MEETING OF 16-17 MARCH 1987

Note by the Secretariat

Appointment of a Chairman and adoption of the Agenda

1. The Group held its first meeting on 16 and 17 March 1987.

2. Mr. Michael D. Cartland (Hong Kong) was appointed Chairman of the Group for the initial phase.

3. The Group adopted the agenda set out in GATT/AIR/2388.

Submission of proposals by participants, together with any background notes, on issues to be taken up in the negotiations, and on negotiating techniques

4. The Group had before it two proposals, by the United States and New Zealand (MTN.CNG/NG10/W/1 and 2, respectively) relating to particular issues to be taken up in the negotiations.

5. Several delegations considered that the international disciplines over the use of subsidies in world trade had faded and that there was little or no consensus over the meaning of vital provisions of the GATT and the Subsidies Code (hereinafter called "the Agreement"). Some rules were so vague as to invite differences of interpretation, some others were so weak as to provide few constraints over subsidy practices that adversely affected the interests of other countries. Furthermore, the dispute settlement provisions had not been able to provide effective recourse against these practices. It was also said that in certain instances, the GATT and the Agreement drew distinctions between permitted and prohibited subsidy practices that appeared to have little basis in sound economic policy. Some delegations thought that the problem was not only one of inadequacies, because even those rules which were clear had not been observed by governments. Several delegations pointed out that a number of problems existed also in the area of countervailing measures where loopholes in the existing rules permitted unilateral practices and interpretations, resulting in considerable arbitrariness, uncertainty and harassment of exporters. These problems were particularly acute for those developing participants which, despite continuing efforts, could not obtain the Agreement's treatment from one important signatory.
6. There was a view that participants' aim should be to create an atmosphere of confidence and restore the application of effective rules. There might also be a need to establish new rules, in particular where the existing rules were not capable of tackling substantial distortions of world competition. The Group should start by identifying existing inadequacies and abuses. However, it would be inconceivable to end up with lesser disciplines than existed at present.

7. The view was expressed that the objective of the negotiations should not only be increased disciplines, but the re-establishment of common disciplines for all contracting parties. It was further pointed out that there was a need to take account of the essential linkages that existed between the issues of subsidies and of countervailing duties. A certain balance of rights and obligations had been established in this area and it had to be maintained. Any more explicit limitation on the right to countervail under the terms of Article VI had to be assessed in the light of whether there was a compensating strengthening of the rights and obligations under Article XVI.

8. In the written submissions and in the discussion, a number of proposals were made as to issues to be taken up in the negotiations. Among issues related to Article XVI of the General Agreement and Articles 8, 9 and 10 of the Agreement were subsidies notification procedure, determination and assessment of serious prejudice and corresponding remedial measures, border line between export subsidies and domestic subsidies which have the effect of export subsidies, improved disciplines regarding export subsidies on primary products including their prohibition, scope of Article XVI:4 and of Article 9 including the role and effects of the Illustrative List and the question of certain products processed from primary products, application of Article 14 in the context of more advanced developing countries or more competitive sectors in those countries, and export financing. Among issues related to Article VI and Part I of the Agreement were, inter alia, definition of a subsidy (including the question of financial contribution from a government), distinction between subsidies and other measures having trade distorting effects, specificity, input subsidies, targeting, measurement of a countervailable subsidy (in particular cost to the government versus benefit to the recipient), countervailing duty procedures, definition of industry, criteria to determine injury, injury cumulation, causal link between subsidized imports and injury, and use of countervailing measures for protectionist purposes.

9. Several developing participants strongly opposed the proposal for reviewing the application of Article 14 of the Agreement in the sense outlined in MTN.GNG/NG10/W/1, rejecting the idea of graduation regarding countries or economic sectors. The view was expressed that as developing countries had very limited financial resources, they used subsidies only for important development needs and could hardly afford any further commitments. Consequently, more favourable treatment should continue to be applied in this area. It was also pointed out that many developing countries had, so far, been prevented from obtaining benefits of the Agreement and that this issue should be considered in the negotiations. It was also stressed that negotiations related to the Agreement's provisions should be open to all participants.
10. One delegation expressed the view that some of the proposed issues could be discussed only once the Negotiating Group Agriculture had completed its work on those issues. It stated that it would not prevent any discussion of those issues in this Group at this stage but it would not participate in such a discussion and would not be bound by any results thereof. It pointed out that there were many other fundamental issues which kept participants apart on which the Group should concentrate first. Some other delegations said that in their view the Negotiating Group Agriculture had primary responsibility for all aspects of agriculture which should be negotiated in that Group in the first place. Other delegations said that the mandate of the Group was very clear in that it should cover all subsidies and countervailing measures, including those that affect agriculture. Primary responsibility of one group did not mean exclusivity and the Ministerial Declaration clearly provided for consideration of the same issue in more than one group. Some delegations said that although they were prepared to wait for a while and see if any real progress would be made in the negotiations in the other group, they considered that as this Group was now at the initial stage, the identification process should not exclude any issue. The view was expressed that the attitude of not participating in the discussion of some issues could provoke other delegations not to participate in the discussion of some other issues and there would not be much left for negotiations. It was also pointed out that one group could draw on the experience and expertise of the other.

11. The Chairman proposed that participants should submit, in time before the next meeting of the Group, written proposals on issues they wanted to be taken up in the Group. These proposals would be discussed at the next meeting. After that meeting, the secretariat would compile submissions made in a detailed, annotated checklist of issues for negotiations. This checklist would constitute a basis for further work of the Group. Participants would be free to make further submissions or complete their existing submissions at any time during the initial phase and the checklist would be revised accordingly. The Group agreed to this procedure.

Observer organizations

12. The Chairman recalled that a number of international organizations had sought observer status in the bodies set up under the new round. Consultations had taken place on this subject. The question of observer status would appear on the agenda of the next meeting of the Group of Negotiations on Goods which would aim at a co-ordinated approach towards the requests. He suggested that the Group consider which international organizations were likely to be in a position to contribute to its work. No suggestions were made in response to the Chairman's statement.

Other business

(a) Recording of discussions

13. It was agreed that the secretariat would prepare a short factual note after each meeting.

(b) Date of next meeting

14. It was agreed that the next meeting would take place in the week beginning 1 June 1987.