reduction in the margin of preference.

THE CHAIRMAN: That point was left open when we discussed it in the first discussion on Article 18. It is right for any Delegate to raise the point now. I would invite the observations of other Delegates to this point.

We have to choose between two systems with regard to the elimination or reduction of preferential rates, and here I would like the advice and comments of Mr Hawkins.

MR HAWKINS (U.S.A.): If I understood the point correctly, the method used by the Indian Delegate in his illustration would result in a reduction of the preference from 20 to 17; whereas under the automatic rule it would be only 15, and of course that difference is an important consideration; the preference is smaller under the automatic rule than under the other, and that
is the purpose of it.

ADAKAR (India): May I explain the point a little further?

If, in the example which I have given, the most-favoured-nation rate could be reduced to 45 only and not below 45, then the country giving the preference cannot possibly consider a request from the country which at present enjoys the preference to reduce the preferential rate below 30, because if it reduces the rate below 30, if it reduces the rate to 28, then it can keep the most-favoured-nation rate not at 45 but must keep it at 28 plus 15; that is 43. It will make it impossible for the country to offer any reduction to the country enjoying the preference, and to that extent will hamper the expansion of trade if by a natural flow of trade there are prospects of trade development between the countries which are at present

joined together by a preferential arrangement.
THE CHAIRMAN: The idea of the drafters of the American Charter was that everything that was done should tend to eliminate preference, and the preferential rate would in no case be decreased again so as to get a smaller margin of difference between the most-favoured-nation rate and the preferential rate. That was the idea of the American Charter, and we now have to choose between two systems - or in any case, make our position clear. No doubt countries not enjoying the preferential system would like that system eliminated as soon as possible, but that is not the point here. We ought here to invite the views of those countries having preferential systems, namely, Mr. Shackle and Mr. McKinnon, and perhaps Cuba.

MR. SHACKLE (United Kingdom): Our understanding in this matter was that if in the first negotiations, let us say, the Spring negotiations, a reduction has been made from, say, a most-favoured-nation rate of 50 to 45, and the preferential rate is supposed to remain at 30 - for the purposes of the example - you then have a preference margin of 20 which has been narrowed to 15. Our understanding is that that would not prevent subsequent negotiations for the reduction of the preferential rate to some lower figure - let us say 10. But if so the most-favoured-nation rate would automatically, as it were, have to be brought down in order to keep the reduced preference margin of 15. The most-favoured-nation rate would automatically have to come down from 45 to 35. Am I right in understanding that to be the contention?

THE CHAIRMAN: Yes. The Indian Delegate proposes a different system, where you reduce the margin of preference but not so much as with the system proposed by the drafters of the American Charter.

MR. ADARKAR (India): May I say, in order to avoid misunderstanding, that it is not my intention to propose a system the effect of which will be necessarily a lesser reduction of the preferential margin than would be the case under the American formula. My intention is to keep the two objects distinct. One object is to reduce tariffs - to rationalise tariffs, so to speak, to bring them to a lower level so as to increase
consumption not to produce protection. The other object is to reduce the extent of inevitable discrimination. These two objects could be kept distinct by the process which I described. It is quite possible for a country to say, "I will offer a reduction from 20, to 17, but leave it to me, or to negotiations as to how to give effect to it." It may be that this particular plan suits it best, namely, to partly reduce the preferential rate and to partly reduce the most-favoured-nation rate. Why should we compel a country in that position to subscribe to this particular rule, that every time it offers any reduction in the most-favoured-nation rate it has, by that very process, agreed to a particular margin? The agreement to reduce any margin should not be a by-product of this agreement to reduce the most-favoured-nation rate to a particular level.

MR. HAWKINS (United States): I think probably the difference in viewpoints here arises from one statement which was made. It is possible, of course, to keep the preferential margin distinct from the most-favoured-nation rate; but it is very difficult to find cases in which there is not a double interest in negotiating that most-favoured-nation rate. The purpose ordinarily is to agree a protection in the home market, and to reduce the preferential margin in favour of a third country. Now, if you do not follow the rule that the reduction in the most-favoured-nation rate automatically operates to reduce or eliminate the preferential margin the effect then becomes as follows: the country negotiates a most-favoured-nation rate downwards, and later on the country concerned reduces the preferential rate and thereby tends to impair - it could even destroy - the value of the reduction in the most-favoured-nation rate.

MR. ADARKAR (India): Would you explain that further? Would not the situation in which the margin is reduced from 20, to 17, be better than one in which the margin remains 20,?

MR. HAWKINS (United States): So far as the country that is negotiating the most-favoured-nation rate is concerned it may result in a very material impairment of his concession if that preference is widened.
MR. ADARKAR (India): It is not widened.

MR. HAWKINS (United States): I thought you said there was a further reduction in the preferential rate.

MR. ADARKAR (India): It is not widened.

MR. HAWKINS (United States): If there is no widening of the preferential margin ----

MR. ADARKAR (India): It will be reduced.

THE CHAIRMAN: There is a narrowing of the margin, but not so much as if we adopted the American rule. Mr. McKinnon, have you any views on that?

MR. McKINNON (Canada): No, I have nothing to add to what I have said so many times in the committee. Mr. Shackle asked Mr. Loddy two questions, merely as a matter of interpretation, and Mr. Loddy's answers were precisely those I should have given myself, based upon my interpretation of the Charter as we amended it in committee. I quite appreciate the point of view of the Indian Delegate. The reduction of marginal preference may be achieved in different ways. As I understand him, he is attempting to put on the one hand the negotiations on the margins of preference per se and on the other negotiations in respect of the rates of duty. We have nothing to add. We suggested several times in full Committee that we should prefer to see the word "automatically" out. There was some support for that at the time, and I can only interpret the remarks of the Indian Delegate - and, to some extent, those of Mr. Shackle - as again advancing reasons why it might be desirable that the word "automatically" should be removed from the provision.

THE CHAIRMAN: This is an important chance of the preference system, and therefore I must hear the views of the American Delegate in order to see whether we can reach agreement on this point, or whether we will have a disagreement, which would be a pity.
MR. HAWKINS (United States): I hesitate to be very dogmatic on a point, but I see a difficulty there. The effect of taking out the word "automatically" will be to result in a smaller reduction or margins. The Indian Delegate's point is important, because there could be a reduction of margin without it; I think it will be smaller, but it will operate.

MR. MCKINNON (Canada): On that night, I might add that probably would have been the case in negotiations of the type that we in the Canadian Delegation thought were envisaged by the original Charter in its draft form.
You may remember that at one meeting last week the question was put to Mr. Hawkins as to whether it was possible or probable that these negotiations would be simultaneous, that is to say, affecting not only the most favoured nation rates but possibly affecting the preferential rates of duty. Mr. Hawkins replied that he saw no reason why they should not be simultaneous, and quite possibly many of them would be. We feel that if there are to be simultaneous negotiations all the way round the circle, between not only in respect of most favoured nation rates but also in respect of preferential rates, the force of the word "automatically" is largely lessened, and that may not always operate automatically if we are to have completely simultaneous negotiations.

MR. ADAREAR (India): I certainly endorse the remarks just made by the Delegate of Canada, that if the negotiations are to be simultaneous the word "automatically" would not only be superfluous, it would be rather incongruous, because if every reduction in the preferential margin is to receive the consent of and approval of the country which is at present enjoying the margin, which is certainly the implication of the first rule, then the word "automatically" has no significance at all.

MR. MCKINNON (Canada): Perhaps I should have added that the reason I said that negotiations must now presumably be simultaneous arises from the fact that in the draft Charter as we first saw it when the meetings started each country had complete freedom to negotiate. As the Article has now been amended it is clearly contemplated and laid down that each country negotiating must seek the permission of other parties interested before it can negotiate the margins. That is, negotiate in a final sense. Therefore the result of that amendment is to make the negotiations necessarily simultaneous. It will involve a series of very complicated negotiations with the result, as I say, that the word "automatically" may not now operate automatically, if I may put it that way.

MR. GUERRA (Cuba): I want to add another observation to that. We think also that the word "automatically" had other importance in that the draft
Charter as we first saw it did not contemplate the possibility of any preferential rate remaining in force after the negotiations. Now that the Article has been amended, it is possible, although the object is to reduce or eliminate them, that some preferences will remain after the negotiations which will not be subject to the operation of Article 18. In that case, if some preferences are possible, I think the word "automatically" loses importance, because it will not operate in any way against those preferences remaining after the negotiations.

MR. HAWKINS (United States): I do not think the Article contemplates that the first set of negotiations, next Spring, dealing with tariffs and preferences will be the only ones. It is conceivable that some preferences may stand for quite a long time, but we should always keep open the possibility that they may not. In other words it is not only just one process that is involved here; over the years there may be frequent negotiations on this subject.

THE RAPPORTEUR: I wonder whether Mr. McKinnon's interpretation of the Charter is entirely correct in regard to prior international commitments? It seems to me that the statement does say that prior international commitments shall not stand in the way of negotiations.

MR. MCKINNON (Canada): The Charter made it action, not negotiations.

THE RAPPORTEUR: The one we agreed on made it negotiation, which would mean that if the margins are to be insisted upon by ite negotiation that would tend to defeat that principle.

MR. MCKINNON (Canada): You remember that in the Committee not only was the word changed from "action" to "negotiation" but there was a very considerable addition to the sentence which had the effect of making necessary simultaneous negotiations. Within the Charter, there ought to be negotiations in respect of preferences.

THE CHAIRMAN: I think there is still confusion in this question. If we read this paragraph through we see, in the version as it is here in the Charter, references to the automatic reduction of preferences together with the most favoured nation rate. There is a definite proposal now
by the Delegate of India to separate these two things and keep the obligation to eliminate or reduce the margins of preference in the Spring negotiations, whether we negotiate only preferential rates or whether we negotiate most favoured nation rates, but the principle should be that the margin of preference should be reduced but here again one cannot use the word "automatically" in the same way as you would reduce the most favoured nation rate. This is a definite proposal here on which we ought to give our views and try to reach a decision. I have not heard from Mr. McKinnon and Mr. Shackle and other delegates whether they support the Indian proposal or not.

MR. SHACKLE (United Kingdom): I should rather like to get a clarification of the wording of Article 18 (1)(a) in view of what the Rapporteur has said. The wording as it now stands in the draft, I think, is this:

"Prior international commitments shall not stand in the way of negotiations with respect to tariff preferences, it being understood that action resulting from such negotiations shall not require the modification of existing international obligations except by agreement between the contracting parties or, failing that, by termination thereof in accordance with the terms of such obligations."

I think, as regards the first part of the sentence, "commitments shall not stand in the way of negotiations", it is perfectly clear that that means that the mere fact that prior international commitments exist shall not be taken by a country as a reason for saying it will not negotiate. Then we come to the second part, "it being understood that action resulting from such negotiations shall not require the modification of existing international obligations except by agreement..." and so on.
Well, as regards that it seems to me that that probably should be taken to mean that the country which enjoys a preference — if it is a bound preference, at least — has the right to say that it does approve or not approve a particular reduction. It is true that it ought not to, as it were, unreasonably withhold its consent having regard to the general terms of the bargain offered to it otherwise, but that it has, subject to that, the right to say that it does or does not approve a particular reduction or degree of reduction. Am I right in thinking that that is the correct interpretation of that sentence in the view of the Rapporteur?

THE RAPPORTEUR: I think that is right. It would have to, because the result of the negotiations as a whole would need either to obtain the approval of the country, or, failing that, the obligations would have to be terminated. But my point was not on that. It was on the question of applying that rule on a product by product basis in particular negotiations throughout, rather than having a review of the results of the negotiations in the light of the advantages to be gained.

MR. SHACKLE (United Kingdom): Yes.

MR. ALAMILLO (Cuba): Mr. Chairman, I say again that we are coming back to all our previous discussions. I did not want to go back to page 6 or to start with page 10, but I am not going to press the point any more. I say that I do not see that there is any difference between negotiating in one way or in the other. I believe that we have cleared the point perfectly. We are going to come to the negotiations. A nation may have a preference to put over the table to negotiate. Another nation may have a tariff to put over the table to negotiate. They all negotiate. On that negotiation between two specific countries it happens that one country considers that it must reduce the tariff of a third country. Then it calls this third country and says "I wan
to reduce this preference which you have, and therefore will you come to the negotiations and let us all be together here." That nation would say "Yes, here is my preference also to negotiate", but do not forget that that nation has to get a price for putting its preference on the table, just the same as the other one has to get a price for putting its tariff on the table. Once they are all there, it may happen that this nation may say "The price is not enough", and then the nation that wants to reduce the preferences or eliminate them, if the negotiations do not succeed has a clear way out, and he cancels under the appropriate clauses. I think this is absolutely clear and I do not know why we have to come back again to the same problem.

THE CHAIRMAN: But it still leaves the point of the Indian delegate, and I have to turn to that again.

MR. McKINNON (Canada): Would you tell us the point of the delegate of India?

THE CHAIRMAN: The point is this. If you have a most-favoured-nation rate of 40 and a preferential rate of 30, and you agree to lower the most-favoured-nation to 35, the preferential rate at the same time cannot be altered more than 5.

MR. McKINNON (Canada): Under the word "automatically" the preferential rate must stay where it was.

THE CHAIRMAN: The Indian delegate wants to have it in this way, that first you can negotiate to bring down the most-favoured-nation rate to 35, and then you can also in another agreement bring down the preferential rate to 28. Then the margin would be 7, and not 5, as in the American proposal.

MR. McKINNON (Canada): Just on the word "automatically", I would like to state again in a few words the Canadian position. We would prefer to see the word "automatically" removed.

THE CHAIRMAN: We know the complications when we remove it.

MR. McKINNON (Canada): Well, we actually made a motion to that
effect at one meeting of the Committee, but it was not carried. If the word "automatically" were removed the Indian delegate's arithmetic would be correct and we could proceed along the lines he suggests, but as long as the word "automatically" is there he is precluded from doing what he would like to do.

THE CHAIRMAN: Gentlemen, the question is again put, will we delete the word "automatically" or not? The Indian delegate is in favour of that, I imagine. The Cuban delegate?

MR. ALAMILLA (Cuba): We are willing to delete it. We do not see any problem in doing so.

MR. LEGUYER (France): Yes.

MR. McKINNON (Canada): Yes.

MR. HASKINS (United States): We prefer to retain it.

MR. SHACKLE (United Kingdom): I have a point I would like to make on this. I am not to be understood as pressing for the deletion of the word "automatically", but it nevertheless does seem to me that it may in practice be found to have the effect of limiting the scope of the negotiations and actually, by and large, of producing less reductions than if it were there. That is my feeling. It is rather hard to make any sort of quantitative estimate, but I feel that in general the effect of this word "automatically" may be somewhat to limit the scope and result of the negotiations, but I would not press any suggestion to remove it.

MR. McKINNON (Canada): We are in the same position. We are not pressing it, but we quite agree with Mr. Shackie that the retention of the word "automatically" may limit the scope of the negotiations and tighten the negotiations, if I may use that word.

MR. ALAMILLA (Cuba): We are in exactly the same position.
THE CHAIRMAN: So I think the only one who proposes to retain it is Mr. Harkins, and I think he is a very important partner in these negotiations.

MR. VIDELA (Chile): And I support the United States delegate.

THE CHAIRMAN: So we have two in the other camp now.

MR. HARKINS (United States): I think all you can do in the circumstances is to let it stand this way, with a report explaining these complicated arithmetical illustrations to the full Committee.

THE CHAIRMAN: Yes, but I only want to say one thing, that if we would leave out the word "automatically", these examples would then be revised.

MR. ALAMILLA (Cuba): With regard to the examples, Mr. Chairman, I would like to say that the examples are not necessarily right, because the way I understand this thing, it does not matter who proceeds to negotiate first. Therefore, I think these differences that are made if one negotiates first or second do not mean anything at all, because when I start to negotiate and I have a binding international obligation, I have to conclude that obligation first if it is in the way of the other negotiations. Therefore, I do not care who negotiates first, and what I would say of the examples is this: it does not matter who negotiates first, because if there is a binding obligation that obligation has to be agreed upon or eliminated. So I will skip two pages and strike out the two examples.

MR. ADARKAR (India): Mr. Loddy gave an explanation to Mr. Shackle, that every reduction in the preferential margin having to receive the approval of the country enjoying the preference would not apply to negotiations in respect of individual products.
MR. McKINNON (Canada): Oh, yes.

MR. ADARKAR (India): But only to the results of the negotiations taken as a whole. Was that your explanation?

MR. HAWKINS (USA): Yes.
MR HAWKINS (USA): Yes.

MR ADARKAR (India): The negotiations are being conducted simultaneously, and I suppose these other considerations would go on.

THE RAPPORTEUR: I had thought that Mr McKinnon was referring to a case where a preference-granting country was confronted with a request for a reduction in the most-favoured-nation rate and a simultaneous request for a reduction in the preferential rate. That request was not made for the purpose of preserving the margin of preference, which might otherwise be reduced or eliminated, but for the purpose of reducing the protection in the home market. That was the kind of simultaneous negotiations I thought we were talking about.

MR McKINNON (Canada): Not necessarily - it could be that, though.

MR ADARKAR (India): The other object of conducting the negotiations simultaneously may be to give the country at present enjoying a preference an opportunity of watching its own interests, and in that case the consent of the country enjoying the preference would have to be taken on a more or less product-by-product basis. If there is no agreement then a very difficult situation will arise. The country which is giving the preference would have to decide whether it should abrogate the whole of the agreement which it has with the country enjoying the preference, or whether it should just disappoint the country which is asking for the reduction in the margin of preference.

THE RAPPORTEUR: I think that there is a very great mechanical difficulty involved in that process that you are envisaging in the negotiations, and that is this question as to whether the country enjoying the preference will agree to its reduction or elimination; that will depend upon what country obtains from some other country in the negotiations as a whole. Therefore, it seems clear that the country must be free to go ahead on a conditional basis until they see how the negotiations are coming out. Then, to be sure, you must have a careful review of what the effect is, and such a review must necessarily involve an examination of the products affected. But my point was simply that if, before offering any country
a reduction in the most-favoured-nation rate, which would reduce or eliminate the margin of preference. In each case, you obtained the consent of some of the countries enjoying the preference, it seems to me you will never get anywhere, because the country enjoying the preference will not be able to give its consent on the memorandum until it finds whether the country which originally requested the reduction in the most-favoured-nation rate was doing something for him, and the stage in the negotiations might not have been reached where he can tell that. Therefore, I should think that the negotiations would proceed with some freedom until enough progress had been made to see whether the results were justifiable.

MR ADARKAR (India): That would certainly be conceded. The country enjoying the preference would not be precluded from participating in the discussion.

THE RAPPORTEUR: No.

MR ALAMILLA (Cuba): I just want to refer to this because I think you start here with certain details which I think will get us into a lot of trouble. Therefore I greatly prefer the deletion of all these details and that we should just read through the examples and take the principle of the thing, which I believe is very clear and very simple. In my opinion, which at one time I thought was prevailing, it does not matter who starts the negotiations. We should not make distinctions as to whether this one starts first or that one. That does not matter, because the countries concerned might think that if they started first or if they started second something might happen to alter the position. That is why I would like to have from this page 7 up to the letter C on page 9 completely taken out of the document, to be substituted by the general statement, to be set out in clear lucid English, of the position I have been trying to set out in these discussions.

THE CHAIRMAN: The Rapporteur will answer that.

THE RAPPORTEUR: The only reason for the elaborate illustrations and explanations as to what would happen under the rule was because I think
the Australian delegation and some others requested such an explanation to be put in the procedures memorandum before they gave final approval to the rule in the Charter. That is the only reason for that. If it were generally accepted that the rule is desirable, I do not see any reason why all of this material in the procedure memorandum should not be eliminated and replaced by a short and simple statement.

MR McKINNON (Canada): Deleting the word "automatically"?

THE RAPPORTEUR: No, retaining the word "automatically."

MR McKINNON (Canada): We have been spending a lot of time on Mr Liddy's draft and his perfectly correct illustrations in regard to what I might call the arithmetical working of the rule. But we have now wandered very deeply into a different subject altogether, namely, that we change the rule. If there is general agreement around this table, I think that it would be desirable to have the rule changed by deleting the word "automatically." But, as I understand it, the United States delegate feels he has to record his dissent on that point.

MR HAWKINS (USA): That is correct.

MR ALAMILLO (Cuba): May I offer an explanation of what I thought also the word "automatically" meant? That once a reduction was made in one item, it was applied automatically to everybody else in the negotiations. That is why I do not object to it. I think that if I give in regard to a specific product some reduction in tariffs or in preferences, that which I give to one country has to be given automatically to all countries.

THE CHAIRMAN: Now, Gentlemen, I think that we are just in this difficulty with regard to the rule to be applied. There is now a difference of opinion, and Mr Hawkins has suggested that it would be simpler to leave it to the main Committee to decide on the rule; but I think that if he is not able to give his consent now he will not be able to do so in the main Committee, unless he has some time to reflect upon it. In regard to this memorandum, there are two possible ways in which we might reach agreement in Geneva before we start our negotiations, and I think that would be the only way to deal with it, to have a main rule on common negotiations. But
I do not think that it is right that we should spend so much time upon it because without a rule we do not know where we are. I think that is the only possible way to deal with it at the moment, that we should have all these rules worked out, and then the choice will have to be made in Geneva about which system to adopt.

MR HAWKINS (USA): And if it is not possible to reach some conclusion before, there may be other opportunities of discussing it.

THE CHAIRMAN: I am glad to leave the point open, then. There are also all these examples, because they apply only to one rule and not to the other rule. Then it all depends on what agreement we reach later on. I would skip that for the moment and come then to the other rules that are in this part of the paper.
MR. SHACKLE: May I raise a few points? It is as well we should tie up a few points on pages 8 and 9 before we leave them. First of all on page 8, line 3, the figure 10 should read 20.

THE CHAIRMAN: That is right.

MR. SHACKLE (U.K.): At the foot of the same page, the fifth line from the end. The sentence in question reads: "the country granting the preference should do so only if it is prepared to consider, on its merits, and apart from the effect on the preference, a later request for a reduction in the most-favored-nation rate." It is my feeling that the words "and apart from the effect on the preference" would be better omitted. The reason is because very often the object of the request will be a reduction of the preference. If the effect on the preference is to be more or less ignored, that would deprive the country affected by the reduction of the preference of a say in the negotiations, which I think would not be right. For that reason I suggest that we take out those words "and apart from the effect on the preference". I do not know whether the Rapporteur would like to discuss that point now, or whether I should proceed to my third point?

THE CHAIRMAN: Proceed.

MR. SHACKLE (U.K.): My third point is this, at the top of page 9, which reads: "the country granting the preference should not resist granting a reduction in the most-favored-nation rate solely in order to maintain a margin of preference and apart from the effect on domestic industry." I think it would be better to substitute for the words "resist granting" (in the second line) the words "refuse to enter into negotiations for". Otherwise it seems to me that the rights of the country enjoying preference would be over-ridden.

THE CHAIRMAN: Are there any other remarks with regard to these pages?

MR. ADHIKARI (India): There is one point of clarification I would like to raise on page 9, line 12 of (c) which starts...
"Also, the rule would not prevent country A from requesting, or country B from granting, a reduction of the margin if preference greater than that resulting from the negotiated reduction. 
......bring the margin of preference down to 10 per cent - " that is to say, from 50 to 40. When the preferential rate is 30, the reduction in the most-favored-nation rate from 50 to 40 would automatically reduce the margin of preference from 20 - 10, and then it goes on -"and might also agree that the margin should nevertheless not exceed 5 per cent." Now is it contemplated that effect should be given to that by increasing the preferential rate from 30 - 35?

THE RAPPORTEUR: Not necessarily; that could be left to the countries concerned. There is a double interest. You have in the most-favored-nation rate an interest in getting the maximum rate which is designed to increase imports into the country granting the preference. You have a further reduction under the preference than would result through the reduction of the most-favored-nation rate. The further reduction of the preference to 5 per cent could be achieved either by a further unilateral reduction in the most-favored-nation rate, which could be later brought back without violating maximum most-favored-nation commitments, or by raising the preferential rate by something in between.

MR. ADARKAR (India): Then it is contemplated that some of the most-favored-nation rates may not be binding? A country may agree to a reduction in the margin from, say, 20 to 10, or from 20 - 5 but may not bind itself with regard to the actual rates?

THE RAPPORTEUR: There is no requirement in the rules to prevent that.

THE CHAIRMAN: I thought that at an earlier stage it was said that you should never do it by raising the preferential rate.

MR. McKINNON (Canada): There is nothing definite to that effect.
MR. MCKINNON (Canada): The general working out of the rule would usually work the other way, but it is not precluded.

SEÑOR ALAMILA (Cuba): We are not discussing examples now? This is simply an illustration.

THE CHAIRMAN: It is simply to find out whether it is allowed or not.

THE RAPPORTEUR: It was just to make it clear that this rule does not prevent that.

SEÑOR ALAMILA (Cuba): Where are we starting from on page 8.

THE CHAIRMAN: The second and the third rules.

SEÑOR ALAMILA (Cuba): But I thought Mr. Shackle referred to the first one on page 8.

MR. McKINNON (Canada): Everything from the start of rule 2 to the foot of page 9 relates to rule 2. There is not much profit in discussing our Rapporteur's comments on rule 2 when the stage we have reached is that we generally favour a revision of rule 2, so, supporting the Cuban delegate, I would like to suggest that we go on to the consideration of rule 3 at the foot of page 9.

THE CHAIRMAN: I have only one question to ask. It is in connection with page 10, at the end of the first paragraph, where we state we would be entitled to expect the reduction of a 'high' tariff. Should we say "be entitled to"?

MR. MCKINNON (Canada): That would change the sense.

THE CHAIRMAN: But "to expect" is a little different.

MR. McKINNON (Canada): I am supporting your point, Mr. Chairman.

THE CHAIRMAN: We then come to miscellaneous rules of guidance.

It is now 7 o'clock. When would members like their dinner?

After some discussion as to whether the Committee should meet again after dinner, or adjourn until Sunday morning, the Chairman adjourned the meeting until Sunday, 17th November at 11 a.m.

The meeting rose at 7.10 p.m.