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

General Agreement on Tariffs and Trade.

Observations by the Norwegian Delegation.

The principle underlying the proposal for a General Agreement on Tariffs and Trade contained in Doc.E/PC/T/135 involves that members of the Preparatory Committee should accept essential parts of the draft Charter as part of a multilateral tariff agreement before the articles of the Charter have been considered and decided upon at the Havana Conference. The parties to the tariff agreement would thereby limit their freedom of action at the Conference. They would also be unable to give due weight to such considerations as the other countries taking part in the Conference may bring forward. This would not be fair to these other members of the Conference.

The resolution of the Economic and Social Council of the 18 February 1946, whereby the Preparatory Committee was constituted, requested that Committee to submit a draft Convention for the International Conference. It would thus seem that the task of the Preparatory Committee in respect of the Charter ought to be limited to suggesting a draft text for consideration and decision by the full Trade and Employment Conference. It would hardly be compatible with the assumption on which the Conference is being called, if a number of the members of that Conference met with their hands tied by an agreement amongst themselves on important parts of the draft Charter. The Governments represented in the Preparatory Committee should not be finally committed to the draft Charter, although, of course, the fact that they have collaborated on it for a considerable time and have produced it after very careful consideration will have its full weight in the discussions of the Conference.

For these reasons the Norwegian Delegation is of opinion that the General Agreement on Tariffs and Trade should in itself retain the character of a multilateral tariff agreement. This agreement, however, should be concluded on the express understanding that the Parties thereto should sign the Charter and become Members of the I.T.O. within a reasonably short time, say six months, after the Havana Conference, or else withdraw from the multilateral tariff agreement unless permitted to continue to be Parties to that agreement by unanimous decision of the other Parties thereto. If the multilateral tariff agreement were concluded on such terms, the Parties to the agreement would be assured that, although the tariff concessions were put into force before the Charter, say from January 1st 1948, the whole charter would become the agreed background of the tariff agreement within a comparatively short time.
It is true that some Parties to the tariff agreement might feel that their concessions lay mainly in tariff reductions and bindings while the counter concessions of other Parties to the tariff agreement would consist not only in tariff reductions and bindings but also in accepting some essential rules of the charter, and that consequendy in this interim period the former group would have given concessions which would not be fully met by counter concessions. But this seems to be largely a formal point and not a real one. The rules of the Charter as so far drafted, particularly those relating to general commercial policy, would in this period allow many exceptions from the general principles and it would probably not make very much difference whether the present draft rules were accepted as binding during this short interim period or not.

On the whole therefore the Norwegian Delegation feels that the principles outlined above should be the basis for this tariff agreement, which after all is to be only a first instalment of the tariff reductions foreseen by Article 24 of the draft Charter and to be followed in years to come by - it is hoped - many tariff negotiations and the conclusion of many tariff agreements for the freeing of world trade from excessive custom duties. Such future negotiations will take place on the basis of the whole system of rules finally incorporated in the Charter, which, it is hoped, will guide the foreign economic policy of the Members perhaps for generations.

The Norwegian Delegation in consequence of the foregoing considerations suggests that Part II of the present Draft Tariff Agreement be deleted. The following further amendments are suggested:

Article II, 3: The text should be amended so as to conform to the text of the draft charter in its final form. The words "from the territories of contracting parties" should be deleted. The following phrase should be added: "Due regard shall be had to the fact that some monopolies are established and operated mainly for social, cultural, humanitarian or revenue purposes."

Article II, 4: It is questioned whether this clause ought not to contain a provision to the effect that the contracting parties should as soon as possible bring their legislation into line with the obligations undertaken by the agreement.

Article XXIII, 7: To be deleted. When the International Trade Organization enters into function the Temporary Committee should cease to exist and its functions should be taken over by the Tariff Committee to be created under the charter. The necessary clauses to that effect would seem to be in their logical place in the present article XXVIII.

Article XXVII: When part II of the General Tariff Agreement is omitted it does not seem necessary to insert such clauses concerning amendments as those now suggested in article XXVII. Amendments to the General Tariff Agreement ought in all cases to be made through unanimous decision and not through decision by a majority. It does not seem necessary to include an express ruling to that effect.
Article XXVIII: This article seems to be in need of considerable re-drafting. It ought to give expression to the following points:

(a) The General Tariff Agreement has been concluded on the assumption of the establishment of an International Trade Organization. If this assumption should not materialize, it should be open to all the parties to the Agreement to withdraw on short notice after the conclusion of the Havana Conference without positive results.

(b) If the International Trade Organization is established as anticipated, the states which are parties to the tariff agreement must adhere to the International Trade Organization within a reasonably short time, say six months after the Havana Conference, or else withdraw from the multilateral tariff agreement unless permitted to continue to be parties to that agreement by unanimous decision of the other parties thereto.

(c) As soon as the International Trade Organization has been constituted and has begun its activities the Committee mentioned in article XXIII should disappear and its functions be transferred to the Tariff Committee of the International Trade Organization as mentioned under article XXIII above.

(d) On or after November 1st, 1950 any contracting party to the tariff agreement may withdraw in conformity with the rules of the present draft of article XXVIII.

Article XXXII: If Part II of the draft General Tariff Agreement is left out, there would not seem to be a need for distinguishing between "definite" and "provisional" entry into force of the agreement. The whole agreement would be conditional upon the subsequent entry into force of the charter and the establishment of the International Trade Organization. Protocol of signature: It is felt that in the General Trade Agreement as envisaged by the Norwegian Delegation the protocol might be deleted, whilst certain of its clauses might be included in the preamble, if that should be deemed necessary. The words "to the fullest extent of their authority" seem to go too far and to imply a definite and binding commitment to the "principles" of the draft charter in such a way as to hamper to a very great extent the free action of the Havana Conference.