CO-OPERATION ON AGRICULTURE IN THE GATT

Note by the Secretariat

At the meeting of 10-12 February 1982 of the Consultative Group of Eighteen, it was agreed that:

"the secretariat, under its own responsibility, would submit a document which, drawing from the five points in paragraph 112 of the document CG.18/W/59/Rev.1, would analyse the functioning of international cooperation as regards the following three areas which had been identified:

(i) problems and measures relating to market access;

(ii) problems and measures relating to competition;

(iii) the impact of national agricultural policies on market access and competition.

Such an analysis would take into account the GATT rules and also what had been negotiated in the past within the GATT. The secretariat was ready to expand the scope of this study to the possibilities for improving or reinforcing the level of cooperation in the agricultural sector."
CHAPTER I. THE FUNCTIONING OF INTERNATIONAL CO-OPERATION IN THE AGRICULTURAL SECTOR

1. This chapter focuses on the problems and measures affecting market access and competition in agricultural trade, as well as the impact of national agricultural policies on market access and competition. For each problem or measure identified, the extent and nature of obligations under the GATT will be indicated.

Section A. MARKET ACCESS

2. A variety of governmental measures affect the conditions of market access in the international trade of agricultural products. The following measures can be identified as among the most important: tariffs, variable levies, quantitative restrictions, licensing, state-trading, preferences, bilateral agreements (including voluntary restraint agreements), internal taxes or restrictions and health and sanitary regulations. These measures may generally provide protection to home producers against foreign suppliers and may also discriminate between suppliers.

3. Tariffs are perhaps the most visible forms of protection at the border - provided, of course, that they are published as required by Article X and levied at their published rates. As mentioned in paragraph 5 of CG.18/W/59/Rev.1, broad tariff-cutting formulae, agreed to during some of the previous tariff rounds under the GATT, were never applied to agriculture. Negotiations on agriculture have been conducted on a line-by-line and request/offer basis. This, in and of itself, need not have led to poorer results in the agricultural field than for industry. Nevertheless, as shown in the table on page 6 of CG.18/W/59/Rev.1, there are generally fewer tariff concessions on agricultural than industrial products, whether calculated as a percentage of tariff lines or of trade. It is not possible to give an accurate breakdown of the ad valorem equivalents of tariffs or tariff reductions on agriculture - in part because of the existence of variable levies. Agricultural tariff levels may be higher than those on industrial products. Nor is it possible to give an accurate breakdown of the extent of tariff escalation between raw and processed agricultural products.

4. Article II:1(a) of the General Agreement specifies that "each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for" in its appropriate Schedule of Concessions. The Schedules of Concessions, including tariffs and tariff quota concessions made on agricultural goods, are spread out over several instruments and protocols, all "annexed to the General Agreement" and an integral part thereof. The

1/ These measures will also be discussed in Section B relating to competition.

2/ There is a limited assessment of the MTN concessions contained on pages 30 and 40 of The Tokyo Round of Multilateral Trade Negotiations II Supplementary Report prepared by the GATT Secretariat.
Committee on tariff concessions has worked out procedures for consolidating these lists in a loose-leaf format.

5. Since there are fewer concessions on agriculture, one can say that Article II is being made use of in a more limited fashion than for industry. Nothing in Article II, nor in any other provision of the General Agreement, requires a contracting party to reduce tariffs, to grant concessions, or to grant them equally or substantially among sectors. However, the Preamble of the General Agreement does speak of the desire of Representatives to contribute to certain objectives "by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade....." Paragraph 1 of Article XXVIII bis also states that such negotiations on a reciprocal and mutually advantageous basis "are of great importance to the expansion of international trade".

6. There are exceptions to Article II. A contracting party may apply duties or charges in excess of those set forth in its Schedule as a result of a waiver granted under Article XXV (for example the US Section 22 waiver) or of emergency action taken under Article XIX. Concessions may be modified as well pursuant to Articles XXIV:6 or XXVIII.

7. All customs duties, whether bound or not, should be applied in conformity with the rules relating to valuation for customs purposes as set forth in Article VII. Moreover, certain contracting parties have signed the code on customs valuation, the Agreement on Implementation of Article VII, which is applicable to agricultural goods.

8. Paragraph 7 of CG.18/W/59/Rev.1 points out the extent to which certain countries (Austria, EEC, Finland, Sweden and Switzerland) resort to variable levies to regulate their agricultural imports. Variable levies per se are not specifically mentioned in the General Agreement. There have been divergent views expressed as to their status: whether they are duties or restrictions or something else. Disagreement as to whether variable levies were duties or regulations of commerce with respect to Article XXIV, have caused difficulties during the examination of the EC customs union and its subsequent enlargements, as noted in paragraph 29 of the above-mentioned document.

9. It should be noted that agricultural products are substantially protected by governmental measures other than tariffs. It has been suggested that such restrictions should be replaced by customs duties established at non-prohibitive levels. There has been little movement made in this direction.

1/ See Annex II of CG.18/W/59/Rev.1.
2/ See paragraph 93 of CG.18/W/59/Rev.1.
3/ See for example, paragraphs 110-112 of COM.AG/W/88 as well as paragraphs 113-135 thereof for other techniques examined for negotiating quantitative restrictions. This document is annexed to COM.AG/25.
10. There is a wide assortment of quantitative restrictions applied in the agricultural sector: quotas, seasonal restrictions, prohibitions, etc. Article XI:1 bans, in general, restrictive measures "other than duties, taxes or other charges" on imports and exports. There are exceptions to this ban specific to agriculture under Article XI:2, as explained in paragraphs 50 to 52 of CG.18/W/59/Rev.1. The conditions attached to the exception are elaborate and complex to interpret, and are seldom observed in full (see paragraphs 53 to 61 of the above-mentioned document).

11. Other exceptions to the provisions of Article XI:1 are contained in Articles XII (restrictions to safeguard the balance of payments) and XIX (emergency action on imports of particular products). As pointed out in paragraphs 18-19 of CG.18/W/59/Rev.1, specific recourses to Article XIX occur less frequently in the agricultural sector. Wide-ranging and long-standing protective measures are already in place in that sector and largely obviate the need for special safeguard action.

12. Waivers from the obligations of Article XI have been granted under Article XXV:5 (see Annex II of CG.18/W/59/Rev.1). The United States' Section 22 waiver is the only waiver currently in effect relating to Article XI as well as the only one currently in effect relating to agriculture. In addition, Switzerland has negotiated within its Protocol of Accession a reservation regarding the application of Article XI, to the extent necessary to permit Switzerland to apply import restrictions pursuant to Swiss legislation (see paragraph 42 of CG.18/W/59/Rev.1). Some countries have also claimed in the past that certain restrictions they maintained on agricultural items were covered by "grandfather clauses" (see paragraphs 39 and 40 as well as footnote 3 on page 22 of CG.18/W/59/Rev.1).

13. Article X:1 of the General Agreement specifies that requirements, restrictions or prohibitions on imports or exports be "published promptly in such a manner as to enable governments and traders to become acquainted with them". Restrictions allowable under Articles XI:2 or XIX must meet the requirements for non-discrimination specified under XIII; in particular as regards similarity of restrictions, quota shares and public notice. The Committee on Safeguards agreed that "all actions taken under Article XIX, and to the extent possible, other action which serve the same purpose will be notified to the CONTRACTING PARTIES". Paragraph 3 of the "Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance" states that "contracting parties moreover undertake, to the maximum extent possible, to notify the CONTRACTING PARTIES of their adoption of trade measures affecting the operation of the General Agreement..." (see paragraph 23 of CG.18/W/59/Rev.1).

14. Licenses are used for statistical-gathering purposes but also often to administer quantitative restrictions. Article VIII sets out rules regarding fees and formalities connected with importation and exportation. The Agreement on Import Licensing Procedures aims to simplify and bring transparency to licensing procedures. It is applicable to agriculture (see paragraph 94 of CG.18/W/59/Rev.1).
15. State-trading enterprises, marketing boards or monopolies are prevalent in agricultural sectors of numerous countries. Under Article XVII, contracting parties are obligated to notify any state enterprise that they maintain. What constitutes a State enterprise is not defined. Paragraphs 15 and 16 of CG.18/W/59/Rev.1 give details about the enterprises notified so far and tries to analyze the extent of their control over agricultural trade. Such enterprises are involved in imports as well as exports and are a factor in international agricultural trade not only as regards market access but also competition. Besides the obligation to notify, Article XVII also specifies that State-trading enterprises shall, in their purchases or sales involving either imports or exports, act in a non-discriminatory manner (see paragraph 17 of CG.18/W/59/Rev.1).

16. A major principle of the General Agreement is the most-favoured-nation treatment, as expressed in Article I:1. Exceptions to the most-favoured nation treatment are allowed in the General Agreement for customs unions or free trade areas under Article XXIV. However, as mentioned in paragraph 29 of CG.18/W/59/Rev.1 virtually no examination of the regional arrangements, free trade areas or customs unions notified in the GATT has led to a unanimous conclusion or specific endorsement by the CONTRACTING PARTIES that all the legal requirements of Article XXIV had been met.

17. Moreover, contracting parties may accord differential and more favourable treatment to developing countries, pursuant to the Decision on "Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries". Developed countries granting such preferences have considered these to be unilateral decisions on their part. Preferential conditions of access have varied among developing country beneficiaries; for example, as regards the special treatment of the least developed countries.

18. Bilateral agreements of one sort or another have been proliferating in the agricultural sector (as they also have for certain industrial sectors). Sometimes they are concluded in order to achieve greater stability in the trade between countries, as regards volume or price of the commodity transacted. Such medium or long-term supply contracts respond to the wish of the importing country to safeguard supplies on the one hand, and on the other, of the exporting country to plan better its production and deliveries by knowing better the disposal opportunities or importing requirements of foreign markets.

19. Sometimes, however, the agreements are of a slightly different motivation, seeking to reduce trade to lower levels than could be expected. These are the so-called voluntary restraint or orderly marketing agreements - a negotiated and perhaps looser instrument by which exporters agree to restrain exports, replacing the need for more direct restrictive action on the part of the importing country.
20. These bilateral agreements raise a number of questions as regards transparency and non-discrimination. The extent of government intervention in these agreements is a key factor, as the General Agreement relates only to obligations of governments, and in a limited manner to the State enterprises they maintain (see paragraph 15 of this paper). Paragraph 13 has already touched on the requirements of public notice of trade measures under Articles X and XIII as well as the notification requirements pursuant to the decisions taken under the Committee of Safeguards and the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance. The latter further specifies under the procedures for dispute settlement, that "if a mutually satisfactory solution is developed by the parties to a dispute before a panel, any contracting party with an interest in the matter has a right to enquire about and be given appropriate information about that solution in so far as it relates to trade matters". Of course, this provision only concerns a bilateral agreement which is the end product of a recourse to Article XXIII:2. Article III of the Arrangement Regarding Bovine Meat and of the International Dairy Arrangement respectively require signatories to provide information on trade measures and on their bilateral, plurilateral or multilateral commitments in the products covered, and to make known as early as possible, any changes in such policies and measures that are likely to affect international trade in the products covered.

21. Apart from these obligations of public notice and notification, there exist obligations of non-discrimination under Articles I and XIII. If an agreement results in a contracting party granting "any advantage, favour privilege or immunity ... to any product originating in or destined for any other country" than that favour "shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties", according to Article I:1. Conversely, no prohibition or restriction can be applied on the importation or exportation of any product of any contracting party, according to Article XIII:1, "unless the importation of the like product of all third countries or the exportation of the like product to all third countries is similarly prohibited or restricted" (see paragraph 24 of CG.18/W/59/Rev.1). In applying import restrictions, contracting parties should aim at a distribution of trade or quota shares "approaching as closely as possible the shares which various contracting parties might be expected to obtain in the absence of such restrictions".

22. Internal taxes and regulations, such as mixing requirements on feed or fiscal duties on alcoholic beverages or tobacco, figure also in the list of government measures affecting market access for agricultural products. Article III imposes a national treatment obligation as regards these internal measures, aiming at ensuring that these measures are not applied so as to afford protection to domestic production. As paragraphs 11 and 13 of CG.18/W/59/Rev.1 indicate, there have been divergent views on the interpretation of the provisions of Article III. Although these questions have come up during the examination of measures affecting agricultural products, the problem of the interpretation of Article III is not exclusively a matter of concern in the agricultural sector.
23. A final important area affecting market access involves health and sanitary regulations. Paragraph 76 of CG.18/W/59/Rev.1 notes that there is an exception provided in Article XX:b for measures necessary to protect human, animal or plant life or health and that the discriminatory effects of phyto-sanitary restrictions have been raised from time to time in the GATT. The Agreement on Technical Barriers to Trade, which is applicable to agriculture, requires signatories not to create unnecessary obstacles to trade when they adopt technical regulations or standards, and the testing and certification schemes related to them. Paragraph 95 of CG.18/W/59/Rev.1 notes the lack of consensus on the question of the extent to which processes and production methods are subject to the provisions of the Code.

24. The General Agreement was designed to facilitate and encourage discussion and consultations regarding obligations and matters affecting trade. Thus, an important aspect of the functioning of cooperation in GATT on measures affecting market access for agricultural products is the set of provisions in the General Agreement relating to consultations and the settlement of disputes, particularly Articles XXII and XXIII (see paragraphs 25 to 28 in CG.18/W/59/Rev.1). Procedures for managing disputes under these two Articles have been elaborated in the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance. There are provisions relating to consultations in all of the Arrangements or codes referred to in the previous paragraphs; that is, the arrangements on dairy and bovine meat and the codes on licensing, customs valuation and standards. Specific provisions for conciliation and dispute settlement were also established in the customs valuation code and standards code.

25. Differing views have been expressed on the extent to which the negotiation of international commodity agreements on stabilization arrangements can contribute to solving the problems of agricultural trade (see, for example paragraphs 202 to 222 in COM.AG/W/88). Paragraph 79 of CG.18/W/59/Rev.1 describes the manner in which such agreements are covered by paragraph (h) of Article XX. International arrangements to provide improved and acceptable conditions of access to world markets for primary products of particular interest to less-developed contracting parties are also referred to in Article XXXVIII:2(a).

26. The principles contained in the chapter relating to intergovernmental commodity agreements in the Havana Charter are referred to indirectly in the interpretative note to Article XX (h). This chapter specified, inter alia, that such agreements were appropriate "to prevent or alleviate the serious economic difficulties which may arise when adjustments between production and consumption cannot be effected by normal market forces alone as rapidly as the circumstances require" or "to prevent or moderate pronounced fluctuations in the price of a primary commodity with a view to achieving a reasonable degree of stability..." The chapter also provided that such agreements be open to participation by all members of the Charter and that they include "provision for adequate participation of countries substantially interested in the importation or consumption of the commodity as well as those substantially interested in its exportation or production".
27. Other techniques or modalities that have been proposed at one time or another in the GATT for negotiating on agriculture, and thus furthering cooperation on measures affecting market access, have included codes of good conduct, self-sufficiency rates and margin of support. These are elaborated on in paragraphs 223 to 250 in COM.AC/W/88.

Section B. Competition

28. The previous section dealt essentially with measures affecting importation or market access; what could be referred to as competition between foreign suppliers and domestic producers in the home market. This section deals essentially with exportation or competition among foreign suppliers in third markets. It will be shorter than the previous sections - not because there are fewer problems in this area - but because many of the obligations or opportunities for cooperation apply to exportation as well as importation.

29. State-trading enterprises which are governed by the provisions of Article XVII (see paragraph 15 of this paper) are also a factor in exportation. International-commodity agreements affect the conditions of exportation such as volume, prices, or outlets for participants, and sometimes for non-participants as well. These agreements are covered in Article XX (h) (see paragraphs 24 to 26). Article VIII relates to fees and formalities connected with exportation as well as importation (see paragraph 14). Preferences (paragraphs 16-17) and bilateral agreements (paragraphs 18-21) affect competition by providing advantages or more favourable access to a market for a foreign supplier or group of suppliers.

30. Export subsidies are regarded by some producers as trade distorting (and unfair) measures against which they have to compete to sell their products, and conversely by some consumers who need to import as a welcome aid for them to obtain cheaper supplies. Article XVI:1 of the General Agreement imposes an obligation to notify subsidies and to consult (see paragraphs 66 to 69 of CG.18/W/59/Rev.1). Paragraph 3 of the Article provides limited rules on the use of "subsidies on the export of primary products" (see paragraphs 63 to 65 and 70-73). Difficulties have arisen as to the interpretation of "primary product" and "equitable share" as used in this provision. Article 10 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII tries to give more precision to some of the terms used in Article XVI:3 (see paragraphs 99-100 of CG.18/W/59/Rev.1). The Agreement provides procedures for dispute settlement and consultation among signatories and also contains an illustrative list of export subsidies.

31. As described in paragraphs 102 to 104 of CG.18/W/59/Rev.1, there are GATT resolutions concerning the disposal of agricultural surpluses and the liquidation of strategic stocks of primary products.
32. The Protocols annexed to the International Dairy Arrangement can be said to provide a certain limitation on export subsidies on the products covered through the respect of the minimum prices. Moreover, Article V:2 of the Arrangement states that transactions which are not normal transactions should be effected in accordance with the FAO "Principles of Surplus Disposal and Consultative Obligations". The Dairy Council can also consult on all transactions other than normal commercial transactions and other than those covered by the Subsidies Code. These provisions were included in the International Dairy Arrangement to afford the possibility of discussing so-called "grey area transactions" on dairy products, which are somewhere in between food aid on the one hand and commercial transactions on the other.

33. Various techniques to prohibit or reduce export subsidies have been discussed in the past (see paragraphs 11 to 66 of COM.AG/W/88), some of which led to the understandings contained in the Subsidies Code.

34. Finally, some mention might be made of the problems of competition between foreign and domestic consumers of agricultural products during times of shortages. Article XI:2 (a) and (b) (which relate to relieving shortages of foodstuffs or essential products and to the application of standards) are exceptions to the general ban on export prohibitions and restrictions contained in paragraph 1 of the Article. Measures taken under Article XI:2 must, however, conform to the requirements of non-discrimination contained in Article XIII (see paragraphs 13 and 21 of this paper).

Section C. Impact of National Agricultural Policies

35. Over twenty years ago, Committee II of the GATT examined the agricultural policies of 24 countries and found that in general the main broad objectives thereof were: "(i) to maintain or raise the general level of farm incomes, usually with a view to some relationship being maintained with incomes in other sectors of the economy, and (ii) to reduce or eliminate fluctuations in domestic farm prices and incomes". Other aims that the Committee found were the "protection of national security, social and demographic considerations, or balance-of-payments protection", and, in the case of many developing countries, the support of general economic development. In the main, these preoccupations still exist to different extents in countries today, along with other aims that have emerged; such as, the growing concern to assure national and international food security and nutritional standards, and the increasing desire to align farm prices and production more closely with market realities of supply and demand. Moreover, the increased volume of trade in agricultural products has transformed the international market place for agriculture from a residual to a vast interdependent market, important to the general economy as a whole.
36. National agricultural policies are seldom if ever, trade neutral. Government intervention of whatever degree always has effects on production, which in turn has consequences for a country's import requirements and export availabilities. Moreover, government intervention in the domestic market often necessitates import control measures of the type described in Section A or export assistance to dispose of surpluses as described in Section B.

37. Cooperation on domestic agricultural measures in the GATT is somewhat limited as there is no broad commitment to inform or consult on general domestic agricultural policies, only on their trade effects. Article III does set down rules governing the application of internal taxes, requirements or regulations (see paragraph 21 of this paper). The notification and consultation requirements of Article XVI:1 extend broadly to "any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into" the territory of a contracting party. Signatories of the Subsidies Code, by virtue of its Article 11, are bound to seek to avoid causing disruptive effects on other signatories through the use of certain enumerated domestic subsidies. Under the terms of their respective exceptions on agriculture, the United States and Switzerland are committed to submitting annual reports regarding measures they have taken consistently with these exceptions. These reports imply supplying some information regarding the objectives and mechanisms of the internal support policies which are the basis for the import controls.

38. Inter-governmental commodity agreements (see paragraphs 25 to 26 of this paper) may commit participants to taking production, marketing or stockholding measures. Both the dairy and bovine meat arrangements require signatories to provide information on their domestic policies of the products covered. The Protocols annexed to the International Dairy Arrangement may also require signatories to make certain internal adjustments in order to observe the minimum price.

39. Several techniques for negotiating on production measures have been examined in the past in the GATT but few results were achieved in terms of commitments (see paragraphs 150 to 201 in COM.AG/W/88).
CHAPTER II. POSSIBILITIES FOR IMPROVING CO-OPERATION WITHIN GATT IN REGARD TO AGRICULTURAL TRADE

40. The considerations in the preceding chapter have highlighted certain shortcomings in the multilateral co-operation system in regard to agricultural trade within GATT. The following remarks concern improvements that CONTRACTING PARTIES might wish to make to that system with a view to greater efficacy: enforcement or strengthening of existing obligations in regard to market access and in regard to competition, and establishment of a new co-operation in regard to agricultural policy.

Section D. Enforcement or strengthening of existing obligations in regard to access

41. The special exceptions for agriculture spelt out in the provisions of the General Agreement itself, include some important ones that bear on market access, under Articles XI and XX.

(a) The various cases of recourse to quantitative restrictions under Article XI:2 are mentioned in paragraphs 54, 58 and 59 of document CG.18/W/59/Rev.1. Given, on the one hand, that there is considerable confusion in this area and, on the other hand, the fact that the GATT secretariat is in the process of up-dating an inventory of agricultural non-tariff measures, it is suggested that these agricultural restrictions, whether residual or not, should be reviewed regularly on the basis of the inventory (which is to be kept up-to-date).

(b) Article XX:(b) also establishes exceptions applicable to agriculture. In view of the difficulties that have arisen in implementing the Standards Code where agricultural matters are concerned (in particular as regards interpretation of Article 14.25), it is suggested that existing possibilities be examined for arriving at a unanimous interpretation of the provisions of the Code applicable to agriculture. In addition, regular review of the restrictions listed in the inventory would allow for the evaluation of the extent of the protection afforded by Article XX:(b) without prejudging as to whether that protection is lawful or unlawful.

42. Among other cases of differential treatment as between agriculture and industry that involve the granting of waivers, it is suggested that the (annual) discussion of the report on the agricultural waiver granted to the United States under Article XXV:5 should continue as provided and that discussions on agricultural clauses of protocols of accession (paragraphs 39 to 42 of CG.18/W/59/Rev.1) should also take place.

1/ BISD, 3S, pages 32-38
43. Among the measures not specifically covered by the General Agreement and whose proliferation is one of the characteristics of agricultural trade today, there are some which bear directly on access and have in recent years been causing - and are still causing - very serious difficulties of interpretation. Such is the case of the variable levy, whose legal status is entirely passed over in GATT, whereas in the trade policy of many contracting parties it is the privileged instrument for regulating access. A discussion of the matter might help to fill the legal vacuum caused by disagreement on interpretation of the provisions of Article XXIV:5. Indeed, these divergences have largely contributed to the persistent uncertainty as to whether or not customs-union and free-trade-area agreements are consistent with the provisions of the General Agreement - a situation that is advantageous neither for the agreements concerned, nor for the GATT.

44. It is also suggested that there be held consultations on so-called "voluntary restraint" agreements under which, with increasing frequency, contracting parties try to limit access to their markets for certain agricultural products. To that end, notifications on all export restraint agreements in respect of agricultural products should be made.

45. Lastly, since transparency is particularly inadequate in the area of State-trading enterprises and the extent that the enterprises are involved in export or import trade in agricultural products, it is suggested that an annual review of the activities of these enterprises be carried out.

Section E. Enforcement or strengthening of existing obligations in regard to competition

46. There seem to be two main problems in regard to competition: one concerning divergent interpretations of Article XVI, and the other concerning measures not expressly covered by the General Agreement.

47. **Divergent interpretations**

(a) With dangerously increasing frequency, the clauses of Article XVI are the subject of divergent interpretations where agriculture is concerned (Article XVI:1, definition of primary products (XVI:3), selection of normal representative periods (XVI:3), definition of materially lower prices (Article 10:3 of the Subsidies Code), etc). It is suggested that independently of any dispute or complaint on a specific product, the conditions in which agreement could be reached on a uniform interpretation of the various clauses of Article XVI (including the interpretative note to that article) and of the Subsidies Code, applicable to agricultural products be examined.

(b) It is likewise suggested that there be examined the usefulness of formulating additional rules in the form of guidelines for the granting of export subsidies on agricultural commodities - whether by transposition of the OECD arrangement on export credits or by looking into the possibility of negotiating a standstill on export subsidies, or any other formula.

1/ Paragraph 10(b) specifically excludes agricultural commodities from the coverage of that instrument.
48. Measures not expressly covered by the General Agreement. As regards agricultural exports, the GATT contains no specific provisions in respect of credit sales or non-commercial transactions. Yet it is an acknowledged fact that such transactions play a considerable rôle in agricultural trade today, as reflected in volume and frequency. It is suggested that the possibilities for establishing additional rules on credit sales and non-commercial transactions be examined as well as the possible relationship of such rules with the disciplines of Article XVI and the Subsidies Code.

49. It is clear that the extensive practice of concluding medium- and long-term bilateral supply agreements has a considerable effect on the terms of international competition in regard to agricultural products, and in particular its transparency. It is suggested that a procedure be established for notification of such agreements, with provision for a discussion procedure regarding them.

50. It is suggested that the Resolutions on the disposal of surpluses and on the liquidation of strategic stocks, adopted by the CONTRACTING PARTIES on 4 March 1955, which have practically become a dead letter, should be revitalized. It is suggested that the obligation to consult with interested contracting parties should be renewed, and if necessary strengthened.

Section F. Establishment of a new co-operation obligation in regard to agricultural policy

51. It is generally recognised that the great majority of problems concerning access or competition stem from national policies on price support and agricultural income. It would be appropriate, therefore, for the CONTRACTING PARTIES to examine the possibility of developing multilateral co-operation in regard to price and agricultural income policy.

52. Apart from provisions applying to well-defined sectors (Arrangement Regarding Bovine Meat: Article III:3 - International Dairy Arrangement: Article III:3) requiring signatories to provide certain information on their domestic policies, there are no provisions in GATT establishing obligations for notification, consultation and surveillance in respect of agricultural policies in general. (It is clear, nevertheless, that these agricultural policies have a direct and indirect effect on commercial policies, and that the numerous conflicts that arise regarding access or competition in international agricultural trade stem from agricultural legislation or regulations.) At present, however, there is no opportunity in GATT for such discussion of agricultural policies at international level.

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1/ CG.18/W/59/Rev.1, paragraphs 102 to 104
3/ This was not always the case and, for example, the programme of action directed towards an expansion of international trade, adopted by the CONTRACTING PARTIES on 17 November 1958 at their thirteenth session, called on the contracting parties members of Committee II to examine "the effects (of agricultural policy measures for protection or income support) ... on international trade as a whole".
53. It is suggested that the CONTRACTING PARTIES might decide to establish a work programme under which agricultural policies would be reviewed systematically as to the import and export trade effects of the various price support and income measures. It would not be a case of passing any judgement on the sovereign and universally employed right of governments to take appropriate action to remedy the hazards and uncertainties involved in the production and marketing of agricultural produce.

54. More simply, it would be appropriate to establish, through the systematic cross-examination of agricultural policies in force, the relation of the measures pursued vis-à-vis the multilateral commitments subscribed to within GATT regarding import and export trade. It would seem that when legislating in the area of price support and income policy, legislators often tend to disregard existing international obligations or minimise the possible effects of such policies on their observance.

55. Many of the trade disputes brought before GATT in recent years have also developed because of lack of transparency in agricultural legislation or regulations. When drawing up domestic regulations on prices and support, legislators do not pay sufficient attention to the limitations placed on their action by international obligations; and furthermore, national regulations are not sufficiently known, not sufficiently published, and often not sufficiently explicit, so that conflicts with trade obligations emerge too late, when any adjustment has become very difficult politically.

56. It is suggested:

(a) that major cyclical legislation (Farm Bill, annual fixing of Community prices and supports, bi-annual negotiations in the Nordic countries, etc.) might be notified to GATT periodically, at appropriate intervals;

(b) that major legislation or regulations establishing, sometimes for several years, the policies to be pursued in a particular sector (meat, sugar, oilseeds, grains, etc.) might likewise be notified;

(c) that at the request of any contracting party, an examination might be made of the possible impact of such legislation and regulations on the commercial import and export policy of the country examined;

(d) that the results of that examination might be reported to the CONTRACTING PARTIES.
57. The Tokyo Round of multilateral trade negotiations was completed without any solution having been found to the question of the institutional framework for multilateral co-operation in the area of agricultural trade. Notwithstanding a recommendation by the Trade Negotiations Committee to the CONTRACTING PARTIES and the Council's subsequent request to the Director-General to consult with interested delegations (BISD 26S page 220, paragraph 1.3, ), one can say that only a partial solution has been found to the "framework" question. In practice, a tradition dating back to the twelfth session of the CONTRACTING PARTIES - which in 1958 had established a Committee to consider the conditions for expanding international agricultural trade - has been brought to an end. Under various appellations, that structure was in operation until 1979. Since then, apart from the International Meat Council and the International Dairy Products Council which discuss policy matters in respect of the sectors for which they have responsibility, there is no longer in GATT any structure open to all contracting parties in which general problems of agricultural trade - and possible solutions - can be discussed independently of any confrontation or dispute.

58. This deficiency could appropriately be remedied by establishing appropriate institutional arrangements in the GATT, open to all contracting parties, to monitor implementation of GATT rules which either apply, apply inadequately or do not apply at all to agricultural trade, according to the classification given in document CG.18/W/59/Rev.1, paragraph 112. Institutional arrangements could also be made for pursuing the possibilities for improving international co-operation in regard to market access and competition as suggested in paragraphs 41 to 50 above, and for reviewing regularly agricultural policies from the aspect of their relevance to international obligations under the GATT.