UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL

PREPARATORY COMMITTEE
of the
INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

Verbatim Report
of the
FIRST MEETING
of the
JOINT DRAFTING SUB-COMMITTEE
OF COMMITTEE II. AND COMMITTEE IV.
ON SUBSIDIES ON PRIMARY PRODUCTS,
hold at
Church House, Westminster, S.W.1,
on
Wednesday, 13th November 1946
at
10.30 a.m.

Chairman: Mr. E. McCarthy (Australia).

(From the Shorthand Notes of
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Westminster, S.W.1)
THE SECRETARY: In the absence of Dr. Coombs—who, I understand is occupied in another committee at present, on industrial development—I have the honour to open this first meeting of the Joint Drafting Sub-Committee on Subsidies on Primary Products. The first item on our agenda must, of course, be the selection of a Chairman for this sub-committee. I would be glad if any Delegates present would suggest a Chairman.

MR. SHACKLE (United Kingdom): I would like to suggest that we invite the Delegate of Australia, Mr. McCarthy, to be our Chairman.

MR. DEUTSCH (Canada): I would like to support that.

MR. McCARTHY (Australia): I would be glad to accept the chairmanship if it is understood that I could, in addition, speak freely for Australia as there is no other Australian representative here—and perhaps also on the understanding that if Dr. Coombs is available at any time he could take my place. If that is understood I would be glad to do what I can to help the proceedings along. Do you see any difficulty in my acting as Chairman and also putting the Australian point of view?

MR. SHACKLE (United Kingdom): No, I do not see any difficulty at all.

(Mr. McCarthy then took the Chair)

THE CHAIRMAN: We have before us Article 25. The position seems to be that we examine Section E, Article 25; and we have the view of the main Committee II that a special sub-committee should be set up to deal with primary products—a sub-committee representative of Committees II and IV. We also have the statements made in Committee II regarding subsidies as applied to primary products. As far as my records show we have two suggested amendments, one from New Zealand and one from Cuba. In the main Committee II when the matter of secondary manufactured products was dealt with suggestions were made by various Delegates that primary products might be treated separately. I take that to mean that there might be either a separate heading for primary products or the text of the draft might be so altered as to distinguish between secondary products and primary products. Do you think it might be appropriate to consider
first the proposition whether we should make a distinction in the text between secondary and primary products, and having decided that what particular form it should take by way of amendment of Article 25.

Mr. Shacklate (United Kingdom): Before we become launched on our general discussion I wonder whether it might be opportune to consider the question of appointing a Rapporteur. I rather think there may be a case for appointing a Rapporteur because, for one thing, a Rapporteur has been found to be a very useful necessity in other sub-committees; and for another, I gather the Secretariat is rather pressed and might not be able to undertake the Rapporteur's work themselves.

The Chairman: I agree that a Rapporteur might be appointed. Would Mr. Schwenger undertake that task?

Mr. Schwenger (United States): I would be glad to do that, if the other Delegates are agreeable.

Mr. Alamilla (Cuba): The Delegation of Cuba has not been designated for this sub-committee, but we have a substantial interest in the matters to be discussed. Therefore, we would ask only to be able to be present in order to follow the discussions, even if we do not take part in them.

The Chairman: I agree with that.

Professor de Vries (Netherlands): We have not to hand the amendments from New Zealand and Cuba. Can the Secretariat provide copies?

The Chairman: We will have them distributed. While they are coming, I think perhaps we could look at the general question of the division of the Article.

The Rapporteur: Would it be possible to meet this problem by using the word "primary" in the appropriate places in paragraph 3 of the Article? I might say in support of that, paragraph 3 is closely connected with Chapter VI, which deals exclusively, or almost exclusively, with primary products. That might be an appropriate way of dealing with it.

The Chairman: And would say in other places where it is appropriate?

The Rapporteur: Yes - without having considered it too greatly in detail.
MR. DEUTSCH (Canada): As a matter of clarification, might I ask what was intended in paragraph 3 in the draft of the Charter? It says:

"In any case in which it is determined that a specified product is, or is likely to become, in burdensome world surplus."

THE RAPPORTEUR: You mean why the word was not in there in the first place. Is that the question?

MR DEUTSCH (Canada): Yes.

THE RAPPORTEUR: I think it was an oversight.

MR. DEUTSCH (Canada): Just an oversight? You had not intended that it should cover any commodity?

THE RAPPORTEUR: The possibility that special circumstances as mentioned, you remember, in one paragraph of the Chapter may have had something to do with it.

MR. DEUTSCH (Canada): I certainly agree that might be specified here, that it is primary commodity which is referred to.
C.I.1

THE CHAIRMAN: We have come across a constitutional point in regard to translations which perhaps will have to go to higher authority. The Delegate of Brazil has advisors with him who do not understand English, but understand French, and apparently it is necessary for me to decide whether they are entitled to have English translated into French.

THE SECRETARY: We have a few copies of the Cuban proposals, and would be happy to give copies to those who may need them. Will Delegates who do not possess the Cuban amendments please tell us. We have also a Secretariat paper, Document W/34, which is a summary of all amendments which have been suggested.

THE CHAIRMAN: The Brazilian Delegation has kindly agreed to allow us to go on in English, and the translator will assist them. I think that when we broke off on this side issue, Mr. Schengler had suggested that the term "primary product" should be included in Article 25, (3), and Mr. Deutsch and he had a word on it, and I am not sure I got the drift of what was said.

MR. DEUTSCH (Canada): I wanted to know why it was left out originally in paragraph 3 (a), and Mr. Schengler explained that it was purely an oversight and was intended to be there all along.

THE RAPPORTEUR: I might say that it might have been because of Article 45 (3), which allows for non-primary products in exceptional circumstances.

THE CHAIRMAN: On that issue of the distinction between the two, it seems that paragraph (2) would require some alteration to meet that. That issue was raised in the main Committee, and it was said that paragraph (2) might be expected to apply quite easily to manufactured goods, but that there were difficulties in applying the same principles to primary products.
MR. SHACKLE (UK): I do not know whether it is in order to raise the matter here, but it seems to me that if we part from the change we have already made in paragraph (3) and endeavour to separate the treatment of primary products from the treatment of manufactures completely in respect of subsidies, we shall run into some difficulty. First of all, there is the difficulty of definition. We have not, so far as I know, yet got a definition of primary products, even for the purposes of Chapter VI, and secondly, I have the feeling that there is probably no substantial difference in the principles which should apply in this matter as between manufactures and primary products — that is, of course, a personal opinion — but I do not see where the essential difference in principle comes in. I am wondering whether it might not be more appropriate to attempt to amend some of these paragraphs so as to fit the special situation of primary products rather than to attempt a separation at this stage so as to separate the treatment of primary products completely from that of manufactures for the purpose of subsidies. I suggest that we consider that question.

THE RAPPORTEUR: I would agree with Mr. Shackle. The drafting here was intended to be such that the needs of the primary commodities might have under the terms of paragraphs (1) and (2) were met by paragraph (3), which is by way of being an exception to the preceding material. In that way it does in effect take out of paragraphs (1) and (2) the cases of primary products. It might be that the question of whether it does this adequately is one way that we could channel the question that has been raised about paragraph (2) itself.
THE CHAIRMAN: In the meeting, of which I read the Minutes this morning, more than one delegation found difficulty in paragraph 2 because certain amendments which they would wish to make in respect of primary products would hardly be applicable to secondary products. I think this could be the reasoning: that, so far as manufactured products were concerned, paragraph 2 is largely acceptable; that the conditions laid down in paragraph 2 could be applied, in the opinion of members, but when it came to primary products, that was difficult. For example, the New Zealand amendment deals entirely with primary products, and it might not be wished to apply that to secondary products. Looking as objectively as I can at the Australian point of view in Committee 2, we had the same difficulty. The two countries, New Zealand and Australia, had difficulty where they did not make a subsidy on export, but where they had a home price which sometimes was higher than export, that difficulty, which could perhaps be covered by some special wording for the primary product, would make it difficult for a manufactured product. Could we look at that, and narrow it down to the issue that, in considering paragraph 2, are we satisfied that we could devise a wording which the Committee might wish to apply to primary products but not to secondary products?

SIR G. CLAUSON (United Kingdom): Might it be done by proviso?

THE CHAIRMAN: Yes, it might be done by proviso; we could look at it.

MR. GUTIERREZ (Brazil): I can see that we have three cases. We have secondary products which only in very exceptional cases can come under the provisions of Chapter 6. Then we have primary products which may come under the provisions of Chapter 6 but not necessarily are under that, because there must be certain special difficulties and there must be some body or organization or a member who starts the machinery. Then we have the third group...
of products which are already operated under Chapter 6. - the primary products which are not regulated and not dealt with by a study group or study conference under any arrangement in Chapter 6. Those have to come, I believe, under the general provisions for secondary products until the time when there is a burdensome surplus or other special circumstances, as provided for in Chapter 6, and then they may come out of the main group into the group of products under Chapter 6. So I believe that in many instances we cannot make a distinction between secondary products and primary products, but we have to make a distinction of products under the provisions of Chapter 6 and those which are not.

THE CHAIRMAN: Yes. That, I think is quite a point. Of course, if commodity agreements are set up, they would cover any conditions that any country might be applying to its primary products, but I think we then have to look at the question of secondary products, and primary products not covered by commodity agreements under Article 6.

MR. SHACKLE (United Kingdom): It is a fact, is it not, that throughout this Charter we have used the term "primary products" without any definition? It may be inadvisable to launch the question of trying to find a definition which has baffled many people, but there is a saying that while you cannot define an elephant, you can tell an elephant when you see it, and that may be good enough for primary products for present purposes.

THE CHAIRMAN: In chapter 6 it says, in effect, that an elephant is an animal customarily known as an elephant! Nevertheless, there is an effort to make a definition - I forget the exact words - that a primary product is what is generally known as a primary product.

THE CHAIRMAN: We have the fact that there are primary products and
secondary products, and they will have to have different treatment.

MR. DEUTSCH (Canada): Is the issue narrowed down pretty well to the case of a primary product which is not now under an international agreement and which cannot come under 3a, because it is not in burdensome surplus, involving stabilisation schemes that are now in effect in various countries under which, at times, the product is sold at a price lower than the domestic market?

THE CHAIRMAN: Yes.

MR. DEUTSCH (Canada): Is that the problem?

THE CHAIRMAN: Yes, that is the problem that is worrying us, and I know it is in the mind of New Zealand because of its butter plan, which is entirely different to ours, but which is also in question. I do not know whether there is anything else that comes into it, but there is a distinction in our minds between an export subsidy which has the effect of lifting the local price. One point made, which has a lot in it, was that you might have a small export subsidy, or a small export surplus, which you subsidise. The purpose of that is - I do not know that this was developed, but I thought of it afterwards, though I might have thought of it before - that that has the merit, from the viewpoint of the producing country, of lifting its export parity and causing a higher price to be charged to the whole of the community. That is the sort of thing that is worrying Australia and New Zealand, because they do not pay export subsidies. They fix, irrespective of the world market, a local price, and usually that price has some relation to the costs of production within the country. The reasoning would go something like this: For example, rice. We started producing rice and the price charged was something that would be close to costs of production but generally had some relation to import parity, that is with China's rice and quality differentiations, and so on. All went well until one day we suddenly found that we had 500 tons more rice than we could
consume locally. In such a case if you leave the 500 tons on the local market you cannot hold your price because you glut the local market, and it goes into export. The whole theory is that if you put that 500 tons into export, you do not want to bring it right down to export parity, so you keep your local price going by some machinery which enables you to keep on doing that, and you sell the 500 tons at the oversea price. As you proceed, you find that that price is lower, so you devise some machinery, and there are various ways of doing it. I could name half a dozen in Australia and New Zealand, with our different laws, of the different methods we can apply.

Then the stage is reached when the oversea price rises. We have adopted the principle that if we charge our consumers above the world price, when the world price is low, those consumers are entitled to be protected from the oversea price when the oversea price is high. So we keep that price of rice held notwithstanding that the oversea price goes above it.

We think that by doing that we are contributing to the world position because, when the oversea price rises, our producers only get a part. They do not get the whole of their produce at oversea prices. You do not let export parity go up. You do not let export parity go into your local consumption, so, instead of getting the whole of the expert price, they get only a mixture of the oversea price and the held, local price which means that they do not get the stimulus of the very high export price. The most striking example we have is that nine years ago we fixed wheat at 5s. 2d. at that time the oversea price was 3s. The oversea price is now 12s. and our wheat is still 5s. 2d. There are two reasons for it. The major reason is that, although we were not looking at it from the benefit of the world, we took the view that, having charged people 5s. 2d. when the oversea price was 3s., we were not entitled to
charge then the oversea price when it was 7s because the reason we gave to the local consumers for charging 5s. 2d. was that that was a fair price based upon costs. Therefore, you cannot then say, "Well, you producers are going to get 5s. 2d. for the local produce when the oversea price is low and get the oversea price when the oversea price is high."

It means now that instead of all our growers getting 12s. a bushel, they are getting only about half and half - about half at 12s. and the other half at 5s. 2d., which means that whereas other world producers have stimulus with a 12s. price, ours only have the stimulation of a 9s. price.

Under the wording of this Article, we are all right now, we do not come under it in respect of wheat, but immediately wheat goes to 5s. 2d., we have to talk to people and we have to defend it. New Zealand's trouble is the same. In their butter scheme - they work differently because they have a different law - New Zealand buys butter at, say, 100s. The Government buys it from the producers and sells it. Up to the present, the Government has sold at a profit and there are a few million pounds in the fund. What New Zealand is worrying about is that if they buy in at 100s., what is going to happen to them as soon as the oversea price falls to 95s.? They make two points. They ask, first, what happens to us while we are paying out the difference between 100s. and 95s. out of the Fund we have accumulated? That is stage one. That Fund having been exhausted, the Government has to find money to make up the discrepancy itself. And they ask, What happens to us in stage two? They think, with a scheme like that, when they have gone for eight or nine years selling under world parity - at least, charging their own local people less than world parity, and buying in at less than world parity, they are entitled to get the credit when it goes the other way.
That is the type of thing which this statement of export subsidies here has upset. More than once we thought of paying an export bounty - but rejected it because we thought it was, in the long term economically unsound - which automatically lifts the whole of the returner and stimulates production very heavily. It is a very easy thing to do if you have perhaps an 80 per cent local consumption and a 20 per cent export. You can then have a bounty on the 20 per cent export which lifts the price of the whole 80 per cent. That as a bad element in that it stimulates production by the amount of the subsidy over the whole production. We think that is bad because it gives the producer an undue return, but we do not think the other is bad at all. In fact, it might be good.

To take another case - sugar. For years our local price has been above the world price of sugar, but we consider that the damage we would do by that is to stimulate the production of sugar and glut the world market. That is what other countries have done, and that is what we have done, but we countered it by putting a limit on sugar production and fixed it at 800,000 tons for very many years. If we did not do that, we would cause serious trouble in the sugar market.
It has steadied down, and we have kept that local price for about ten years, and although the export price has moved up and down it has never got above the home consumption price - in the case of sugar; it has in the case of wheat, and other things. When we put that peg in we thought we might in negotiations reduce it to seven; we might undertake the conversion of sugar to butter, which is not so absurd as it sounds in relation to certain types of our land in the tropical areas. Those are the sort of ideas we have got. We believe that in these plans we have had for these primary industries, which in some cases have been built up over a number of years, we have tried to avoid the uneconomical flooding of world markets because we know it only reacts upon ourselves. In every case where we have got these schemes, and we have got four of them, lime fruits, butter, wheat, and sugar, we believe, by the safeguards we have adopted, that we have protected ourselves, because we realise that if we damage our competitors we damage ourselves. I am afraid that is a detail, but it does apply to New Zealand and ourselves as regards primary products.

Mr. SHACKLE (United Kingdom): I have no very definite suggestion to make, at least it is not worded in any precise way, but I am wondering whether these difficulties might not be covered to some extent at any rate if we could add at the end of paragraph 2 something in this general sense: "Members who apply price stabilisation schemes may go to the ITO for a dispensation in favour of those schemes if they can show that the schemes are so framed and so worked that they are not liable over a period of time to result in export prices which are on the average lower than the corresponding home prices." That would be the home consumer price. There is just one point on that; I rather thought that some of the difficulties which possibly the New Zealand Delegation have felt result from the idea that what we are aiming at here is prohibiting export subsidies where the export price is lower than the price to producers. That is not the way in which this provision is worded. As you see, it speaks of "any subsidy on the exportation of any product, or establishing or maintaining any other system which results in the sale of such products.
for export at prices lower than comparable prices charged to buyers in the domestic market." It is the home consumer's price which is the test for comparison and not the home producer's, which might contain an element of subsidy.

THE CHAIRMAN: The method being to charge a high price to local consumers and give the local producers a higher price in respect of local consumption than they do on export.

MR. SHACKLE (United Kingdom): Yes, but at the same time, is it not conceivable that they might be let out under some such provision as I have suggested?

THE CHAIRMAN: I think it might. The view we took was that we would be prepared to submit our plans to the Organisation because, as I say, we believe that we are doing nothing to prejudice ourselves and that helps us with others. Some time ago, before we left Australia, I had the idea of putting in at the end of paragraph 1:

"Such discussions shall include in the case of primary products the advisability of regulating the volume of export trade in that particular commodity either by regulation of production or by diversion of the product to some other use or field of consumption. In this manner the ill effects of subsidies that it is considered by the Organisation may result may be nullified or at least modified."

I think if it is the desire of the Committee to provide for such schemes that wording can be devised to do it. But we have found difficulty in persuading people that these schemes are different, and we think that the term "export subsidy" is too all-embracing and that something should be done about it. As it is drafted, we do not think that sufficient cognisance has been taken of schemes which really have, as a major effect, avoidance of the varying up and down of local consumption prices through export prices. We do not think that a sound local price should chase the figures of the export market up and down and go either too high or too low. We do not think it is fair that our consumers of bread, for instance, should pay double the cost of production when wheat goes up because there has been a drought in some part of the world, and we do not think that, just because there is a glut in some other part of the world our consumers should get bread for half-price. That is the sort of
argument that has gone on for the last 15 years.

MR. SCHWENGER (Rapporteur): I am inclined to agree that it might be possible
to draft words similar to those sketched by Mr. Shackle to deal with the
kind of case you have in mind. I should like to point out that in
drafting this we had the feeling that the case would not occur very often
if at all. I might say that in drafting this I represented the Depart­
ment of Agriculture and my concern was very much that of the primary
product producer; as concerns most of the products mentioned in the
discussion, such as wheat, rice, and sugar the occurrence of prices below
those maintained in the stability schemes the Chairman has referred to
probably did and probably always will correspond to a situation where there
is a burdensome local surplus or one is in very immediate prospect, if the
price in the world has already gone below the stabilisation price. We do
contemplate that in the Charter steps towards a commodity agreement for
such commodities would be taken long before the world price would in fact
come below the probably stabilisation price. In any case paragraph 3
would most surely be applicable. There is another group of products
which enter into this, the perishable products.

MR. DEUTSCH (Canada): Or take butter.

MR. SCHWENGER (Rapporteur): I will take butter in the third group, if I may.

We have been sometimes tempted to subsidise products of this kind when we
had a local surplus and we felt that for those products we could very well
in the interests of the purposes of the Charter forego that type of diversion
and use purely domestic diversion. They are surpluses of a very spotty
character, principally through the weather, and do not really represent
a fundamental disequilibrium with which the Government has to wrestle. They
are short-term problems and we felt that we could very well forego - of
course it may be easier for us than for some others - that remedy as other
remedies just as satisfactory can be found.

Then comes the kind of case that butter may fall into at times, and
I have mentioned the other two because I think that the case is not going
to be very frequent; it is going to be very special. It will not be
possible to bring paragraph 3 into play. For this case my conclusion is as I began. I think we might very well add the type of thing Mr. Shackle had in mind if we could all agree to it.

Mr. DEUTSCH (Canada): I think I could agree to something of the sort Mr. Shackle has suggested if we could find the proper wording for it.

Mr. SHACKLE (United Kingdom): I will read my words. Add a proviso at the end of paragraph 2:

"That members applying price stabilisation schemes may apply to ITO for a dispensation in favour of those schemes if they can show that they are so framed and worked as not to be liable over a period of time — "

Perhaps we need not attempt to define how long it should be, exactly —

"to result in export prices lower on the average than the corresponding domestic prices."

SIR G. CLAUSON (United Kingdom): May I just put another difficulty, which is specially applicable to the Colonial Empire, because although I do not think it comes in paragraph 2 I think it might come in paragraph 1. If I might go back to the end of the first world war, in 1919 certain colonial products which were produced in the Colonies for practical purposes only for export went up to very high prices. No attempt was made to control those prices and they resulted in a great increase of production. There was a glut and the price fell and all sorts of difficulties followed.

On the present occasion we are trying to be more sensible and in the case of certain products which are purely export products and therefore do not come under paragraph 2 we are contemplating a system of export duties, the effect of which will be that the local producer will not get the world price. That will have two advantages: one internal, in that we shall avoid inflation which might be very dangerous, and the other that we shall not over-stimulate production of these products so as to upset the local producer and possibly other producers in other parts of the world. Our plan therefore is to cream off these high profits on production at present and put the money into a fund which will then be available for subsidising the producer when prices, at a later date, fall below the cost of production. We have not at present thought of going further than using...
to maintain the price at this later period the funds which have been collected from the producers of those products at an earlier period, so it is not a subsidy in the pure sense of the word, that is to say, it is a compulsory savings scheme by which the producer will be forced to save some of his money when prices are high and will get it when prices are low. Where you have a plantation company, it does the same thing by putting money to reserve when prices are high and not distributing the whole of its profits as dividends and then using that money, when it makes a loss, to pay a dividend. It is exactly analogous to the case of the sensible private company producing a commodity with a variable price. We would very much like to get that sort of thing allowed under this. It is not prohibited by paragraph 2, but it might be by paragraph 1 if it could be regarded as a subsidy which operates to increase the export of such products.
MR DEUTSCH (Canada): During that period of low prices?

SIR GERARD CLAUSON (U.K.): During that period of low prices. What we had contemplated was that this might in favourable circumstances make it unnecessary to have a regulation scheme because it would tide our people over until the world had got straight again, but if there really was a burdensome surplus all over the world then it would give us a breathing space while the commodity agreement was being framed. It is a little analogous to the New Zealand scheme but it is rather different because there is no internal consumption. The kind of thing I have in mind is cocoa, and possibly some of the oil seeds.

MR DEUTSCH (Canada): I certainly would not see any objection to it in principle as long as it does not over a period of years result in a net subsidy.

SIR GERARD CLAUSON (U.K.): But I think we want words to cover it, and it goes a little beyond Mr Shackle's present amendment because that only relates to commodities which are consumed internally as well as exported.

MR SCHWENGER (USA): Mr Chairman, we sympathise with that type of operation, I believe - certainly I do personally - but I think that in this drafting it should be applied under paragraph 3b. and not through the introduction of exceptions into 1 and 2. You see, under 3b. paragraphs 1 and 2 are deemed no longer to apply - it is provided that they shall no longer apply in cases where the surplus situation is such that the international efforts to increase consumption are not likely to operate rapidly enough completely to relieve the surplus situation - do not promise to succeed within a reasonable period of time in removing the surplus. What we are doing here is using two channels for the same purpose within this Article. I think it might be better if we could find a way of making the channel provided in paragraph 3 deal with both of the cases that have been brought before us, and it will make a better drafting job and have the same effect, I believe. I wonder if Sir Gerard has considered the possibility of his case being met under 3b?

SIR GERARD CLAUSON: Part of it would be. It just depends what your time basis is. You see, another thing that we have in mind is where you have a commodity which fluctuates a great deal over a single growing season - say a year. There we might well have a government buying organisation which would fix a
price for the product for the season. Part of that time — for a week, say — it might be making a profit: that is to say, it might be selling at above the price at which it had bought from the small peasant producer. The next week it might be making a loss. Over the season it might make a profit. It might make a loss, but in that case I think that loss would be carried forward and the price in the next season would be lowered. The commodity I have in mind is cocoa. Supposing the external price of cocoa at the beginning of the season is £20 a ton. We think that is a perfectly good price for the producer. We would buy internally at a price equivalent to £20 a ton. The price might rise to £25, and the government buying organisation, or whatever it was, would then for a time make a profit of £5 a ton. A little later in the season the price might fall to £15, and then it would lose. But the grower would have the advantage throughout the season of getting a steady price. That has all sorts of organisational advantages. You do not get all the nonsense that goes on when their prices are rapidly fluctuating and they are carried right back into an internal native market. Your purpose would be to break even at the end of the year. If you did not you would have to make an adjustment in the next year's price, with the intention of breaking even by the end of the second year. That is what I call the problem of short term fluctuations. The problem of long term fluctuations is rather particular to the present position when prices are very high above the cost of production and one wants to cream those unnecessary profits off and put them by for a rainy day. I think the first kind of thing is covered all right; I am not so certain that the second is; but I think it could be under 3. I think Mr Schwenger is right there.

MR SHACKLE (U.K.): Is there not perhaps this point? I take it the practical object of stabilisation schemes is that they shall maintain stability continuously. It rather struck me that action under paragraph 3 would be action under a special set of circumstances and therefore it would be discontinuous. Is not that a possible difficulty in attempting to cover these various types of scheme under paragraph 3?

THE CHAIRMAN: Perhaps we could look at that point anyhow when we are looking
over the draft. It might easily come under paragraph 3.

PROF. de VRIES (Netherlands): May I make a general remark here? It is said in Article 25 that consultation shall take place, and then at the end of the Article it says that "any determination required...shall be made under procedures established...in accordance with paragraph 6 of Article 55," and that Article only provides for procedure to deal with such cases. I believe in Committee IV we have elaborated a workable schema for dealing with the special difficulties of primary commodities, and in my opinion we are left here somewhat in the dark as to who is to determine a thing and who are to discuss and how will the discussion and consultation go on. Perhaps we could say that in cases covered by the special difficulties and objections covered in that paragraph we follow the procedure there and also that provided in chapter VI. I suppose that would cover nearly all those schemes of price stabilisation and of fluctuating prices on the world market, and I suppose also the cases dealt with by Sir Gerard Clauson; and they could all come under the procedure of a study group or a conference or an arrangement or an agreement or recommendation to members or any other way that is covered by the procedure of chapter VI; and I believe that then we will have at least for the primary products opened the way and will not be left in the dark. We will know who has to do something and how it shall be done. Maybe we could do that in one rather short sentence and not bother so much about the long sentences here in this Article about who has to do it and about giving notice and all these things. It still leaves us in the dark with regard to secondary products, though it deals with primary products. Maybe we can leave it to the Organisation to find a satisfactory procedure for secondary products.

MR SCHWENGER (USA): Mr Chairman, I agree thoroughly with what Professor de Vries says and I apologise for the way we handled it in the drafting stage, because it has caused a lot of confusion; but we did try to do it; and in any case in Article 55, paragraph 6, we tied the two together by saying that "The Conference shall establish procedures for making the determinations provided for in Article 25" (that is this Article) "and in paragraph 2(b) of
Article 45", through the Organisation by consultation among members, and we attach great importance to this consultation among members. We had in mind exactly what you had in mind, that is, that it should be the procedures of chapter VI. I wonder whether we might not perhaps deal with this here by merely indicating in a note in our report that this was intended and that the drafting committee struggled with internal mechanism which I think is unnecessarily complicated. I think we are at one on the point and the Committee will agree that is the case.

SIR GERARD CLAUSON (U.K.): I do see one difficulty about that and that is that Article 45 has suffered a sea change and there is now no reference to procedures to be determined by the Organisation in the new draft.

PROF. de VRIES (Netherlands): We should have to consider how we re-draft Article 55(6).

MR SCHWENGER (USA): Presumably that is a thing the Drafting Committee would have to do.

SIR GERARD CLAUSON (U.K.): You see, the new paragraph which corresponds to 45.2.b. leaves out determination by the Organisation that a surplus exists and substitutes the phrase merely that "members agree that regulatory agreements may be employed only when a burdensome surplus of a primary commodity has developed or is developing"; so the Drafting Committee are going to be in horrid difficulties about that reference to Article 45.2.b., because the words have disappeared.
THE RAPPORTEUR: Did not we agree on some kind of note about it in Committee IV?

SIR GERARD CLAUSON (United Kingdom): I think that is so. What I feel is -- speaking completely extemporaneously at the moment -- what one might substitute in paragraph 3(b) is something to the effect that where the difficulties about subsidies arise because there is a burdensome world surplus the matter should be dealt with by study group procedure.

THE RAPPORTEUR: That sounds logical to me.

THE CHAIRMAN: I think that might be looked at when we are going over the draft. I think we might come back to that suggestion of Mr. Shackles again now. That seems to have at least the idea of a solution of this important question of the stabilization schemes. Before going further on that, do you think the stabilization schemes could be put on a form to use the same procedure as paragraph 1, where you discuss them with the Organization. That would then make the distinction between them and pure export subsidies.

THE RAPPORTEUR: I do not follow that.

THE CHAIRMAN: When you are talking of the production subsidies in paragraph 1:

"In any case in which it is determined that serious injury to the trade of any Member is caused or threatened by the operation of any such subsidization, the Member granting such subsidization shall undertake to discuss with the other Member or Members concerned, or with the Organization, the possibility of limiting the subsidization."

Then perhaps you could add a sentence to say where schemes are operated by individual countries for the stabilization of prices - even though at times they involve the local price being higher than the export price they should be dealt with in the same way as in this paragraph - the major point being the damage to each other. I would go further and say, "the Member granting such subsidization discuss with/other Member or Members concerned."

"I think, as a matter of fact, No. 1 is rather defective - "In any case in which it is determined that serious injury to the trade of any Member is caused or threatened."

I would be inclined to say, "world trading conditions prejudiced."
THE RAPPORTEUR: I think in the draft we had in mind that paragraph 1 should be a case where there was no two-price system involved, but merely a producer subsidy; that is one such as importing countries frequently employ to permit their producers to sell at the world price on their own market, and yet receive a considerably larger income from their products than they would get if they had no other source of income than the world price; or which is sometimes employed by prodigal exporting countries to permit their exports to go out on to the world market and on to their domestic market at world prices and still let producers receive a larger income than they would receive if they depended on the world price alone. As a matter of economic competition, I recognize there is no essential difference on the world market between the case that I have just described and the case where the subsidy is paid merely on the exportation and the import does not get the benefit - that is, the portion consumed domestically does not get the benefit. But as a matter of practice there has come to be a considerable difference of international treatment. Wrongly, as we believe, there has come to be a feeling that as long as the subsidy is only paid to domestic producers that does enable them to sell at half the price they might otherwise charge. It is not a matter for international discussion. I have been at conferences where representatives of producing countries have felt that they had to say - because of this peculiar convention - "We object strenuously to your subsidizing your export. If you take the more money and give it to the producer and say that he will sell abroad at the same price as he is selling at the export subsidy, we will have nothing to say about it." That is a very peculiar thing.

THE CHAIRMAN: The difficult thing in some cases is to define a producer subsidy. We have what we consider are producer subsidies which come under 1 and 2, but they are in conflict because of the different treatment for
1 and 2. An excise tax which lifts the price of a product locally and which is put into a fund and paid out to producers is a producer subsidy, but it does have the effect of lifting the price of the local product by the amount of the tax, which puts the local price above the overseas price. Well, that is a producer subsidy in accordance with paragraph 1, but it comes into paragraph 2 where it says that the local price shall not be higher than the overseas price.

THE RAPPORTEUR: Perhaps it could be qualified if an appropriate form were added in paragraph 1 -- and I am talking now without having studied the way the words would go -- if it were said "which did not result in a different price between the product marketed domestically and marketed abroad." That is what is intended, you see. One is to cover the case where you use the subsidy without interfering with what is loosely called the one world price system.

THE CHAIRMAN: Which is really a matter of technique.

THE RAPPORTEUR: That is correct, but the one technique has never been considered to be subject to international discussion and the other has. That was our point. Therefore, 1 is a little more gentle than 2.

MR. DEUTSCH (Canada): On the point mentioned by Mr. McCarthy I am a little bit concerned about a sentence in 2. It is the second sentence after the first long sentence:

"The preceding sentence shall not be construed to prevent any Member from exempting exported products from duties or taxes imposed in respect of like products when consumed domestically,"

Does that sentence mean you cannot put an excise tax on, let us say, domestic consumption of flour, and that the proceeds of that tax are to be put into a fund and then paid out to the producers -- perhaps paid to them in the price paid to them for their product which they are consuming? Does that sentence permit that?

THE RAPPORTEUR indicated assent.

MR. SHACKLE (United Kingdom): The sort of case I had in mind was, for example, when you export whisky the price at which you export does not to include the domestic tax, and if it does not include it it does not
follow from that that you are subsidizing your whisky merely because you do not charge your excise tax. That is one interpretation.

THE RAPPORTEUR: Are not they the same as far as the operation of the tax as tax is concerned?

MR. DEUTSCH (Canada): As long as the excise goes into the government funds as a tax revenue there is no objection. Take the excise tax on flour, let us say ----

THE RAPPORTEUR: Take the whisky case.

MR. DEUTSCH (Canada): I want to take flour, because that is more important here. The excise tax on flour which the consumer pays operates in the same way as if he had a high price on flour, and you take the proceeds of that excise tax, put it into the fund and pay it out to the producer of wheat.

THE RAPPORTEUR: Then your payment would follow under paragraph 1.

MR. DEUTSCH (Canada): Of course, this operates as a two-price system.

THE CHAIRMAN: That is what it does.

MR. DEUTSCH (Canada): It is just a device.

THE RAPPORTEUR: But the payment does not operate on the two-price system; the excise does.

MR. DEUTSCH (Canada): You can pay the money out to the producer again in paying the producer such a bushel. The result is you are charging one price at home for flour and another price, and a lower price, on the export market.

THE RAPPORTEUR: Yes, but your lower price results from your excise tax not from the payment. The payment might or might not be the same amount - it never will be exactly.

MR. DEUTSCH (Canada): It is no different, taking Mr. McCarthy's scheme of charging the domestic consumer a higher price than you are charging the export; there you have the two-price system. You pay the producer the average of the two receipts, and he gets a higher price than that for which it is sold abroad. That is exactly the same result.
THE RAPPORTEUR: That is quite right, but you have got this political difference. You are not charging more for the exported product, I understand. We ran into that, and we felt it ought to be covered. It has been historically considered a domestic concern, as long as the way you sell abroad is the same as the way you sell at home. We tied it to those other peculiar subsidy cases where you do not even make a tax but just make a general fund and pay out a subsidy to the producer; you have no two-price system at all, not even at the second stage, not even at your processing stage. In that case you will have a payment to a producer, which is resulting in an increase of the export of such product from the country concerned. In the case of the flour processing, tax and payment — it is the payment that does it, of course, because it is the payment that enables him to offer it cheaper on the export market, not the tax, obviously. You are then obligated under paragraph 1, which does not leave you free.

MR. DEUTSCH (Canada): Under this interpretation of Mr. McCarthy's stabilization scheme, if he just changed his device a bit and said that instead of fixing the price on the domestic market we will put on an automatic excise tax — which goes up and down according to the world market fluctuations — you might achieve the same result that you wanted to achieve, and still be within the rules of paragraph 2.

THE CHAIRMAN: I think on our present scheme we could get round it. If we shift the butter scheme over to the wheat scheme technique it would cost us more money, more Bills in Parliament, more sweat on the part of Parliament in drafting the Bills.

MR. DEUTSCH (Canada): You would have to have an excise tax which falls when the price of butter falls and rises when the price rises.

THE CHAIRMAN: We would put an excise tax on butter, which would be a heavy tax, and the tax would be the difference between the local price that we wanted to fix and the export price.

MR. DEUTSCH (Canada): Yes, that is right.
THE CHAIRMAN: Having collected that money it would be passed on to the consumer of butter - because the manufacturer pays it to the man who gives him the cream and then the man who charges him a tax, and he would pass that on to the consumer, and the price would always be the same, as the tax would go up and down accordingly. Then you put it into a fund and pay it out to the producer, and everybody would say they are quite respectable.

MR. DEUTSCH (Canada): That is right - they are quite respectable. It all comes under paragraph 2.

THE CHAIRMAN: It would have quite the same effect as the current scheme, which is not allowed.

MR. DEUTSCH (Canada): Yes.

PROFESSOR de VRIES (Netherlands): There is an example in the Netherlands, which is, I believe, still stronger. Farmers in Holland have to pay very heavy taxes for pumping out the water from the soil and dyks. There is a very heavy tax on land. We could change that and say we do not give subsidies for butter and cheese being exported, but we have an excise tax on consuming butter and cheese, and at the same time we use that money for the dyks. Thus the cost of production to the farmers will be much lower, and they just sell at home and abroad at the same price, only at home there is an excise tax on butter and cheese.
You shift the burden of tax from the producers for pumping out water, etc., over to the consumers in an excise tax. That is no subsidy. It is another way of finding money for the Treasury.

MR. DEUTSCH (Canada): It seems to me there is inconsistency of policy here, although the effect is the same.

THE CHAIRMAN: Could it be said that the view is one that production subsidies that can be legitimately defined as such -- I do not know how you are going to define them -- it is desired should be covered by paragraph 1? In paragraph 2 it is desired to cover those products which can be defined as export subsidies, but the view of the Committee is that some provision ought to be made for special arrangements which might come under paragraph 2, but which are not considered to have the objections of export subsidies. But we rather have been on the fundamental question of what is a production subsidy, and that is rather awkward. What would the Rapporteur say to that point? The fact is that we are in trouble about when is a production subsidy a production subsidy?

THE RAPPORTEUR: Our criterion has been that it is one which is paid to the producers, and does not result in a two-price system; that is, where the producer is benefited, but not through any price manipulation. He sells in the world market and in his own market, but in direct competition with imports, and yet receives a payment. That payment is looked upon as a production subsidy. It is so defined here. I think that is the intention. The other case is where you have a different price at home and abroad through a Government payment or a Government operation. Then, the sentence that we have been discussing exempts the whisky case, and some others, where the price of the raw product at home and abroad is the same, but where -- at least in the case we were thinking of -- a tax was charged on the domestic portion of the production at some stage between the primary production operation and its final consumption at home.
I am thinking particularly of the price fixing tax on flour milling that Mr. Deutsch referred to.

THE CHAIRMAN: Where would purchase tax stand?

THE RAPPORTEUR: The sales tax?

THE CHAIRMAN: It is charged on local consumption, but not on exports.

THE RAPPORTEUR: That would be under this, I think. It would come under the production tax exemption in the middle of paragraph 2, I think.

MR. DEUTSCH (Canada): There is no objection to exempting the domestic excise tax as such. The case which Mr. Shackle was concerned about was putting an excise tax on whisky for home consumption, but not imposing that tax on exports. I think there is no objection to that.

THE CHAIRMAN: Is not that done involuntarily by any primary product, where you sell in a world market?

MR. DEUTSCH (Canada): The only point I thought where objection comes is when you use the proceeds of that excise tax to subsidise the producer directly by the amount of the proceeds.

THE RAPPORTEUR: Then you throw back to paragraph 1. You are paying a subsidy.

MR. DEUTSCH (Canada): Once you admit that, the attempt to do away with a two-price system becomes purely academic. You have in fact a two-price system.

THE RAPPORTEUR: Would this be helped if we considered taking out, for clarification, the last clause in that sentence, so that it would end with "when consumed domestically"? That would make it quite clear that your remission of the tax came under paragraph 1.

MR. DEUTSCH (Canada): It would be better, any way.

THE RAPPORTEUR: We would have to cover the whisky case, I think.

MR. DEUTSCH (Canada): Yes, you must be allowed to exempt domestic excise taxes. The only objection is when you use the direct proceeds from such a tax to subsidise the producers of that commodity by the
2, and whether another Member considers that its interests are
as referred to in Chapter VI, so that if a member feels that his trade or his production is seriously injured, he can apply to the Organisation for a discussion group or conference to consider the whole case. You can leave this to the action of members until the moment any other member says that his interests are so seriously affected by these measures that he will appeal to the Organisation to make a study of it.

THE RAPPORTEUR: I think that the intention here was to accomplish very nearly that by the combination of the provisions for consultation in paragraph 1 and the statement in paragraph 3 which says that if you have a surplus, you throw off paragraph 1. To include this case without interfering with others, we thought that was a good way of drafting it. In the first place, if there is any harm it must be determined that it is so by consultation under paragraph 1.

MR. DE VRIES (Netherlands): There must be consultation and a procedure for it.

THE RAPPORTEUR: The language here says it is harmless unless somebody complains. That is what it amounts to. This provides for them asking for different degrees. First, they can consult with the person doing the damage, through the Organisation, and discuss the possibility of limiting it. If that does not work, there is no further provision until you use paragraph 3, which is if the surplus is expected, and then you are still allowed to continue your practice until it is dealt with through an agreement, or the Organisation determines otherwise. But I think that is a very unlikely step, because it must be done in consultation also, which means that you throw it, in effect, into your study group process, under these provisions.

SIR G. CLAUSEN (UK): I have a form of words which might help. It is this: "In any case in which the product subsidised is a primary commodity, whether the case falls under paragraph 1 or under paragraph 2, and whether another member considers that its interests are..."
prejudiced by the subsidy or the Member granting the subsidy considers itself unable to comply with the provisions of paragraph 2 within the time limit laid down therein the difficulty shall, notwithstanding the other provisions of this Article, be deemed to be a difficulty of the kind referred to in Chapter VI, Article 3 (1) and the procedure laid down in that Article shall be followed."

That article refers to the right of any Member to say there are difficulties with regard to a particular commodity, and the procedure laid down is that there should be a study group. I do not know whether that meets the whole case, but it might be a clarification.

THE CHAIRMAN: That is designed really to cover the whole point.

SIR G. CLAUSEN (UK): It does not cover the stabilisation point.

THE CHAIRMAN: Or the definition of paragraphs 1 and 2.

SIR G. CLAUSEN (UK): It does not go further than meeting the question of procedural difficulty which we are up against in Article 55.

THE CHAIRMAN: We have got what might be called production subsidies, we have got export subsidies, but can we say there is another category which would include those cases which it is difficult to decide are either production or export? It seems to me that our discussions have brought us up against this, apart from the question that Sir Gerald Clausen and Mr. de Vries have mentioned. We have had difficulty in deciding between straight-out production subsidies, and I suggest that the only really clear production subsidies are those that go to producers from general revenue.
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I think the only clear export subsidies are those that go from the general revenue to the exporter, and there is no doubt about those. There is the third category which might come then. It might be either a producer or an export subsidy, or both. How can we deal with that?

THE RAPPORTEUR: There is this two-price system difference.

MR. DEUTSCH (Canada): You have seized on the essential thing.

THE RAPPORTEUR: That is the essential thing.

THE CHAIRMAN: The major difference is that it is something which involves the consumers in the domestic market paying more for their produce than would be related to export parity, because it is not that the producer gets any more for the domestic market; it is that the consumer pays more, and the difference between what the consumer pays more, and the producer gets is put into a fund and is spread over all producers, whether they are exporters or local. That constitutes what is known in some countries as the two-price system. I think that is the major distinction.

THE RAPPORTEUR: We use the conventional distinction, as expressed in the suggested Charter, namely, "...results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market." That has been the conventional point which has been chosen in the past to focus discussion. As I was saying, it has been considered that there is no export subsidy if that criterion is made.

MR. DEUTSCH (Canada): I was going to ask a question on that. The price of the product sold on the domestic market, and the price on the export market must be the same. What do you mean by "product"? Could you sell wheat on the export market at one price and flour at another price? Are they regarded as the same product, or different?
THE RAPPORTEUR: They are different products for this purpose. You have the price comparison for each at the point of export with the product if it were purchased by the domestic user at the point of export.

MR. DEUTSCH (Canada): Could you, then, have a scheme where you charged the domestic purchaser the price for flour which, in wheat equivalent, was less than you were selling at the export price of raw wheat, and take in proceeds of the higher price of flour and subsidise the purchaser with it, and would that be all right?

THE RAPPORTEUR: You would be doing two things. First, you would be putting on a tax -

MR. DEUTSCH (Canada): You need not put on a tax if you have a state trading system in flour. Then you simply sell flour to domestic consumers at a price higher than the export equivalent of wheat.

THE RAPPORTEUR: That would fall under the second - on the export equivalent of flour.

MR. DEUTSCH (Canada): You would not be exporting flour at all, only a few barrels, and for the sake of meeting this rule you would be charging the same price. Would that be permitted?

SIR G. CLAUSON (United Kingdom): Which nobody pays.

MR. DEUTSCH (Canada): Yes, which nobody pays.

THE RAPPORTEUR: And you would be assuming that you had no domestic purchasers of wheat; it would be the state; they would both be at the same price.

MR. DEUTSCH (Canada): I would have state operation, which washes the whole thing out.

THE RAPPORTEUR: Then you would take the proceeds of the greater and pay that to the wheat purchasers. All you would be doing would be subsidising the wheat purchaser in paragraph 1. Then the question would arise whether, under that subsidy, it would not fall under paragraph 2.
MR. DEUTSCH (Canada): But it would have the effect of an export subsidy?

THE CHAIRMAN: It would come under flour.

MR. DEUTSCH (Canada): In the case of flour there would not be any exports of flour which would amount to anything.

THE CHAIRMAN: Where you had heavy exports of flour you would get caught on flour.

MR. DEUTSCH (Canada): I am assuming no case of that kind, though in the practical world there are such cases.

THE CHAIRMAN: It all boils down to this, that the money comes out of general revenue and is paid to the purchaser and the general community is taxed. In the case of 2, you tax the bread-eater by charging him more, and that brings it under 2.

PROFESSOR DE VRIES (Netherlands): In the case of sugar in Java we had to sell sugar on the home market at very low prices, but not on all markets at the same price. In the home market there was a price which was the same as in the Singapore market. The Singapore market was about the highest overseas market for sugar we had. There was a clear distinction between the domestic market and the Levant market, or the Africa markets, and the only way to maintain a system was to have the import of sugar forbidden. If we sold sugar at a low price to the Levant and it came back again, it would spoil the home market, but that was the only way we could do it. There was no money in the Treasury to pay a subsidy to the sugar manufacturers. In order to prevent high prices on the home market, it was decided that they should charge in the home market as much, but not more than in the Singapore market. You may say that that was one form of help to the purchasers of sugar, but there was no other way, and if it came before the Organization, we expect they will be reasonable people.

SIR G. CLAUSON (United Kingdom): I should have thought that the Singapore price could not be maintained. If it was cheaper
to buy Java sugar from the Levant and bring it back to Singapore than to buy it in the Straits, I should not think they would go on very long.

THE RAPPORTEUR: Might I say, perhaps more directly than I have been able to so far, that what we had in mind in drafting this was that the payment of a subsidy that affected international trade must be the subject of international consultation, and to the extent that it is harmful to the trade of other members of the Organization, that it must be subject to some kind of limitation and disapprobation, and except as it may be essential. We therefore drafted one paragraph, which is the second one, to deal with the export subsidy case which, traditionally and in an accepted way, has come to be regarded as harmful to other countries. Then we drafted paragraph (1) as a complement to it to take care of the cases which it does not take care of and which are, by their nature - as has been abundantly pointed out in the discussion here - equally harmful, but which politically have not been so regarded in the past. Then the third case is where you have special difficulties in connection with your product and there is nothing that you can do by direct prohibition, or anything of that sort, but merely provide for consultation and, presumably, if the consultations are carried through successfully, some mutually agreeable arrangement will be arrived at, each country understanding the other's difficulties, and at the same time having made felt its own needs.

Our aim will have been met if 1 and 2, as we think they do, cover all cases, and if 3 provides the necessary exception for primary commodities and special difficulties. But I think that, desirable as it might be, it is not practicable to give this section on subsidies the nice form that we would do as economists. I do not mean that in the sense of saying that we think it is to stay the way it is, but I do not see, from what has been said, just how it could be changed in any major respect.
to do the job without becoming completely impracticable.

THE CHAIRMAN: Could we consider putting in a third paragraph? I have talked of an export subsidy, and we have all spoken of production export subsidies. Then perhaps we could get something on these lines: "Notwithstanding the provisions of paragraphs 1 and 2, schemes which have the effect of lifting local......" - that is, trying to find and including the excise one that is in 2, and trying to work out something that will cover these difficult points where you have what might be called a two-price system but which is not questionable on the grounds of its economic effects. How does that strike members? Time is getting on, when we shall have to adjourn. Shall we think it over?

THE RAPPORTEUR: I would like to think it over, and to study the draft put forward by Sir Gerard.

THE CHAIRMAN: Could the Committee agree that, if we overcome that difficulty, we have more or less met our problem and that we could devote our energies to that? If we can overcome that, I think, with the link-up of the commodity agreements, of which Professor de Vries and Sir Gerard Clauson have spoken, we might narrow down our real issue to that difficulty and the twilight in between the two. What do you think of that, Mr. Shackle?

MR. SHACKLE (United Kingdom): That sounds good to me.

MR. DEUTSCH (Canada): Including this special question of the excise tax which falls into the same area.

THE CHAIRMAN: That might be moved into 3, to make a slightly better job of it.

MR. DEUTSCH (Canada): There is only one minor thing which concerns me here, and that is the point to which I referred earlier, about the definition of any product. It seems to me that if the interpretation of the word "product" is a very narrow one - meaning that a product which is in a slightly different
form may be sold at a different price at home than abroad, then by that method you can get around the whole spirit of this. The first sentence of 2 says: "Except as provided in paragraph 3 of this article, no Member shall grant, directly or indirectly, any subsidy." and goes on "or establish or maintain any other system" - that is a very wide phrase - "which results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market." What is meant by "product"? Absolutely identical? Or, if it is in a slightly different form, are you then all right to sell at different prices? There should be some understanding of what that word "product" means.

THE CHAIRMAN: Yes. Did you hear that, Mr. Schwengor?

THE RAPPORTEUR: I am sorry, I did not. My attention was otherwise engaged.

MR. DEUTSCH (Canada): The first sentence says that a product shall not be sold for a price lower abroad than is being charged to the domestic purchaser, and then there are these words: "or maintain any other system which results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market". The words "any other system" are very wide.

THE RAPPORTEUR: Did you mean to go back -

MR. DEUTSCH (Canada): I was coming to the question of the definition of the two-price system really. It says in 2 that you must not sell a product at a price lower on the export market than in the domestic market. What do you mean by "product"? If the word "product" is interpreted to mean an identical product, then you can get around this by simply selling that product in a slightly different form, and undermining the whole purpose of this Clause. There must be some interpretation of the word "product".

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MR. SHACKLE (United Kingdom): So as to include first processing, or something?

MR. DEUTSCH (Canada): What about, "or establish or maintain any other system which, in effect, results in the sale of such product for Export..."?
MR. SCHLÜSSELSCHLENGER (Rapporteur): You are just after that one point, trying to avoid the product escaping?

MR. DE VRIES (Netherlands): Could we say "for the like product"? It is not the identical product, but a like one.

MR. DEUTSCH (Canada): On the answer Mr. Schlenzer gave me, if you sold flour at a different price from wheat it would come under this, because flour is a different product. He interpreted it that wheat and flour are different.

THE CHAIRMAN: If you could get the constituent parts into it? Perhaps in the case of butter you might have an excise tax on salt, and the same tax might not be applied to the salt in butter made for export.

MR. SCHLÜSSELSCHLENGER (Rapporteur): I think we had better rely on the consultation process to take care of these things. The reason I saw that is that we have experimented with, and found extremely difficult, this question of defining a product or, conversely, legitimate differentials of price between the same product at different stages of its processing. I think you have to rely on the consultation process to get around cases of pure "facetious", almost efforts to get away from it. There has to be a certain element of good faith, and then you depend on the consultation process. As far as actual comparisons are concerned, you can rarely get satisfactory ones for international discussion, except "the same" or "like", which might be all right, except that in our tariff terminology "like" means "the same" - we have so defined it.

MR. DEUTSCH (Canada): "Like" means absolutely identical?

MR. SCHLÜSSELSCHLENGER (Rapporteur): Yes, but we might use the words, "which is substantially the same product".

MR. DEUTSCH (Canada): That is exactly what worried me.

MR. SCHLÜSSELSCHLENGER (Rapporteur): Obviously it would not do if we could define a four-inch apple as different from a two-inch apple; we export the one and retain the other. It would be an unfair effort to get around this.

MR. DEUTSCH (Canada): I was not worried about the good faith part of it, I
was worried because you gave a specific interpretation of it which disturbed me.

MR. SCHWERZER (Rapporteur): I did not want to do that.

MR. DEUTSCH (Canada): You did interpret wheat as being different from flour.

MR. SCHWERZER (Rapporteur): I was interpreting the way the product has actually been used. I think wheat has been considered different from flour in international discussions. You have to have language about the differentials at different periods of processing, or make sure that that is net. I think it is generally assumed that you mean wheat and flour to be different.

MR. SHACKLE (United Kingdom): If we do rely on the consultation process, it is desirable to introduce some words like "in effect" or "substantially the same" to give them something to bite on.

MR. DEUTSCH (Canada): "Maintain or establish any other system which in effect" etc. If we put the words "in effect" in it might help.

THE CHAIRMAN: I think we shall have to adjourn now. We need another meeting, and I suggest that we meet again at 3 p.m. on Friday next.

MR. DEUTSCH (Canada): Friday of next week?

THE CHAIRMAN: No, the coming Friday. The Quantitative Restrictions Subcommittee is meeting that afternoon; would that worry you?

MR. DEUTSCH (Canada): No, not specially. I wonder whether the Rapporteur feels that he has now heard enough expressions of opinion to see whether he can suggest some draft for us at the next meeting?

MR. SCHWERZER (Rapporteur): I would be glad to try, especially if you give me a day in between.

THE CHAIRMAN: Then we leave it that he does that, and it is competent for him to call on any other member of the Committee to give him a hand?

MR. SCHWERZER (Rapporteur): Thank you very much.

The Committee rose at 12.52 p.m.