Committee on Trade in Agriculture

Meeting of Committee at Senior Policy Level: 2-3 April 1984

Note by the Secretariat

1. The present note, which summarizes the main points raised during the Committee's discussions at senior policy level on 2 and 3 April 1984, has been prepared in order to facilitate the Committee's consideration of recommendations at its meeting to be held from 6 to 8 June 1984.

2. The Committee's discussions, which were based on the Chairman's Non Paper and on documents AG/W/5 and AG/W/6, are summarized under the following four headings adopted by the Committee in organizing its work.

I. Inter-Linkage of Domestic Support Policies and Measures Affecting Trade

3. With regard to the inter-linkages of domestic support policies and measures affecting trade, there was a large measure of agreement that, while domestic policies as such are not negotiable internationally, the linkages that already exist in Articles XI and XVI of the General Agreement should be developed and strengthened in order to more clearly define the permissible limits to the impact of domestic agricultural policies on trade. It was considered to be of fundamental importance that this exercise should be accomplished in a way that results in a net improvement in the rules and opportunities for trade in agriculture. With this in mind it was decided that the basic documentation established by the Committee should be kept up to date according to already established procedures.

4. It was noted in a number of the general views expressed that the underlying analysis of the Non Paper and the broad approaches outlined in the summary of the Committee's deliberations, provided a constructive basis for developing appropriate recommendations. In this regard it was pointed out that willingness to accept marginal changes to the way in which domestic policies operated over the longer term was essential if there were to be improvements in the opportunities for trade in agriculture. It was suggested that, within the framework of an evolutionary approach to change, the objective should be to introduce greater logic and normalcy into the linkages between national...
agriculture policies and trade. The question was also raised whether
the provision of a degree of assured access had to be regarded as
inconsistent with the integrity of legitimate domestic policy
objectives, and whether 100 per cent self sufficiency or structural
surpluses were essential to the pursuit of these objectives. In this
view it was suggested that there should be scope, as in other sectors of
economic activity, for dealing with sensitive social problems in
agriculture in a way which did not impinge so directly and in such an
adverse manner on the trade of other contracting parties.

5. The view was expressed that the Committee's recommendations would
need to take full account of the various elements identified in the
carefully negotiated Ministerial programme of work for agriculture. In
this regard it was suggested that the linkages between trade measures
and domestic policies should also take account of the significant
differences between the nature, scope and effect of the measures and
policies applied by individual contracting parties. In this view it was
considered that worthwhile progress could be achieved if each
contracting party were committed to ensuring that the internal and
external costs of domestic policy were as low as possible, since this
would require respect for the interests of other trading partners and
observance of some disciplines regarding domestic production policies.

6. It was also suggested that the interlinkages between important
domestic policy objectives and trade indicated that a pragmatic approach
should be followed, under which full account should be taken of the
overall agricultural policies of individual countries and their effects
on trade. Such an approach it was noted, would enable all types of
trade measures, including those maintained under privileged exceptions
and derogations, to be dealt with on a fairer basis. In this regard it
was also noted that, in considering the scope for the application of the
principle of comparative advantage, a distinction should be made between
those countries which isolate their markets from international
competition and rely on subsidies to export surplus production, and
those primarily importing countries which adopt policies to curtail
production in excess of domestic requirements. On the other hand it was
also noted that the application of principle of comparative advantage
would not provide a viable solution in cases where the result would be
to force domestic farmers out of production. In these circumstances it
was suggested that there was a need to follow an overall approach which
strikes a necessary balance between GATT requirements and the special
considerations underlying the total agricultural policy of each
contracting party.

7. As a general observation it was pointed out that the interlinkages
between domestic policies and trade operated in both directions, with
the result that the effects of instability in international markets was
also a relevant consideration. In this regard it was suggested that it
would be utopian to attempt to control the operation of domestic
policies in GATT on the basis of totally new rules. Rather the
objective should be the more practical one of exploring how, by
strengthening and improving the rules of the GATT, it might be possible
to minimize the negative impact of domestic policies on international
trade. A first step in this regard should consist in a return to the
intent and the spirit of Articles XI and XVI, involving a better and
more precise application of those Articles in the conduct of domestic
policy. Whether it be in relation to domestic prices, import
restrictions or export subsidies, the realities of, and possibilities for, international trade should be taken into account. Secondly, the rules within which domestic policies are conducted should establish more clearly defined limits to the impact of those policies and in this respect there was scope, so long as it was not a question of re-inventing totally new rules, to make certain improvements in Articles XI and XVI.

8. The view was also expressed that the inter-linkage of domestic policies and trade measures in the case of developing countries was somewhat different, and that the evolution of the work of the Committee had to take account of the paramount association that agriculture has for the economy, the society, the politics and even the existence of a large number of developing countries. It was noted that this was not to suggest that improvements in the framework and opportunities for trade in agriculture were not of major relevance. On the contrary there were many areas of export interest to developing countries where further liberalization was essential and, as recognized by Ministers, in any moves to liberalization of access and support measures the special needs of the developing countries had to be kept in mind.

9. It was noted that the manner in which domestic policies were operated had the profoundest effect on the principal area of concern to GATT, namely, the management and conduct of trade between contracting parties. In this regard the view was expressed that one result of the Committee's work should be a basic understanding of the interlinkage, such that where the circumstances to be elaborated under Articles XI or XVI occur, contracting parties must be prepared to review the way in which their domestic policies operate, in order to avoid or minimize the adverse effects of these policies on the trade and interests of other contracting parties.

10. It was suggested that if the link between domestic policies and trade measures was to be developed, in the context of a strengthening of the operation of Articles XI and XVI, it would be indispensable that all contracting parties should have at their disposal a complete and up-to-date view of the policies and measures of their trading partners. It was noted that this and other related procedural questions would need to be considered in the context of the Committee's recommendations.

II. Reinforcement of Article XI: All Quantitative Restrictions and Other related or assimilable measures

11. With regard to Article XI, there was a wide measure of agreement that an approach should be developed under which the provisions of that Article should be reinforced in a manner which would enable all quantitative restrictions and other related or assimilable measures to be brought under effective GATT surveillance and disciplines.

12. While there were a number of views regarding the manner in which an approach along these lines might be developed, it was generally agreed that any such approach should not result in a weakening of Article XI. In this regard the view was expressed that the general objective would
be to bring all restrictions under effective GATT surveillance and disciplines but that having achieved this objective, to the extent of elaborating the conditions for broadening the compass of Article XI to cover these measures without weakening its basic provisions, it would then be necessary to consider how contracting parties might proceed to the more substantive step of improving trading opportunities. It was suggested that, as this would implicitly involve a negotiation context, the Committee would need to consider at an appropriate stage in its deliberations how this might best be established.

13. In this same general context it was noted that at present Article XI permitted restrictions on imports under certain conditions, including the link with restrictive domestic production policies and the maintenance of a certain relationship, which in practice did not seem to be strictly or widely observed, between imports and domestic production. It was suggested that there were three main areas where improvements might be made: (i) greater disciplines in more effectively applying Article XI within its present field of application, in particular as regards the existing conditions for imposing restrictions on imports; (ii) extension of the application of Article XI to other measures such as, for example, state trading, safeguard measures, variable levies; (iii) inclusion of waivers and other derogations within the ambit of Article XI. It was considered any exercise along these lines would have to be undertaken without preconditions regarding particular measures that might be covered and on the basis of full respect with regard to rights and obligations. Such an exercise would moreover involve two stages, one consisting in the definition of new concepts, the other in the practical implementation of these concepts in a possible future negotiation.

14. With regard to any general approach to be developed along the lines of paragraphs 23 and 24 of AG/W/6, it was pointed out that account would need to be taken of the situation of a number of countries which, although not well placed as regards agricultural production, nevertheless considered it essential for a range of political economic and social reasons to support and maintain a certain level of production in the agricultural sector. It was suggested that any approaches developed should concentrate on the effects of domestic agricultural policies rather than exclusively on specific categories of trade restrictive measures. The question was also raised whether the link, between the right to have recourse to restrictions and the obligation to apply measures which restrict domestic production, should relate to specific products as at present, to particular product sectors, or to overall production. In particular it was questioned whether a country which restricts overall domestic production to reasonable and stable levels and which allows access, should not have the right to restrict imports of a particular product even although domestic production of that product was not limited. It was suggested that account should also be taken of other policies, such as environmental and conservation policies, which might indirectly limit domestic production. The scope for taking advantage of developments in technology was also referred to as being relevant. As an observation of a more general nature it was noted that the real problem was the willingness of countries to submit to effective internal and external disciplines in the conduct of their domestic agricultural policies.
15. The view was also expressed that in order to bring more countries within the ambit of Article XI its provisions would need to be made more workable. In line with a philosophy that import measures were important and integral elements of national policies, it was suggested that the central element in making Article XI more workable was the pursuit of appropriate domestic production policies, including policies that put limits on domestic production. In this view it was considered that, as the limited use made of Article XI had not resulted from it being excessively liberal, a proper balance would need to be found between the need to improve the existing legal situation and the need for sufficient disciplines. It was noted that voluntary export restraints played a relatively important role in trade in agriculture and would therefore have to be taken into account in any balanced overall solution. It was considered that the first step should be improved transparency and that the basic aim should be to bring VER's into the GATT framework of rules and disciplines. The view was also expressed that although general tariff cutting formulas were unrealistic in relation to agriculture, an effort should be made to improve the general situation as regards bindings on the basis of negotiations between individual contracting parties. In this connection it was considered that a balanced solution on other elements would improve the general atmosphere and thereby improve the possibilities for binding more agricultural tariffs.

16. A widely shared observation was that the result of bringing all quantitative restrictions and other related or assimilable measures within the ambit of Article XI, should not be to legitimize non-conforming measures. It was suggested that such measures should be subjected to effective disciplines on a basis where there was, and was seen to be, both a balance of rights and obligations and a substantial net improvement in the opportunities for trade. It was noted in this regard that appropriate compensation or payment would be a sine qua non with respect to any new obligations or modification of existing rights involved in any reinforcement of the provisions of Article XI. It was also noted that restrictions permitted under other GATT Articles would need to be borne in mind when considering the possibilities for improvements in Article XI.

17. The view was also expressed that it had yet to be sufficiently demonstrated that the approach envisaged in paragraphs 23 and 24 of AG/W/6 would provide a viable basis for improving the rules and opportunities for trade in agriculture. In this regard questions were raised concerning the appropriateness of encompassing a quasi tariff measure, such as the variable levy, within the disciplines of Article XI. While it had to be recognized that there were many aspects of the issues involved that could only be delineated in a negotiating process, it was considered that changes in general attitudes, as well as in approaches, were also relevant.

18. It was also pointed out that it was essential that reinforcement of Article XI should lead to firmer and more effective limits on protectionism in order to enhance the more equitable participation of efficient traders, particularly developing countries, in agricultural trade. In this regard it was suggested that consideration might be
given to blocking all measures maintained under waivers and other
derogations or exceptions under a legal instrument and gradually phasing
them out. It was also suggested that all measures which were claimed to
be within the exceptions to Article XI should be fully notified and
subject to surveillance and periodic review.

19. With regard to state trading activities it was noted that this was
a complicated area and one in which the need for more adequate reporting
and surveillance procedures needed to be assessed and consideration
given, as mentioned in paragraph 9 of AG/W/6, to more effectively
applying Article XVII in the agricultural sector. In this regard it was
pointed out that state trading activities must be examined along with
all other measures and that if Article XI was to be reinforced it would
be necessary to also look at the whole area of state trading.

20. With regard to sanitary and phytosanitary regulations and other
technical restrictions and related administrative requirements the view
was widely shared that these measures should be susceptible to objective
examination to ensure that they were not applied in a manner which
exceeded what was necessary. It was noted that improvements in the
existing GATT procedures, for notification, reverse notification and
dispute settlement in this area ought to be examined, in the context of
the TBT Code or on some other basis, with a view to minimizing or
eliminating the adverse effects which these measures were prone to have
on trade.

III. Subsidies in general, including export subsidies and other forms
of export assistance

21. Support was expressed for further exploring, inter alia, an
approach involving a general prohibition on export subsidies and other
forms of export assistance, in conjunction with carefully specified
exceptions. It was considered that such an approach could represent an
improvement on the largely ineffective exhortation to avoid the use of
export subsidies and the unworkable effect-oriented criteria in the
current rules. It was noted that strengthening of the rules and
disciplines relating to the determination of serious prejudice, and the
possibilities for limiting subsidization, as well as those relating to
competition in third markets, would be common features in whichever
approach aimed at achieving more operationally effective rules and
disciplines in this critical area might ultimately be adopted, including
an approach based on reinforcing the existing framework of Article XVI.
It was also noted that all subsidies directly or indirectly affecting
trade including export subsidies and other forms of export assistance
should be addressed in the approach to be developed.

22. The view was expressed that export subsidies, recourse to which had
tended to proliferate as other affected countries followed suit in order
to maintain their production and market shares, had a very negative
impact on trade and prices, as well as being directly costly. In this
connection it was suggested that negotiations should lead to the
identification and elimination of export subsidies in agriculture on the
basis of a comprehensive ban on export subsidies with a carefully
specified list of time-limited exceptions. In this and some other views
it was questioned whether producer financed export subsidies should be
acceptable or qualify as an exception.
23. With regard to paragraphs 25 and 26 of AG/W/6 it was pointed out that the existing situation was not one in which there were no constraints or rules at all, but rather one in which certain forms of export assistance were transparent and subject to discipline, whereas a broad category of assistance and aids to exports, which were lacking in transparency, were not subject to disciplines. In this view it was considered essential that all types of subsidies and assistance to exports should be dealt with on an equal footing; and that, as foreseen by the Ministers, it was necessary whatever approach might be followed, to engage on this broad basis in an exercise to clarify and better define the present criteria of Article XVI and the Subsidies Code. Thus in exploring the new approach special attention would have to be given both to the definition and scope of the exceptions under which countries would have the right to grant subsidies, and to the need for greater precision in the criteria and concepts, such as market share and price undercutting, which would continue to govern competition in world markets. In this regard it was noted that for the time being both the new approach and the approach based on strengthening the existing framework of Article XVI should be maintained.

24. In the course of a number of general observations regarding further exploration of the new approach to Article XVI, it was pointed out that careful consideration would need to be given to the definitional and other problems involved in using domestic production control or supply management systems as one of the key criteria for exceptions to any general prohibition. It was pointed out that unless the criteria for exceptions were capable of being applied consistently and predictably, there was a risk of creating yet another definitional controversy in the area of export subsidies.

25. It was noted that the approach proposed would also have to be capable of effectively addressing a wide range of situations in which domestic production control and other policies operated to increase self-sufficiency and diminish access, or which operated to maintain or increase structural surpluses. It was noted that the temporary surplus situation would also be relevant in considering the criteria for exceptions, as would be the situation of various countries whose participation in international trade though modest in scale was nevertheless dependent on export subsidies. In this latter case it was suggested that while all forms of subsidies and assistance to exports should be taken into account, the principal focus should be on the effects of these subsidies in terms of material price undercutting or market displacement, and on their capacity for upsetting conditions of trade and impairing disciplines in world markets.

26. It was also suggested that great care would need to be taken in any new approach to avoid the legitimization of practices which are discouraged, if not prohibited, under the existing rules, including in particular blanket exceptions for a range of policies which would make present difficulties worse. In this context it was pointed out that it should be a prerequisite to a possible new framework for subsidies affecting exports, that a more effective balance of rights and
obligations under Article XI should first be established, since the export subsidy and market access issues were inextricably linked. In this regard it was noted that it was essential that there should be a degree of symmetry and balance, both with regard to the interrelationship of the approaches under Articles XI and XVI, and also as between individual contracting parties, under any new approach to Article XVI. While in the nature of things exceptions could not be avoided, it would be essential that no exception to any prohibition on the use of export subsidies should be such as to deprive an adversely affected contracting party of the right to effective recourse.

27. With regard to paragraph 27 of AG/W/6 a number of views were expressed regarding the rationale for export and other subsidy policies in developing countries. It was stressed that the development dimension was extremely important in this regard and it was suggested that, as in the industrial sector, the principle should be followed in agriculture that subsidies applied by developing countries should only be taken notice of where they resulted in serious injury to the trade of other contracting parties. In this general context it was noted that the domestic needs of developing countries, their position as new entrants in some areas of international trade, the less advanced stage of their agricultural development and the need for government intervention with regard to the development of infrastructures and the supply of essential inputs, were amongst some of the more important areas where structural differences between developed and developing countries existed.

28. It was suggested that in any new framework of disciplines to be recommended account also had to be taken of the different objectives of developed and developing countries and of the relative importance of exports in the economies of developing countries in the assessment of injury to other countries. Reference was also made to the fact that limited financial resources and smaller market bases of many developing countries, made recourse to export subsidies a more efficient method of assisting exports, whereas in many industrialized countries other more costly direct and indirect forms of price or income support and production level subsidies could be resorted to with relatively greater ease. In one case it was indicated that the new approach proposed would be unlikely to be acceptable since certain countries would no longer have the right to subsidize in a way that they could afford. In this general context it was noted that the relatively greater ease with which developed countries could pursue subsidy policies implied that developed countries have a responsibility in conducting these policies to act in a certain way.

29. It was also noted that there would be scope for modulating the criteria for exceptions to any general prohibition on export subsidies but that this was essentially a matter for negotiation. Reference was also made in this regard to the possibility that certain structural or economic situations might escape the full rigour of any general prohibition under general escape clauses analagous to those under Articles XII and XVIII.
30. The view was expressed that as Article XVI at present applied to all countries, it would be inappropriate that any further work on a new approach to this Article should proceed on the basis that there would be a total dispensation in respect of developing countries, whatever the products and the nature of the subsidies concerned. It was also suggested that while a number of possibilities regarding criteria for exceptions would need to be examined, it would be unrealistic to expect that the problem of export subsidies could be dealt with through partial solutions, particularly when it has been recognized by all participants in the Committee's work that export subsidies had accentuated and exacerbated a number of serious problems in trade in agriculture. In this view it was considered that it would be ironic in the extreme if a very large number of countries were to be allowed to subsidize their exports when it was generally recognized that these countries could least afford it. In this regard it was suggested that what should be aimed at was as free a market as possible in which comparative advantage rather than export subsidization was determinant. It was noted in this general context that developing countries were not seeking blanket exemptions but that the situation in this respect would very much depend on the level at which export subsidies generally were to be tolerated, and also on the precise exceptions to be considered. It could be, for example, if the tolerance level were to be restrictive that many developing and other countries would not find themselves compelled to resort to export subsidies. It was also noted that any new arrangements should not permit the use of export subsidies on processed agricultural products.

31. A number of observations were made regarding the need to improve the scope of the existing notification procedures under Article XVI, and the scope for more regular and complete compliance therewith. It was generally agreed that while all direct and indirect subsidies, including domestic income and price support programmes, should be notified and reviewed at appropriate intervals, practical limits to what was notifiable would need to be established, possibly in conjunction with procedures for reverse notifications.

IV. Approaches to Improving Opportunities for Trade in Agriculture, including special needs for developing countries, balance of rights and obligations, specific characteristics and problems in Agriculture

32. As to general approaches to improving the rules and opportunities for trade in agriculture it was reconfirmed that full account would need to be taken of the need for a balance of rights and obligations under the GATT, of the special needs of the developing countries in the light of the GATT provisions providing for differential and more favourable treatment, and also of specific characteristic and problems in agriculture.

33. Under this general heading a number of observations were made concerning the objectives of the recommendation to be made by the Committee. In this regard it was noted that if progress were to be made on the rules and disciplines relating to restriction on imports under Article XI and on subsidies under Article XVI, an effort would be needed
to achieve a gradual but substantial liberalization of trade in agriculture. It was also noted that the overall thrust of further work should be directed towards greater liberalization and that the Committee’s recommendations should open the way for a reversal of past protectionist trends and policies which had suppressed growth in many economies and which were impeding a more widespread and sustainable recovery in the world economy.

34. It was suggested that as the techniques and modalities of past negotiations on agriculture had not yielded adequate results, it would be appropriate to consider these aspects in some depth. One of the possibilities mentioned in this context was that all tariff positions should be bound. It was suggested that further consideration should be given to this proposition in conjunction with the other approaches on which it was envisaged that further exploratory work would be undertaken. In a further suggestion regarding binding of tariffs, it was pointed out that it would also be useful to consider the binding of all import charges including variable tariffs and levies. In the case of variable levies it was suggested that consideration should at least be given to tariff rate bound quotas as a means of providing a reasonable level of access and allowing some scope for the strongly espoused principle of comparative advantage across a wider range of trade regulating measures.

35. It was also mentioned that at some stage attention would need to be given to the results of the discussions on liberalizing trade in tropical products under Part IV. Reference was also made to the importance of improving GSP schemes and of widening the scope of the coverage of such schemes to include a more extensive range of agricultural products. In this regard it was suggested that recommendations relating to the containment and phasing out of export subsidies would contribute significantly to re-establishing or creating opportunities for the exports of efficient producers, including those of the developing countries.

**Draft Recommendations**

36. It was agreed that, on the basis of the Committee’s discussions and the guidance it has provided, the secretariat, in conjunction with the Chairman, would prepare draft recommendations for consideration at the next meeting of the Committee. This draft is to be circulated as document AG/W/8.

**Next meeting**

37. The Committee agreed to hold its next meeting from 6 to 8 June 1984.