DRAFT REPORT OF COMMITTEE II ON THE CONSULTATION
WITH THE EUROPEAN-ECONOMIC COMMUNITY

Note by the Secretariat

At the request of the Drafting Group the following suggestions are made in order to bring the relevant parts of the sections dealing with beef, dairy products and rice into line with each other.

A. It is suggested that the following paragraph replaces:

- paragraph 36 of the section on beef
- paragraph 23 of the section on dairy products

and that it be inserted as a new paragraph in the section on rice after the present paragraph 10, under a new heading: Levy system.

(36) Reference was made to the question of the problem as to whether the levy system was compatible with the provisions of the General Agreement. The Committee felt that it was not its task to go into this legal question, but, nevertheless, recognized that a problem existed which had not been settled by the CONTRACTING PARTIES. The representative of the EEC added that perhaps the text of the Agreement might have to be adjusted or supplemented in the future so as to take better account of the specific characteristics of agriculture.

B. It is suggested that the following paragraphs replace:

- paragraphs 37, 43, 44 and 45 of the section on beef
- paragraphs 29 to 34 of the section on dairy products, and
- paragraphs 18, 19 and 20, and the last sentence of paragraph 17 of the section on rice

(29) Various members of the Committee paid particular attention to the likely effects of the refund policy and expressed the fear that the refunds which enabled Community member countries to export would give them an unfair advantage in competition with other suppliers on third markets. It was feared that in addition to a rise in Community production, due to higher prices, resulting in a narrower Community import market, the refunds which enabled Community countries to export would bring them into competition with other suppliers on third markets. In the Community concept the size of the
refunds was essentially limited to the difference between the Community price and world prices. However, these members pointed out that the increase in production due to higher prices, and therefore the increase in exports resulting from the refunds, could have a depressive effect on world prices and thus modify relations previously existing between domestic prices in the Community and world market prices. It was also noted that in certain cases the amount of the refund could be increased by a supplementary amount. Some members observed that by means of this instrument the Community could compete with anyone in the market as the regulation was open to the interpretation that there was no limit to the amount of subsidization. It was pointed out that not all traditional exporters of agricultural products were in a position to subsidize exports; smaller countries heavily dependent upon agricultural exports feared the exports made possible by the financial resources of the Community. ......

(30) The representative of the Community, in replying to these various arguments, pointed out that even inside the Community, discussion was still going on as to the desirable level of prices. .... The Community had no desire to allow surpluses to accumulate in its territory and was seeing to it that they remained limited. .... He explained that the common agricultural policy aimed in particular at stable prices on the Community markets; under present circumstances, these prices were generally higher than world market prices, which moreover were subject to fluctuations. The refund system therefore was a necessity for Community exporters who otherwise would not be able to continue participating in world trade. Under the various regulations, however, member States were no longer free, like most other governments, to grant refunds without any limitation. Normally, such limitation was to be found in the provision that, in general terms, the refund which member States were allowed to grant, could not be more than the difference between internal market prices, and prices prevailing in third countries. He further stated that it could be affirmed now, .... on the basis of the market organization mechanisms, that there were some positive aspects for non-Community exporters: inter alia, quantitative restrictions had been eliminated by the Community, whereas in the past some member States had used an import régime which, when applied very strictly, could in fact amount to import prohibition. Furthermore, the Community aimed at a policy of high quality, which would enable outside suppliers to increase exports of quality products at favourable prices. The rôle of the Community should be seen jointly as that of exporter and importer. As regards financial competition with other countries, he continued, the Community was not in a position to subsidize exports unrestrictedly. It was well-known that some member States intended to limit to what was strictly necessary their financial participation in the refund system, and this in itself was already an effective limitation on any undue participation by the Community on world markets.
With regard to the more general problem of export aids for agricultural products, the representative of the EEC recalled that provisions enabling governments to subsidize their exports appeared in the legislations of many other countries. He pointed out that there were many contracting parties, which granted export aids for such products, the result of which was to distort prices on world markets. The Community, aware of these difficulties, had proposed to the CONTRACTING PARTIES a confrontation of agricultural policies as a whole including export aids. He stressed that the Community could not always assess the agricultural policies of third countries whereas all the contracting parties could have a full knowledge of the Community's regulations. The agricultural policy measures for which the Community was now being criticized could be discussed with the measures applied by the contracting parties in the framework of a general arrangement on specific agricultural products which lay down a "good conduct code" which had become necessary.

Various members of the Committee expressed concern over the fact that the refund system had become an element common to nearly all the regulations of the common agricultural policy. Since these refunds could have an effect on outside markets, third countries were directly concerned with the amounts of the subsidies, and with the extent of the application of the system. They thought that steps should be taken to limit the refunds before the stage was reached when the shortage of Community funds began acting as a limitation....

They referred to the relevance of Article XVI of the General Agreement. They also enquired whether the Community would be prepared to notify the CONTRACTING PARTIES of the extent and the nature of the refunds. In this connexion, they pointed out that member States were required to provide the European Commission each month with information on quantities exported, and the amount of refunds granted, and they enquired whether such information would be published. Some members added that where export subsidies were used they should be limited to commodities for which the circumstances were exceptionally difficult. If there appeared to be a continuous need for export subsidies the incentives to surplus production should be abated if not removed. The representative of the Community confirmed that, in the application of the common agricultural policy regulations, ..., the Community would strictly abide by the provisions of the General Agreement. The Community did not consider the refund as being identical with an export subsidy. For the Community, it was a measure sui generis, regarded as the converse of a levy, inherent in the common agricultural policy and designed, in particular, to contribute towards stabilizing farm incomes. Furthermore, it had not been demonstrated that the refunds enabled the EEC to secure a more than equitable share of world trade. The representative of the Community emphasized that the obligation, under Article XVI of the General Agreement, for contracting parties to notify subsidies must, so far as the Community was concerned, be considered in the context of these statements. He also said that the information provided monthly by member States was primarily for internal use by the EEC.
(33) Certain members of the Committee stated that they could not accept the explanation that, since refunds were the converse of levies they were not subsidies. They felt that refunds or export subsidies were required only because both were a means enabling a country to export when its domestic prices were higher than world market prices. Thus the reason for introducing either measure was the same, and their effects were the same. In this connexion some members of the Committee recalled the statement made by the representative of the Community during the consultations on cereals in 1962. The representative of the Community confirmed what had already been stated at the 1962 consultation, namely that, "the refund system would be applied in conformity with Article XVI of the General Agreement and if special difficulties from the refund system arose in respect of third countries, the normal procedure under this Article or under any other relevant Article of the General Agreement would be followed." In confirming this statement, the representative of the Community considered that another statement made by the representative of the Community at that time, was also relevant in regard to the arguments advanced by certain members of the Committee.

(45) The Committee felt that it was not its task to go into the legal question as to whether the provisions of Article XVI were applicable to the refunds as applied by the Community. Several members of the Committee, however, recalled that Article XVI dealt with "any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports...". In their view the wording was such that the provisions of Article XVI clearly applied to the Community refunds.

---

1 Document L/1910, paragraph 41.

2 "The representative of the Community replied that the system of refunds was indispensable in order to maintain for member countries the possibility of continuing to export in view of the constant use of export subsidies by some countries on the world markets. The Community was aware of the possible implications of the export refund system. The Community regarded export subsidies as an unhealthy practice; this was proved by the fact that the Community had agreed to limit the refunds in an autonomous way". (Document L/1910, paragraph 123.)