The secretariat has received from the secretary of the Consultative Sub-Committee on Surplus Disposal (FAO) the following letter dated 30 September 1977:

The matter of current Consultative Sub-Committee on Surplus Disposal (CSD) interest relates to the proceedings of the Fifty-First Session of the Committee on Commodity Problems (CCP) which involved a discussion of the GATT Arrangement on Certain Dairy Products. The CSD interest in the Arrangement has been described in the Twenty-Sixth Report and was supplemented by the CSD Chairman, Mr. Satish Chandra, at the Rome meeting; therefore, I don't believe it is necessary to present any further background. However, I would welcome any question you may have in this regard and I am enclosing a copy of each document for your convenience.

The CCP debate focused on the coverage of the Arrangement in terms of types of transactions and on the suggestion by some delegates that the GATT Management Committee should be requested to refer to the CSD those transactions having concessional elements in them. In this context, could you kindly let me know the extent of coverage of transactions envisaged in the Arrangement; also in light of the debate, I would be grateful if you would make arrangements to place the suggestion of referral of transactions to the CSD before the competent GATT body and advise me of the outcome of the matter.

See Annexes I and II.
The Chairman  
Committee on Commodity Problems  
Food and Agriculture Organization  
of the United Nations  
Rome, Italy  

Dear Sir,

I have pleasure in transmitting herewith the Twenty-Sixth Report of the Consultative Sub-Committee on Surplus Disposal (CSD) covering the period 1 August 1975 through 31 July 1976. At the time this report was discussed and approved by the Sub-Committee some doubt existed as to the date on which the Committee or Commodity Problems would next meet. We now know the meeting will be postponed until spring, but the Sub-Committee decided to proceed with the annual timing of its report and to supplement it in the spring if appropriate.

The CSD has continued its close review of bilateral transactions on concessional terms as well as the commodity distributions under the World Food Programme. Although the handling and coordination of Usual Marketing Requirements (UMRs), the provision for ensuring additionality of consumption of commodities supplied concessionally, resulted in no major issues, other questions connected with food aid received great attention and required extensive discussion. The CSD would welcome comments or guidance from the CCP with regard to these points, about which the Report gives further details:

- Consideration was given to the question of whether or not food aid had created problems for domestic agricultural production in the importing countries. Observations by delegates of six recipient member nations indicated unanimity of view that food aid had not adversely affected domestic agricultural production in their countries (Paragraphs 20 - 31).
- Trial definition of "relatively small size" transactions for wheat became an accepted procedure, and a definition of "relatively small size" transactions in dairy products (dried skim milk and butteroil) was established for a trial 12-month period beginning 1 April 1976 (Paragraphs 13 - 15).

- Concern was expressed that the change in the United States fiscal year beginning 1 October 1976 to a 1 October/30 September cycle may present some coordination problems in the future, for example in the establishment of UMRs (Paragraphs 16 - 17).

- Extensive discussions of "grey area" transactions (that is, transactions having both commercial and concessional features) were conducted and the possibility of broadening the Catalogue of Transactions to include some "grey area" transactions was investigated; eventually it was concluded that the "grey area" remained a complex and perplexing area of activity which needed continuing attention (Paragraphs 16 - 27).

- The last problem also points to the fact that there seems to be a "grey area" of responsibility because of some ambiguity in regard to Paragraph 8, Article III, of the GATT Arrangement for Certain Dairy Products (Paragraphs 19 - 20).

May I commend this report to your Committee for consideration and approval.

Yours sincerely,

(Sgd) Otto Bammel
Chairman
Consultative Sub-Committee on Surplus Disposal
Committee on Commodity Problems
Table of Contents

<table>
<thead>
<tr>
<th>I. Monitoring concessional transactions involving agricultural products</th>
<th>Paras.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Review of notifications of transactions</td>
<td>8 - 9</td>
</tr>
<tr>
<td>(b) &quot;Tied sales&quot; provisions</td>
<td>10 - 11</td>
</tr>
<tr>
<td>(c) Sales of commodities in UFP projects</td>
<td>12</td>
</tr>
<tr>
<td>(d) Definitions of &quot;relatively small size&quot; transactions</td>
<td>13 - 15</td>
</tr>
<tr>
<td>(e) Change in U.S. fiscal year</td>
<td>16 - 17</td>
</tr>
</tbody>
</table>

II. "Grey area" transactions: Current problems and recent history | 10 - 27 |
(a) Transactions in question and CSD mandate | 19 - 21 |
(b) Relation to previous CSD work | 22 - 23 |
(c) Conclusions | 24 - 27 |

III. Safeguarding normal patterns of production | 20 - 31 |

IV. Meetings of interest to CSD | 32 - 34 |

Appendices

APPENDIX I. List of Member Countries, Observer Countries, and Observer Organizations

APPENDIX II. List of Selected Documents Issued from August 1975 to July 1976

APPENDIX III. Transactions Notified to CSD by Type and Supplying Country (including detail by Selected Commodities) August 1974/July 1975 and August 1975/July 1976

TWENTY-SIXTH REPORT TO CCP

Introduction

1. During the 12-month period which is reviewed in this report, the Consultative Sub-Committee on Surplus Disposal (CSD) held 10 meetings\(^1\). The sub-Committee continued its main task of monitoring concessional transactions involving agricultural products and further refined its consultative and reporting procedures by agreeing on a trial definition of "relatively small size" transactions for certain dairy products. It also had an extensive discussion on a proposed transaction, the conditions of which could not be easily identified either as food aid or as commercial trade; which, in turn, stimulated a review of a provision in the GATT Arrangement on Certain Dairy Products and of earlier considerations in the CSD of transactions which fell into the so-called "grey area".

2. The CSD gave consideration to whether food aid had created problems for domestic agricultural production in the importing countries; and in this respect heard the observations of delegates from six recipient countries. The CSD also continued to follow developments in the world food situation and on the institutional arrangements as recommended by the World Food Conference.

3. The Sub-Committee is comprised of 46 Member countries, the European Economic Community (EEC), 19 Observer countries and 7 International Organizations. See Appendix I for a full list of Members and Observers. Also attending was a representative from Barbados. A list of selected documents issued for the CSD is attached as Appendix II.

4. At the 216th Meeting (January 1976), Mr. Otto Bammel, Delegate for the Federal Republic of Germany and former Vice-Chairman, was unanimously elected Chairman for the calendar year 1976. Mr. Satish Chandra, Delegate for India, was unanimously elected Vice-Chairman.

5. At the 214th Meeting (November 1975) a working group, comprising the Delegates for Australia, Canada, India, Netherlands, New Zealand, and the United States and the Representative for the European Economic Community, was established to consider a definition of "relatively small size" transactions in dairy products.

6. Mr. Robert C. Tetro retired as Secretary of the CSD on 31 January 1976. The FAO Director-General appointed Mr. Arthur Mead to the post on 22 March 1976. In recent years Mr. Mead had participated in the international affairs

\(^{1}\) This report covers the period from August 1975 through July 1976 during which the following meetings were convened:

<table>
<thead>
<tr>
<th>Meeting</th>
<th>Date</th>
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</thead>
<tbody>
<tr>
<td>213th Meeting</td>
<td>9 September 1975</td>
</tr>
<tr>
<td>214th Meeting</td>
<td>11 November 1975</td>
</tr>
<tr>
<td>215th Meeting</td>
<td>11 December 1975</td>
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<tr>
<td>216th Meeting</td>
<td>13 January 1976</td>
</tr>
<tr>
<td>217th Meeting</td>
<td>10 February 1976</td>
</tr>
<tr>
<td>218th Meeting</td>
<td>9 March 1976</td>
</tr>
<tr>
<td>219th Meeting</td>
<td>13 April 1976</td>
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<tr>
<td>220th Meeting</td>
<td>11 May 1976</td>
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<tr>
<td>221st Meeting</td>
<td>8 June 1976</td>
</tr>
<tr>
<td>222nd Meeting</td>
<td>13 July 1976</td>
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</tbody>
</table>
activities of the U.S. Department of Agriculture, including service as Assistant Administrator, Public Law 480 Programs, Foreign Agricultural Service.

1. Monitoring concessional transactions involving agricultural products

7. The CSD continued its scrutiny of notifications of bilateral transactions, giving particular attention to transactions involving dairy products, to "tied sales" provisions in food aid transactions and to questions concerning the nature of the emergency in a number of transactions reported to the CSD. Careful review was also given to notifications of transactions under the World Food Programme. To assist Member Governments in carrying out their consultation and reporting obligations, the CSD reached agreement on the trial definition of "relatively small size" transactions in dried skim milk and butteroil.

(a) Review of notifications of transactions

8. During the period August 1975 - July 1976, the CSD reviewed a total of 247 notifications of transactions compared to 294 in the preceding 12 months. The bilateral transactions involved 7 individual donor countries and the EEC; the number of recipient countries totaling 56 was slightly higher than in the previous year. Of the 170 bilateral notifications, 74 covered gifts or donations for free distribution to the final consumer (Type 1 of the Catalogue of Transactions); 63 were gifts or donations for sale on the open market of the recipient country (Type 2); 33 notifications covered credit transactions with payment terms more than 10 years (Type 10a). The number of ex post facto notifications was 55 compared with 43 for 1974/75. Of these 55, 34 were identified as "relatively small size" transactions and 21 were emergencies. Notifications of World Food Programme Projects were 77.

Notifications of Transactions: Total Number and By Type

<table>
<thead>
<tr>
<th></th>
<th>Aug 74/July 75</th>
<th>Aug 75/July 75</th>
</tr>
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<tbody>
<tr>
<td>Total notifications</td>
<td>294</td>
<td>247</td>
</tr>
<tr>
<td>From supplying countries a/</td>
<td>(232)b/</td>
<td>(170)c/</td>
</tr>
<tr>
<td>From World Food Programme (WFP)</td>
<td>(62)</td>
<td>(77)</td>
</tr>
<tr>
<td>Recipient countries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bilateral transactions</td>
<td>53</td>
<td>56</td>
</tr>
<tr>
<td>WFP Projects</td>
<td>36</td>
<td>42</td>
</tr>
<tr>
<td>Transactions by types (covering food items only)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type 1</td>
<td>90</td>
<td>74 d/</td>
</tr>
<tr>
<td>Type 2</td>
<td>97</td>
<td>63</td>
</tr>
<tr>
<td>Type 10(a)</td>
<td>45</td>
<td>33</td>
</tr>
<tr>
<td>Total</td>
<td>232</td>
<td>170</td>
</tr>
<tr>
<td>Type 6 (WFP)</td>
<td>62</td>
<td>77</td>
</tr>
</tbody>
</table>

a/ The term "countries" is understood by CSD to mean any supplying entity, including such as an association of countries. b/ Ten supplying countries. c/ Eight supplying countries. d/ 19 transactions were classified as Types 1 or 2. For purposes of this table they are classified as Type 1.
9. Among the commodities reported, there was a decrease in the volume of rice and dairy products, a substantial increase in vegetable oil, and the total of wheat and other cereals remained the same. See Appendix III for details by selected commodities.

(b) "Tied sales" provisions

10. Several delegates voiced their opposition to the United States practice of including "tied sales" provisions in their food aid transactions. In reply to the question whether such provision would be contained in future transactions, the Delegate for the United States indicated that this would be true in some instances.

11. The Secretariat list of "Usual Marketing Requirements" and "Tied" Provisions reported to the CSD, which is issued quarterly, showed 7 instances of "tied" provisions for the period 1 July 1975 - 30 June 1976. The commodities "tied" were edible oils, cotton, rice and tobacco. See Appendix IV.

(c) Sales of commodities in WFP projects

12. Among the WFP notifications reviewed, the proposed sale of World Food Programme commodities in the open market under two very large projects caused some concern to some delegates. It was noted by them that such sales were to be made only in exceptional cases, and that the project summaries did not give adequate justification for considering these cases exceptional. Subsequently, Members were informed that during the First Session of the Committee on Food Aid Policies and Programmes the WFP explained the sale, including the plan to establish special ration shops for the sale of the commodities to project workers only, and the projects were approved.

(d) Definitions of "relatively small size" transactions

13. At the 214th Meeting it was agreed following a trial period that, for the purpose of paragraph 4 of the procedures for notification, consultation and establishment of Usual Marketing Requirements (UMRs) under the FAO Principles of Surplus Disposal, the definition of a "relatively small size" transaction in wheat; i.e., a quantity of not over 10,000 metric tons aggregate per donor to a single recipient during a 12-month period, should become an accepted procedure.

14. At the same meeting a working group was established to consider the definition of a "relatively small size" transaction in dairy products. Following extensive discussions in the working group and consultations by delegates with their governments, the CSD at the 218th Meeting agreed that for a trial period of 12 months beginning 1 April 1976, "relatively small size" transactions in dairy products would be defined as a quantity of not over 400 metric tons of dried skim milk or 200 metric tons of butteroil.

1/ As the consultation and notification procedures do not apply to certain transactions including "government-to-government transactions of relatively small size and not involving sales in the local markets of the recipient country", the CSD decided that definitions were required to facilitate its work.
15. There was a difference of opinion as to the types of transactions covered by these definitions. Type 2 (donations for distribution by means of sale in the open market of the importing country) was eliminated by the conditions laid down in paragraph 4 relating to "relatively small size" transactions, and Type 6 (World Food Program projects) was not subject to bilateral consultation. It was understood that while in principle all other types of transactions could be covered, in practice it was likely that the definitions would be used only for Type 1 transactions.

(e) Change in United States fiscal year

16. At the 221st Meeting the Delegate for the United States indicated that beginning with 1 October 1976 the United States fiscal year would in the future run from 1 October to 30 September rather than from 1 July to 30 June as previously. Since the United States food aid under Public Law 480 was funded and programmed on a fiscal year basis, the United States would plan as the normal procedure to set supply periods and apply Usual Marketing Requirements coterminously with its new fiscal year, 1 October to 30 September.

17. At the 222nd Meeting the European Economic Community Representative expressed concern that United States use of its new fiscal year as the basis for its Usual Marketing Requirements might cause confusion with overlapping UMRs. He suggested that it might be preferable to base wheat UMRs on the July/June period and all other UMRs on the calendar year.

11. "Grey area" transactions: Current problems and recent history

18. During the 215th to the 221st Meetings, the Sub-Committee conducted an extensive discussion of the problems of "grey area" transactions (that is, transactions for which there was not agreement that they were either entirely commercial or entirely concessional) as related to the FAO Principles of Surplus Disposal and the Catalogue of Transactions. The discussion was initiated by enquiries concerning a particular transaction which was then under negotiation; was extended to a review of the work of the Committee on Commodity Problems on establishing the categories of transactions, the applicability of the GATT Arrangement on Certain Dairy Products, and the adequacy of the Catalogue of Transactions; and also included a review of past work in respect of the "grey area".

(a) Transactions in question and CSD mandate

19. Although the transaction in question was identified as Type 14 and not subject to CSD consultation, some delegates felt that since it contained certain concessional elements, it should be brought before the CSD according to the provisions of Article III, paragraph 8, of the GATT Arrangement for Certain Dairy Products. This paragraph reads as follows:

"Transactions other than normal commercial transactions

3. The provisions of paragraphs 1 to 7 of this Article shall not be regarded as applying to donated exports to developing countries or to exports destined for relief purposes or welfare purposes in developing countries. Such exports, and other transactions which are not normal commercial transactions, shall be effected in accordance with the FAO Principles of Surplus Disposal and shall be subject to the procedures for notification and consultation agreed upon in FAO."
20. It was pointed out that if there were some ambiguity in regard to paragraph 8 as to the categories of transactions referred to, it was up to the signatories to that Arrangement to resolve the matter. The Representative for the European Economic Community said that the official view of the Community was that the transactions referred to in para. 8 of the GATT Arrangement were the same as those which fell under the FAO framework while the Delegates for Australia and New Zealand reiterated their concern over "grey area" transactions which while not now within the mandate of the CSD might contain a substantial concessional element.

21. The CSD then considered the possibility of broadening the Catalogue of Transactions to encompass some "grey area" transactions. It was agreed that CSD had the mandate, after taking account of arrangements in other international negotiations, to examine any proposals for additions to or deletions from the List of Transactions and modifications to the Catalogue of Transactions.

(b) Relation to previous CSD work

22. It was recalled that the 1989 working group of the Committee on Commodity Problems which had convened to draw up the List of Transactions and to reach agreement on the respective competence and responsibility of the FAO and the GATT had concluded that the first 13 types, excluding short-term credit sales, were primarily food aid transactions and fell within the jurisdiction of FAO. These were adopted as the Catalogue of Transaction requiring prior consultation and notification. Types 14 through 19, while having some concessional aspects, were directly related to commercial trade and were therefore the responsibility of the GATT; however, some governments at the CCP believed that Type 14 should be included in the Catalogue. No decision had ever been reached in the GATT in respect of consultations, reporting obligations, or surveillance procedures for Types 14 through 19.

23. It was also recalled that the Sub-Committee in its earlier studies and debate on the "grey area" had encountered great difficulties in determining whether certain kinds of transactions fell within its mandate. Two efforts had been made, first by a CSD Panel (1963-1966) and then by an independent consultant (1966). Although they had identified types of transactions entering international trade, neither had been able to formulate recommendations for consideration by the CCP. The subsequent development by the Committee on Commodity Problems of the List of Transactions had in part been a response to the search for procedures for dealing with "grey area" transactions, which were generally understood as including (but not necessarily being limited to) Types 14 through 19 of the List.

(c) Conclusions

24. It was noted that governments had so far been unwilling to undertake obligations for prior consultations and notifications on Type 14 transactions. It was also noted that at the time the report of the CCP working group was being considered by the CCP some countries had hoped to have Type 14 transactions included in the list requiring prior consultation and notification.

25. In this connection, New Zealand and Australia had consistently expressed the view that any matters relating to any types of transactions whether 1 through 13, or 14 through 19, which could affect established or
potential commercial trade, were appropriate subjects for CSD consideration. They did not expect prior consultation and notification on transactions outside types 1 through 13, but would, where the need arose, seek information on any aspects of "grey area" transactions which were of relevance to the CSD's mandate.

26. On the other hand, the Representative for the European Economic Community said that while he would relay to Brussels the concern over Type 14 transactions, he nevertheless reserved the position as to whether or not the European Economic Community would be able to answer questions about transactions which at this time are not within the competence of the Consultative Sub-Committee on Surplus Disposal.

27. The CSD recognized that traditionally its members had responded to questions and requests for information on concessional transactions and related items whether or not a formal legal obligation existed for them to do so; this willingness of members to be completely open regarding facts, even if differing on policies, had been and remained one of the great strengths of the CSD. The Sub-Committee concluded that the "grey area" remained a complex and perplexing field of activity which needed continuing attention, and that such transactions might need to be dealt with case-by-case. Members agreed that the Committee on Commodity Problems should be apprised in detail of the CSD's review of this subject, noting that further guidance from the CCP would be welcomed.

III. Safeguarding agricultural production in developing countries

20. As a follow-up to questions raised at the 50th Session of the Committee on Commodity Problems, the CSD discussed whether or not concessional food aid transactions had in the past created problems for domestic agricultural production in recipient countries. It agreed to center its discussion on an overview of food aid, rather than of individual transactions. In an effort to ensure as wide a participation as possible, the Chairman wrote to the Washington Ambassadors of food recipient members of the CSD, requesting their assistance in providing delegates with information on the food aid experience within their own countries.

29. Statements at the 215th through 217th Meetings by the Delegates for India, Sri Lanka, Arab Republic of Egypt, Indonesia, Ghana and Turkey indicated unanimity of view that food aid had not adversely affected domestic agricultural production in their countries. They supported, the views expressed by the Delegate for India, namely, that food assistance was considered as a mechanism to tide developing countries over relatively short-term food shortages and to release scarce foreign exchange resources for purchase of agricultural inputs which are necessary to increase production. He stated that a good case could be made that food assistance is a major factor in helping recipient countries increase their agricultural production; at the same time, governments of such countries recognized that prices offered to farmers should not act as a disincentive to production, particularly where the agrarian sector was much larger than the Industrial sector; and finally that the ultimate objective of the recipient country was to achieve self-sufficiency in food in the shortest possible time frame.
30. There was general agreement that the statements by the representatives of the recipient countries had been useful, especially to those who supported the food aid concept; furthermore, it was suggested that they might serve as a basis for building up factual reporting by the CSD of food aid experience.

31. In this connection, the CSD was informed that the World Food Programme had undertaken three evaluations of WFP-assisted countries, namely Botswana, Egypt and Lesotho; and that, among other observations, it was concluded that the WFP aid had not acted as disincentive to food production in those countries. Further evaluations were expected to be made.

IV. Meetings of interest to CSD

32. In order to keep abreast of developments in the world food situation and on the institutional arrangements recommended by the World Food Conference, the CSD heard reports from a number of speakers.

33. Dr. Ralph Phillips, Director, International Organization Affairs, Foreign Agricultural Service, U.S. Department of Agriculture, reported on the highlights of the 18th FAO Conference (5-27 November 1975), with particular reference to the approval of the joint UN/FAO Committee on Food Aid Policies and Programmes, and the establishment of the Committee on World Food Security; Dr. Robert Spitzer, Coordinator, Food for Peace, Agency for International Development and Head of the U.S. Delegation to the 28th Session of the Intergovernmental Committee of the World Food Programme (29 September – 3 October 1975) and the First Session of the Committee on Food Aid Policies and Programmes (26 April – 7 May 1976) reported on these meetings; and Mr. Thomas C.M. Robinson, then Deputy Executive Director of the World Food Programme, reported on the World Food Programme Pledging Conference (4 February 1976) and discussed in detail the resource position of the Programme during the last few years, noting the great improvement in 1975 and the optimistic outlook for the 1977-1978 biennium.

34. In addition, Mr. Moise Mensah, Vice-Chairman and Executive Secretary of the Consultative Group on Food Production and Investment in Developing Countries (CGFPD) reported on the second meeting of that group (February 1976); Mr. Robert Service, U.S. Delegation to the CSD, reported on the meetings of the International Wheat Council and the Food Aid Committee, which were held in London in mid-February 1976; and Mr. Gordon Fraser, Assistant Administrator, International Trade Policy, Foreign Agricultural Service, U.S. Department of Agriculture, reported to the CSD on the First Session of the FAO Committee on World Food Security (5-9 April 1976). Mr. Thomas Street, Observer for the International Federation of Agricultural Producers (IFAP) brought to the attention of the Sub-Committee a statement in the final report of the 21st Conference of IFAP (27 October – 6 November 1975) which recorded the belief of IFAP that the Sub-Committee, while retaining its present terms of reference and watchdog function, should be known as the Sub-Committee on Special Transactions of the UN/FAO Committee on Food Aid.
ANNEX II

COMMITTEE ON COMMODITY PROBLEMS

CONSULTATIVE SUB-COMMITTEE ON SURPLUS DISPOSAL

STATEMENT BY MR. SATISH CHANDRA, CHAIRMAN OF CSD, BEFORE THE 51ST SESSION OF THE CCP, 3 MAY 1977

Mr. Chairman,

I am pleased to have this opportunity to attend the 51st Session of the Committee and to acquaint it with the activities of the Consultative Sub-Committee on Surplus Disposal for the period commencing 1 August 1975 and subsequent to that already reported upon at the 50th Session of the CCP.

In this context I may mention that the CSD had in July approved its 26th Report for the period August 1975-July 1976 in the expectation that the Committee would meet in October 1976. The report was transmitted to the CCP in September 1976. With the postponement of the Committee's annual meeting to Spring 1977, the CSD felt that there was no need for submitting a fresh written report and that it would be adequate if its 26th Report was suitably supplemented by an appropriate oral statement by its representative. Accordingly, I am privileged to be here to present the CSD's 26th Report, covering ten monthly meetings, as well as to report upon developments which have taken place in the CSD to date in the eight subsequent monthly meetings that were convened since the preparation of the 26th Report.

In presenting the 26th Report I would be remiss in failing to mention that this honor should more appropriately have belonged to my predecessor, Dr. Otto Bammele, Delegate from the Federal Republic of Germany to the CSD since June 1971 and Chairman of the CSD from January to December 1976. The 26th Report is in large measure the product of his endeavours. Unfortunately, in January 1977, exigencies of service required him to return to his country and the CSD lost an able and dynamic participant and Chairman. It was the unanimous view of the CSD that Dr. Bammele performed superbly as Chairman and the Sub-Committee benefitted greatly from his guidance.

So that the Committee may follow my remarks more easily, I will take up the points in the transmittal letter covering the 26th Report and develop and supplement them. Let us start with the second paragraph.

In scrutinizing bilateral concessional transactions as well as the commodity distributions of the World Food Programme, the CSD continually looks for ways to prevent misunderstandings over, and obstacles to, the provision of commodities under such transactions. I believe that this has resulted in some practical and useful concepts and actions, which contribute to the orderly development of trade in agricultural products and benefit all nations.
I will not go into details about the monitoring function of the CSD - these can be found in the report at least for the August 1975/July 1976 period - except to say that of the total bilateral transactions notified for the entire period August 1975 to March 1977, about half comprised gifts or donations for free distribution to the final consumer (Type 1 of the Catalogue of Transactions); one-third were gifts or donations for sale on the open market of the recipient country (Type 2); and the remainder were credit transactions with payment terms of more than 10 years (Type 10a) and a Type 14 transaction. I may mention that this was the first instance of a Type 14 transaction being notified to the CSD under its consultation procedures. I will come back to this later.

The Committee will note that the transmittal letter highlights five items on which CSD would welcome comments or guidance:

The first informs the Committee that the CSD had given consideration to the question of whether or not food aid had created problems for domestic agricultural production in importing countries. Discussion in the CSD on this issue centered on an overview of food aid rather than on individual transactions. Statements by representatives of recipients indicated an unanimity of view that food aid had not adversely affected domestic agricultural production in their countries. These statements were welcomed and it was suggested that they might serve as a basis for building up factual reporting by the CSD of food aid experience.

The second point in the letter concerns "relatively small size" transactions which, according to the procedures set down by the CCP, are not subject to consultation. Thus, the CSD had found it useful to quantify the term "relatively small size" in respect of wheat, dried skim milk and butter oil. After a trial period of one year, the quantification of such transactions has become part of the accepted CSD procedure. This kind of sorting-out process, it seems to me, makes consultations more meaningful. It makes sense that transactions which by their nature and size would not have any adverse effect on production and international trade should only be subject to ex post facto reporting.

The third point relates to the provision called Usual Marketing Requirements or UMR for short. As you are all aware, the CCP developed and recommended the concept of UMR's with a view to safeguarding commercial trade and to assure that commodities imported on concessional terms are additional to those which would have been imported on commercial terms in the absence of those imported on concessional terms.

Specifically, we were concerned with the problem of coordinating establishment of UMR's as well as of UMR supply and compliance periods. This problem arose because of a change in 1976 in the U.S. fiscal year from July/June to October/September and the subsequent U.S. decision to set UMR supply and compliance periods coterminal with its new fiscal year in respect of its transactions. Up to the time of the change in the U.S. fiscal year, the UMR compliance period applied by most countries for wheat and wheat flour transactions generally covered the July/June period, while for most other commodities, the UMR covered the calendar year.
After extensive discussions, the CSD agreed that the existing UMR compliance periods should continue as before. Most countries would use a compliance period of July/June for grains and the calendar year for other commodities; the United States compliance period would be coterminous with its fiscal year, October/September. Some recipient countries pointed out that differing compliance periods could create problems for them. It was agreed that the matter could be reviewed after about a year of experience.

As a result of discussions on this subject the members of the Sub-Committee agreed to observe the following procedures in regard to UMRs:

1. Donors should in all cases specify a 12-month UMR compliance period.
2. Donors should specify basic import data used in determining the UMR level; or indicate acceptance of data previously reported by another donor; or report the data source of the proposed UMR.
3. The highest UMR negotiated with a recipient country within a common 12-month period will constitute the UMR obligation, unless later revised in accordance with FAO procedures. Donors should also seek agreement during consultations on a single level where the differences in proposed levels are minimal.

While we are on the subject of UMRs, I might mention that in the last few meetings there has been discussion in the CSD regarding dry skim milk transactions for countries having a history of commercial imports of this product. The dry skim milk was to be sold on the local market and in some cases a "nil" UMR was indicated. Reasons provided initially for non-establishment of UMRs for these transactions did not fully satisfy all members of the CSD. Accordingly some felt strongly that there were not sufficient safeguards to protect commercial imports and that the FAO Principles, as they related to UMR obligations, had not been satisfied. Subsequent information made available to the CSD detailing the circumstances of these transactions, namely that they pertained to MCA's experiencing severe balance of payments difficulties and that they would not displace commercial sales, helped to alleviate the CSD's concerns on this point.

The fifth and sixth points in the transmittal letter are related to, and the notification of a Type 14 transaction may be considered part of, the discussions on the "grey area." But let me first read the two paragraphs:

- Extensive discussions of "grey area" transactions (that is, transactions having both commercial and concessional features) were conducted and the possibility of broadening the Catalogue of Transactions to include some "grey area" transactions was investigated; eventually it was concluded that the "grey area" remained a complex and perplexing area of activity which needed continuing attention (Paragraphs 15 - 27).

- The last problem also points to the fact that there seems to be a "grey area" of responsibility because of some ambiguity in regard to Paragraph C, Article III, of the GATT Arrangement for Certain Dairy Products (Paragraphs 19 - 20).
I understand that the concern expressed in the sixties by the CSD over the increasing number of transactions in the "grey area" between normal commercial trade and food aid, had in part initiated the 1969 CCP process of identifying the types of transactions which are now subject to the consultative and reporting obligations under the FAO Principles of Surplus Disposal. These are the first 13 types, excluding short-term credit sales, in the List of Transactions drawn up by the Committee and are primarily food aid transactions. Types 14 through 19, while having some concessional aspects, are directly related to commercial trade and therefore were felt to fall within the purview of GATT; however, we understand that no decision had ever been reached in the GATT in respect of consultations, reporting obligations, or surveillance procedures for these transactions.

The discussions on "grey area" transactions were renewed when a transaction containing certain concessional elements and later identified as Type 14 was brought to the attention of the CSD. While some delegates thought that the transaction could be brought before the CSD under Paragraph 8, Article III of the GATT Arrangement for Certain Dairy Products, others felt that the CSD should confine itself to clearly food aid transactions. Paragraph 8 states that certain provisions dealing with normal commercial transactions "shall not be regarded as applying to donated exports to developing countries or to exports destined for relief purposes or welfare purposes in developing countries. Such exports, and other transactions which are not normal commercial transactions, shall be effected in accordance with the FAO Principles of Surplus Disposal and shall be subject to the procedures for notification and consultation agreed upon in FAO."

The European Economic Community was of the view that the transactions referred to in the GATT provision were the same as those which were subject to the notification and consultation procedures agreed upon in the FAO, namely Types 1 through 13, excluding short-term credit transactions. Some delegates believed that there was perhaps some ambiguity in regard to the types of transactions covered by the GATT provision and it was up to the signatories of the Dairy Products Arrangement to resolve the matter. I may mention that not all signatories are members of the CSD.

The discussions on "grey area" are covered in fair detail in paragraphs 18 to 27 of the CSD report. However, I believe, the conclusions in paragraphs 24 to 27 are worth quoting:

"24. It was noted that governments had so far been unwilling to undertake obligations for prior consultations and notifications on Type 14 transactions. It was also noted that at the time the report of the CCP working group was being considered by the CCP some countries had hoped to have Type 14 transactions included in the list requiring prior consultation and notification.

"25. In this connection, New Zealand and Australia had consistently expressed the view that any matters relating to any types of transactions whether 1 through 13, or 14 through 19, which could affect established or potential commercial trade, were appropriate subjects for CSD consideration. They did not expect prior consultation and notification on transactions outside Types 1 through 13, but would, where the need arose, seek information on any aspects of "grey area" transactions which were of relevance to the CSD's mandate.
"26. On the other hand, the Representative for the European Economic Community said that while he would relay to Brussels the concern over Type 14 transactions, he nevertheless reserved the position as to whether or not the European Economic Community would be able to answer questions about transactions which at this time are not within the competence of the Consultative Sub-Committee on Surplus Disposal.

"27. The CSD recognized that traditionally its members had responded to questions and requests for information on concessional transactions and related items whether or not a formal legal obligation existed for them to do so; this willingness of members to be completely open regarding facts, even if differing on policies, had been and remained one of the great strengths of the CSD. The Sub-Committee concluded that the "grey area" remained a complex and perplexing field of activity which needed continuing attention, and that such transactions might need to be dealt with case-by-case. Members agreed that the Committee on Commodity Problems should be apprised in detail of the CSD's review of this subject, noting that further guidance from the CCP would be welcomed."

Since the 26th Report was completed, a transaction identified as Type 14 and covering skim milk powder was submitted for purposes of CSD notification and consultation by a signatory of the GATT Arrangement. The price of the commodity was approximately half the minimum level fixed for the GATT Arrangement and also of the prevailing world price; the commodity was to be used for furtherance of a social aid program in schools; and the transaction included a UPR provision to protect normal commercial trade.

The details of this transaction were also notified to the GATT whose Management Committee noted the transaction without comment. While the CSD as a whole also had no comment, the EEC Representative stated that the fact that a donor country felt obliged to consult and notify this type of transaction to the CSD should not be construed as a similar obligation on the part of other countries. My predecessor, however, felt that in future cases where such transactions were referred to the GATT, the GATT should pass them on to the Sub-Committee.

This completes my formal presentation, Mr. Chairman. I would on behalf of the CSD welcome questions, comments and guidance from the Committee on the five items which are listed in the transmittal letter, in particular the two concerned with the "grey area." In conclusion, I would like to mention that in the discharge of my responsibility as Chairman of the Consultative Sub-Committee on Surplus Disposal, I have been most fortunate in having as Vice Chairman, Mr. William Dolan, who as Delegate for New Zealand has been actively participating in the CSD for nearly four years and provided valuable support and counsel to me. I must also express my appreciation to Mr. Arthur Mead, Secretary of the CSD and other members of his staff. They have through their dedication contributed largely to the successful functioning of the CSD.