1. Working Group 1 on Export Subsidies met on the 19-20 June 1972, under the Chairmanship of Mr. W.G. Solberg (GATT secretariat) in the absence of Mr. E. Benediktsson (Iceland).

2. The Working Group followed the approach outlined by the Chairman at the preliminary meeting in May (Spec(72)33), first discussing the proposals regarding a refinement and elaboration of a definition of measures prohibited by Article XVI:4 and the removal of the two-price criterion. The Group had before it a background paper prepared by the secretariat (COM.IND/W/73).

3. Some delegations were of the view that the principle contained in Article XVI:4 that governments should not grant subsidies to exports of industrial products was clear. They accordingly felt that the measures notified as export subsidies in the non-tariff barrier inventory were in fact covered by Article XVI:4 as were the types of measures described in paragraph 11(b) of the secretariat's background paper as not having been definitely identified as export subsidies. In the view of these delegations if there existed any doubts with regard to the legality of any of these practices these measures should be added to the list although, such additions would merely be intended to clarify the obligations that had been accepted by those contracting parties which had signed the Declaration Giving Effect to the Provisions of Article XVI:4 and not to change existing rules. In this context it was suggested that all the measures described in paragraph 11(b) of the secretariat's paper should be incorporated into the list of practices drawn up by the 1960 Working Party. In this context it was suggested that all the measures described in paragraph 11(b) of the secretariat’s paper should be incorporated into the list of practices drawn up by the 1960 Working Party. 1

4. The view was expressed that the existing GATT obligations on export subsidies were somewhat weakened by the inclusion of two qualifications. The first being the criterion in Article XVI:4 itself that the subsidy must result in the sale of a product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market. The second was the provision included in

---

1 BISD, 9th Supplement, page 185
the paragraph following the list in the 1960 Working Party Report which stated that the practices therein were "generally" to be considered as subsidies in the sense of Article XVI:4. Some delegations felt that the two-price criterion provided an objective means of assessing whether in fact an infraction of the obligations had taken place. Others considered that the existence of the two-price criterion was not self evident and suggested that it might be deleted.

5. Other delegations were of the opinion that a rigid interpretation of the two-price criterion in Article XVI:4 would constitute a departure from established GATT legal practices. In cases where the final price offered in the export market was not inferior to the domestic price, an effective two-price situation nevertheless existed if a proportion of the normal cost components of the export price had been under-written by the government. The savings to exporters as a result of the subsidy could be directed into advertising, promotion, research, etc. and thus lead to an improved competitive position and an artificial increase in exports. If this logical interpretation were not followed in the particular case of Article XVI:4, there would be implications for analogous interpretations elsewhere in the text of the General Agreement.

6. The opinion was expressed that agreement upon a definition of what constituted an export subsidy would be a key factor in improving the adequacy of the provisions of Article XVI:4. It was suggested that both a general and specific approach should be taken with the aim of developing a broad definition of what constitutes a subsidy, with an illustrative list to give a general idea of what is intended to be covered and an additional and more precise list of what is clearly prohibited. Other delegations however were of the view that the conclusions of the 1959/61 Panel that such a definition was neither necessary nor feasible was still valid. In this context, attention was drawn to the problem of covering domestic subsidies that have the effect of increasing exports. Other delegations considered domestic subsidies to be outside the Working Group's mandate and that the export effects of such measures would best be considered in connexion with the general problem of domestic subsidies.

7. The Group examined the 1960 list of export subsidies (reproduced in Annex C of the secretariat's background paper) on an item-by-item basis. The following specific suggestions were made.

(a) **Currency retention schemes or any similar practice which involve a bonus on exports or re-exports**

The view was expressed that the reason for the inclusion of these practices in the list was that they had been prevalent in the early 1950's when the list had been originally drafted under the auspices of the OEEC. In response to questions, the representative of the International Monetary Fund stated that, with the exception of a few developing countries, these measures were no longer in use and, in addition, that, as they were considered to be multiple-currency practices, their implementation required prior approval by the IMF Executive Board.

1The interpretations of Article XIX and Article XVI:1 were given as examples in this regard.
The provision by governments of direct-subsidies to exporters

Some delegations considered this provision to be very narrow in that it was meant to apply only to direct payments to exporters in respect to quantities or values exported. Others felt the wording to be of a general nature, in that it could be interpreted to cover many of the other items on the list. It was suggested that the item might be expanded by the inclusion of specific types of measures as examples, such as the government payment of exporters' advertising and promotional expenses, and the provision of transport and freight subsidies on export shipments.

The remission, calculated in relation to exports, of direct taxes or social welfare charges on industrial or commercial enterprises

It was suggested that this provision would be tightened up by the deletion of "calculated" in the English text making it more precisely equivalent to the French text. Certain delegations pointed out that they had always considered that measures such as the deferral of direct taxes in respect of exported goods, and the allowance of special deductions, including accelerated depreciation allowances, related to exports in the calculation of the base on which direct taxes are charged (described in 11(b) (i) and (ii) of the secretariat's background paper) came under this provision as would any other form to tax relief to exporters. As it appeared to these delegations that certain doubts did exist in this regard, they suggested that these measures should be added to this item as examples. Other delegations did not share the view that the existing obligations covered all such practices.

The exemption, in respect of exported goods, of charges or taxes, other than charges in connexion with importation or indirect taxes levied at one or several stages on the same goods if sold for internal consumption; or the payment, in respect of exported goods, of amounts exceeding those effectively levied at one or several stages on these goods in the form of indirect taxes or of charges in connexion with importation or in both forms

It was recognized that most problems in this regard related to the export rebate of cascade taxes. As such rebates were, of necessity, based on averages, cases of over-compensation could arise. In addition, special problems could occur where account was taken of hidden taxes (taxes occultes) in calculating the size of the rebate although it was pointed out that the Working Party on Border Tax Adjustments had felt that these problems did not seem important enough to justify further examination. It was suggested that this item should be enlarged to cover more specifically the problem of cascade taxes.

In respect of deliveries by governments or governmental agencies of imported raw materials for export business on different terms then for domestic business, the charging of prices below world prices

It was suggested that the word "imported" might not be necessary.

1BISD, 18th Supplement, page 101.
(f) In respect of government export credit guarantees, the charging of premiums at rates which are manifestly inadequate to cover the long-term operating costs and losses of the credit insurance institutions.

(g) The grant by governments (or special institutions controlled by governments) of export credits at rates below those which they have to pay in order to obtain the funds so employed.

(h) The government bearing all or part of the costs incurred by exporters in obtaining credit.

These items were discussed together. It was pointed out that the obligation in (g) might be less than that in (f) as no reference was made in (g) to operating costs and losses. The necessity of the word "manifestly" in (f) was also questioned. Certain delegations were of the view that the measures described in paragraphs 11(b)(iii) and (iv) in COM.IND/W/73 relating to the accordance by governments of special advantages to exporters in obtaining credit and the government bearing all or part of the costs incurred by exporters in obtaining insurance cover were covered by (f)(g) and (h) but if there existed any doubt in this regard these practices should be added to the list.

8. In the context of items (f)(g) and (h) there was also discussion of the notification by Canada in regard to concessional export financing (COM.IND/W/75). Other delegations associated themselves with the representative of Canada in expressing concern as to the distortion in trade patterns resulting from competition among governments to provide export financing at concessional rates. The view was expressed that items (f)(g) and (h) did not cover all the aspects of the problem and that it would be desirable to cover explicitly cases where government-supported financing resulted in lending rates on exports lower than normal commercial rates. It was generally recognized that this was a complicated problem, certain aspects of which were being dealt with by other international organizations, notably the OECD. In view of this current work in the OECD and other international organizations on these problems doubts were expressed by some delegations that further progress could be made at this time. It was agreed that at its next meeting the Group should consider the possibility of convening a special meeting to be attended by exporters in the export financing field and that in the meantime Canada would endeavour to put forward a specific proposal on this subject.

9. With regard to the proposal in the Working Group's 1970 report (14(b)(ii) of the background paper) that existing notification procedures might be revised, it was suggested that a number of possibilities presented themselves including notification on demand and prior notification and consultation in regard to measures that could lead to increased exports. The procedures instituted as a result of the Report by the Working Party on Border Tax Adjustments\(^1\) were noted in this regard. It was agreed to return to this problem at a later meeting.

\(^1\)BISD, 18th Supplement, page 109
10. The representatives of those contracting parties which had not accepted the Declaration Giving Effect to the Provisions of Article XVI:4 were asked to explain the position of their countries as to why adherence to the Declaration was not possible. It was suggested in this connexion that they could consider acceptance of the Declaration in the context of future negotiation. The representative of Australia explained that in pursuance of his Government's long-term policy to encourage industrial development and the growth in manufacturing industry, various incentive measures had been maintained, some of which were designed to encourage exports of manufactured products. A general increase in barriers facing agricultural exports as well as recent events in Europe increased the urgency of this goal. Those industrialized contracting parties which had drawn up and signed the Declaration Giving Effect to Article XVI:4 did not share Australia's problems of dependence on exports of primary products to a comparable extent. It appeared that not all parties to the Declaration interpreted the obligations therein in a uniform manner. In any case, it was the view of his Government that the Australian practices which had been notified were in conformity with Article XVI:4. The representative of South Africa stated that his country faced a situation similar to that of Australia in many respects and that South Africa's particular needs were not shared by the countries which adhered to the Declaration. However, these representatives stated that their governments would be willing to give consideration to any instrument that might emerge as a result of the work of the Working Party.

11. In connexion with the discussion above, certain delegations pointed out that the possibility of reviving the standstill provision of Article XVI:4 should be retained in the event that not all contracting parties could accept a formula involving the total elimination of export subsidies.

12. The view was expressed by some delegations that, since the agricultural sector was where export subsidies were most prevalent, the ideal solution would be to extend the same, or more comparable treatment to primary as to non-primary products. These delegations suggested that a positive step would be to modify the definition of what constituted a primary product contained in the second interpretative note to Part B of Article XVI which was inadequate in many respects. In particular, certain delegations did not see the logic in excluding industrial raw materials. Other delegations agreed that the possibility of including all non-agricultural products within Article XVI:4 might be considered but that proposals relating to agricultural products were outside the present terms of reference of Group 1.

13. There was brief discussion of the proposal (contained in paragraph 14(c)(iii) of the secretariat's background paper) regarding action that might be taken in case of any infraction of the prohibition under Article XVI:4. It was suggested that the existing provisions of the General Agreement appeared to be adequate in this regard.

14. It was generally agreed that there should be at least one meeting of the Working Group before the twenty-eighth session of the CONTRACTING PARTIES in November and that the possibility of an additional special meeting on export financing in the autumn could be considered. The Chairman would include these views regarding future meetings in this oral report to the Committee on Trade in Industrial Products in July.