SUMMARY OF POINTS RAISED DURING THE MEETING OF THE COMMITTEE
HELD ON 26 AND 27 SEPTEMBER 1984

Note by the secretariat

1. The main points raised in the course of the Committee's
26-27 September meeting have been summarized under the following
headings:

(a) Resumé of the meeting;
(b) General observations;
(c) Comments on specific aspects of the draft recommendations.

2. The Committee's examinations of the notifications submitted by
Cuba, Czechoslovakia, Iceland, Poland and Turkey are recorded in
AG/M/3/Add.2.

Resumé

3. At its meeting on 26 and 27 September 1984 the Committee continued
its consideration of the recommendations which it is called upon to make
to the Council and the 1984 session of the CONTRACTING PARTIES. For
this purpose, the Committee had before it two notes prepared by the
secretariat in consultation with the Chairman: a revised version of the
draft recommendations (AG/W/8/Rev.1) and an explanatory note (AG/W/9) on
the approach embodied in the draft recommendations.

4. In the course of the Committee's discussions, divergent views
emerged on a number of substantive and presentational aspects of the
revised draft recommendations. A number of delegations considered that,
while not fully satisfactory in all respects, the revised version of the
draft recommendations encompassed the main concerns expressed, and
constituted an appropriate framework within which the various elements
of the approach embodied in the recommendations might be developed and
elaborated in the period following the 1984 session of the CONTRACTING
PARTIES. Some other delegations considered that there was a lack of
balance as between paragraph 1(b) and the other operative paragraphs of
the revised text and that, in general, further efforts were needed to
achieve a compromise text which more clearly reflected the orientations
of the Ministerial Declaration. One delegation undertook to provide an
alternative version of the draft recommendations which, as circulated
following the meeting, also incorporates a number of modifications
reflecting points raised by certain other delegations (Spec(84)53
refers).
5. In concluding the meeting, the Chairman urged delegations to consult on the important issues involved with a view to achieving consensus on a set of substantive recommendations. The Chairman indicated that he and the secretariat would also undertake consultations to this end in advance of the next meeting of the Committee, which it was proposed should be held at senior policy level on 30 and 31 October 1984. In addition to the usual summary note of the meeting, the secretariat was requested to begin preparation of a report to the Council and the CONTRACTING PARTIES.

General Observations

6. At the outset of the Committee's discussions, the view was expressed that in a number of respects the draft recommendations appeared to go beyond what had been stipulated in the Ministerial Declaration. Whereas the Ministerial Declaration referred to the improved application and common interpretation of existing rules and disciplines, the draft text referred instead to strengthened and more operationally effective rules and disciplines. While such a nuanced formulation was not necessarily unacceptable, it nevertheless appeared to give undue prominence to strengthening the rules and disciplines as against what, in this view, was the prior task of attempting to improve the application and common interpretation of the existing rules and disciplines. In this regard, the statement made by the representative of a group of contracting parties following the adoption of the Ministerial Declaration concerning any new negotiation or obligation in relation to agriculture, was recalled. While accepting that new rules might eventually be negotiated, it was indicated that this could not be the sole perspective since, in this view, it was a prerequisite that the improved application of the existing rules should be pursued. Reference was also made in this connection to the difficulties currently encountered in applying certain GATT articles, including Article XXVIII, and to certain legislative initiatives which could have the effect of unilaterally changing the multilateral framework.

7. In this same view, it was noted that certain elements of the approach proposed for elaboration in the draft text implied stricter obligations for agriculture relative to other sectors of international trade, and that with respect to certain measures, such as voluntary restraint agreements and internal subsidies, there were broader implications involved. While these considerations were not necessarily an impediment to progress being made in these areas given the specificity of agriculture, it was pointed out that for a number of countries it was essential that a balance should be maintained between agriculture and other sectors. Furthermore, it was recalled that, as noted in the view recorded in paragraph 7 of AG/W/10, the various elements in the Ministerial Mandate were equally important and that a balance inter se had to be maintained in order to achieve consensus.

8. In this and a number of other views expressed, it was considered that the recommendations as presently drafted were lacking in balance in several areas. Thus it was considered that the emphasis on liberalization in the revised text would be unbalanced unless the reference specificity of agriculture were also upgraded; that there was
an imbalance between paragraphs 1(a) and 1(b), with the approach to be elaborated having been specified in the latter but not in the former; and, that there was an element of imbalance within paragraph 1(b) as between subsidies affecting exports and direct export subsidies. In this regard, the view was expressed that it was not a question of establishing a balance by upgrading paragraph 1(a), which in itself raised certain issues in relation to measures that had been negotiated and paid for, but rather a question of introducing a balance which was more in line with the orientations which had been laid down by the Ministers in 1982.

9. Another view expressed was that, following the June meeting of the Committee, there appeared to be a willingness to deal with the special treatment which had characterized agriculture over the years and which had made agriculture a step-child of trade liberalization. On the access side there seemed to be a willingness to enter into the discussion of an approach, in relation to the measures and practices mentioned in paragraph 1(a), that would limit countries' ability to make imports bear the burden of domestic support programmes. On the competition side, there appeared to be a willingness to explore an approach which would limit the ability of all countries to use export subsidies. It was pointed out that all countries have the right to use export subsidies. It was considered that it was in recognition of the chaos which would result if there were to be a generalized resort to export subsidization, that there had been a willingness to explore the possibility of the greatest possible discipline on export subsidy.

10. Furthermore, it was noted that while there were weaknesses in the draft recommendations, the approaches proposed under paragraphs 1(a) and 1(b) would both need further development. Under paragraph 1(a), the approach was to be comprehensive and as comparable as possible for all measures affecting access. Under paragraph 1(b), the approach proposed was a prohibition with exceptions. It was suggested that the lack of details in both cases did not imply that the opportunities were limited, but was simply a reflection of the fact that it had not been possible to take matters further in the time available. The hope was that modifications proposed would not prevent significant progress being made or obscure the fact that the draft recommendations were essentially concerned with approaches that should be developed. In this regard, it was suggested that the recommendations were like a picture frame which set the boundaries for future action. What the ultimate picture might look like would depend on the elaboration process itself, but attempts to dilute the recommendations at this stage would merely serve to reduce the size of the frame. The hope was accordingly expressed that proposals for changes in the recommendations would not diminish their potential for progress in achieving greater trade liberalization. In the view expressed, it was urged that the aim should be to prohibit export subsidies and to make all barriers to access illegal except tariffs.

11. It was also considered, in a number of views expressed, that the revised draft recommendations were a balanced and accurate reflection of the concerns involved, and that they provided a constructive basis on which the various elements of the proposed approach could be elaborated. In this regard, it was noted that the revised text was now more clearly
set in the context of liberalization, although it was also noted that
the reference to liberalization was somewhat preambular in character.
It was pointed out that some forebearance had been exercised with
reference to the inclusion of specific mention of important objective
economic criteria, such as comparative advantage and cost efficiency, in
order to promote consensus on a generally worded text. It was observed
that the progress achieved in the Committee's work had been made
possible by a willingness on all sides to examine the real difficulties
which had beset trade in agriculture over many years. In so doing,
doctrinaire positions had been avoided in an attempt to see whether,
incrementally at least, agriculture could be moved forward. In essence,
this would involve taking account of the realities of the interface
between domestic policies and trade in an attempt to explore the
possibilities for a return to the non-discriminatory system, under an
agreed set of multilateral rules, rather than on a fragmented ad hoc or
bilateral basis.

12. In this general context, it was stressed that the revised draft
recommendations provided a basis for approaches to be elaborated and for
positions to be taken but not, according to several of the views
expressed, on the basis of any prior commitment to the concepts
involved. It was also recalled that the draft recommendations had been
described as a "Spanish inn" and that while priority had been given to
certain lines of analysis, this was without prejudice to other
approaches. In this context, it was suggested that points which could
only be properly assessed in the course of the elaboration process
itself, should not be allowed to stand in the way of a consensus which
would permit that process to get under way on the moderate and balanced
basis proposed in the draft recommendations.

13. In several of the views expressed, it was recalled that while the
Committee's work had been useful and constructive, efforts were still
needed to achieve a satisfactory and happy conclusion. In this regard,
it was pointed out that the basic and legitimate goals of national
policy and the autonomous character of national agricultural policies
were important considerations. It was indicated that these
considerations did not appear to come sufficiently to the fore in the
revised text. It was considered that, as had been noted at the June
meeting, balance with regard to the various elements involved was an
essential ingredient in reaching a consensus on a draft text whose
structure and content were largely in the right direction. It was
suggested that certain formulations such as "strengthened and more
operationally effective rules and disciplines" needed some clarification
if the concept of "strengthening" were not to be a source of confusion,
particularly with regard to the relative strictness of rules applicable
to trade in agricultural and industrial products.

14. In another observation made, it was pointed out that measures
maintained under a negotiated protocol of accession could not be put on
the same footing as undisputed derogations from the General Agreement,
or put in the same basket as patently illegal measures. While in
principle, the scope of a protocol of accession might be examined, and
that remained to be seen depending on how matters evolved, such measures
had been negotiated and paid for and the balance thus established could
not a priori be put into question.
15. A number of views were expressed regarding the references in the revised text to the question of special and differential treatment in favour of developing countries. While this was generally considered to be a modest but worthwhile improvement, a number of concerns were expressed that what in the initial draft had been one of a number of factors to be taken into account, had been elevated in the revised text to the status of an objective. In this context, the view was expressed that as many developing countries have a fundamental stake that real improvements should eventuate from the work which was now at a very early stage, it was also in their interests to participate fully and constructively in any move towards greater liberalization. In this regard, it was noted, as had been emphasized at previous meetings of the Committee, that special and differential treatment and trade liberalization should be regarded as mutually compatible and self-reinforcing principles.

Specific Aspects

Preamble

16. It was suggested that the preamble, as revised, was somewhat overcharged and might be abbreviated to read:

"In accordance with the Ministerial Declaration adopted on 29 November 1982, pursuant to which the Committee on Trade in Agriculture was established to make recommendations with a view to achieving greater liberalization in the trade in agricultural products (L/5424), and following the Committee's examination of trade measures affecting trade in agriculture, the Committee on Trade in Agriculture submits the following recommendations for consideration by the Council and the CONTRACTING PARTIES:"

Chapeau

17. A number of suggestions were made that the references in paragraph 3 to balance of rights and obligations, and to specific characteristics and problems in agriculture, should be incorporated in the chapeau. It was indicated that both factors deserved to be given greater presentational prominence. It was also submitted that in the agriculture sector, "liberalization", to which a more explicit reference had been made in the revised text, and "specificity" should go together. In this connection, it was considered that because of the specificity of agriculture, only those restrictions should be considered to be prima facie illegal which, within a negotiated general framework, were either out of proportion to, or incompatible with, certain recognized objectives of agricultural policies. It was also suggested that the reference to "the limits to the impact of domestic policies on trade" reflected a somewhat different line of thinking from that embodied in the Ministerial Declaration. In this and a number of other views expressed, it was noted that the acceptability of such a formulation would depend on it being accepted that domestic policies per se were not negotiable internationally.
18. With regard to the reference to "as a basis for possible future negotiations", the suggestion was made that the qualification "possible" should be deleted. The view was also expressed that the phrase in question should be assumed to be merely an indicative formulation.

Paragraph 1(a)

19. As a general point, it was noted that the approach implicit in the first sentence of 1(a) should be spelled out, so as to bring the paragraph more into line with other operative sections of the draft text. One suggestion in this regard was that the relevant GATT Articles should incorporate greater flexibility in order that all quantitative restrictions should be covered by appropriate disciplines. Another suggestion was that the emphasis in paragraph 1(a) should be on strengthening the GATT system rather than the rules as such. A related point was that it was at the domestic level, in terms of self-imposed measures to bring production into line with absorptive capacity, that a start had to be made if the system were to be strengthened. A further suggestion was that a reference to the "prevention of the accumulation of restrictions" should be added to paragraph 1(a). The points raised with respect to measures maintained under protocols of accession are referred to in paragraph 14 above.

20. With regard to the second sentence of paragraph 1(a), a number of points were raised as to the scope and possible content of appropriate rules and disciplines relating to the various measures mentioned. Reference was made, in several of the views expressed, to the appropriateness of elaborating rules in respect of measures which raised issues and principles which could not be confined to the agricultural sector. One suggestion made in this regard was that the wording of the second sentence of paragraph 1(a) should be amended to provide for the elaboration of "appropriate negotiating rules" in relation to the measures in question. It was also suggested that the words "as part of this approach" should be deleted from the end of paragraph 1(a), with a query having been raised as to whether it was appropriate to make any reference to unbound tariffs in this context.

Paragraph 1(b)

21. With regard to paragraph 1(b), it was pointed out in one view expressed that the second sentence, however it might be reformulated, was unacceptable insofar as it sought to confine the approach to be elaborated in relation to export subsidies to only one track. In this regard, a readiness was expressed to examine all possible or proposed approaches for avoiding the prejudicial effects of export subsidies and other forms of export assistance, but not on a basis that privileged an approach which would not cover all relevant export subsidy practices. In this view, it was considered that an unacceptable imbalance existed between paragraphs 1(b) and 1(a) and that, in both cases, it was unnecessary at this stage in the work of the Committee to go beyond an orientation which provided for strengthened and more operationally effective rules and disciplines. In this context, the question was raised whether the proposed general prohibition with exceptions would have the support of certain countries if it were not to apply to both developing and developed exporting countries.
22. Another view expressed was that the approach embodied in the second sentence of paragraph 1(b) applied in principle to a much wider range of export subsidy practices than direct export subsidies. It was considered that it would only be in the context of the elaboration process itself that judgments would be possible about the scope of the proposed qualified general prohibition and its practical significance from the point of view of the obligations it would entail for individual trading partners. In another view expressed, it was indicated that the proposed deletion of the second sentence of paragraph 1(b) struck at the heart of a text which had been collectively negotiated and which most countries, despite their reservations on particular aspects, were prepared to accept. In this regard, it was recalled that a general prohibition subject to limited exceptions had been accepted as the basis for the future work of the Committee, as against a basic position that export subsidies should be eliminated. In this view, it was stated that it was not possible to agree that the sentence in question, on which a consensus was understood to have been achieved in prior discussions and without which it was difficult to understand how the Ministerial Mandate could be met, should be deleted. It was also noted that the hope had been that the financial burdens associated with export subsidy practices would have necessitated progress in the direction proposed in the second sentence of paragraph 1(b).

23. In several other views expressed, it was pointed out that the acceptability of the approach proposed in paragraph 1(b) would depend, inter alia, on agreement being reached on a satisfactory overall package. A number of concerns were also expressed on the question of special and differential treatment in relation to possible future disciplines in the area of export subsidies. In this regard, it was noted that the position of agriculture should be no more disadvantageous than was the case with subsidies in respect of industrial products under the relevant MTN code. It was also indicated that special and differential treatment, which enabled developing country exporters to undercut developed suppliers, would be unacceptable if developed exporting countries were to be prohibited from matching such subsidized competition.

Paragraph 1(c)

24. One view expressed was that paragraph 1(c) was drafted in a very operational and practical manner. Another view was that merely to propose improved procedures as the approach to be elaborated, raised certain questions of balance vis-à-vis the approaches suggested in the other operative paragraphs. In this regard, it was also noted that sanitary and phytosanitary measures were prone to misuse and could often render tariff bindings nugatory.

Paragraph 2

25. The suggestion was made that paragraph 2 should be amended to make it clear that the purpose of any review of policies and measures should be to ensure fuller transparency. The view was expressed that the proposed review process should only cover policies and measures that were relevant from the point of view of the GATT, and that the autonomous nature of national policies should also be respected in this context.
26. The main points raised in connection with the various elements contained in paragraph 3 of the revised draft recommendations have been covered in the general observations and other sections of this note. In general, while there were suggestions made that the reference to "specific characteristics and problems in agriculture" should appear in the chapeau, a number of views were also expressed in favour of its retention in paragraph 3. It was also widely considered that the additional reference to special and differential treatment was appropriate having regard, inter alia, to the specific GATT provisions and decisions relating to such treatment. At the same time, however, it was noted that special and differential treatment should not be developed along lines, with respect to the approaches to be elaborated on both access and subsidization, that ran counter to the objective of greater liberalization in the trade in agricultural products. In this regard, it was noted that it was important that due consideration should be given to the special needs of the developing countries in sketching the outline of the further work of the Committee.

27. In several of the views expressed it was suggested that there should be flexibility with regard to the arrangements for the work of the Committee in 1985. It was noted that while it might be necessary at an appropriate stage to take account of the broader implications involved in the light of developments in other areas of the Ministerial Programme of Work, for the time being, the Committee would have more than enough on its plate to keep it occupied for the foreseeable future. In any event, it was considered, in this view, that the elaboration process should not be slowed down on issues which could not be properly taken into account until a much later stage in the overall process. With regard to the text of paragraph 4, one suggestion made was that the Committee should continue in existence for the purpose of "putting into effect" the approach.