THE TOKYO ROUND

Statement by GATT Director-General and Publication of Agreements

Following the meeting in Geneva on 11-12 April 1979 of the Trade Negotiations Committee, the body responsible for guiding the Tokyo Round of multilateral trade negotiations, agreements on most of the elements of the negotiations will now be submitted to governments.

The statement made by Mr. Olivier Long, Director-General of GATT and Chairman of the Committee, at a press conference after the meeting is given below, together with an outline of the various agreements.

Statement by Mr. Olivier Long

I am very happy to announce that the meeting of the Trade Negotiations Committee has ended with a broad measure of agreement on the issues negotiated in the framework of the Tokyo Round.

There is, however, one uncompleted sector of the negotiations. This is the examination of the adequacy of the present multilateral safeguard system. Positions of delegations on possible changes in the existing GATT rules on safeguards are closer than they were even a few weeks ago, and negotiations will continue actively, still in the context of the Tokyo Declaration, with the aim of reaching an agreement by early summer. I would emphasize that, important though the safeguards issue is, approval of the other elements of the Tokyo Round by governments will not be held up by the continuing negotiations on safeguards.

The Tokyo Round has been a very large enterprise, and it has required immense determination on the part of governments to carry it through in the face of the economic difficulties of recent years. Never before have there been trade negotiations so ambitious in aim, so complex in structure and subject-matter, or, perhaps, so long drawn-out over time. But the enormous effort invested in them has paid off.

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The results achieved should provide an important boost to international trade in the coming years, and a check on protectionism. They carry a step further the integration of developing countries into the world trading system while for the first time giving a legal and permanent basis for trade preferences for and among developing countries. And they provide a greatly improved framework of rules to govern relations among the trading nations in the final years of this century. The consequence will be a multilateral trading system that will be more free and more fair than it has been up to now.

These results of the Tokyo Round are embodied in a large number of separate agreements concerned with both tariffs and non-tariff matters.

A first computer analysis of the tariff reductions agreed upon by the major industrialized countries shows an average cut of about one third, and an important convergence or harmonization in their national tariff structures. On products of export interest to developing countries, the cuts are somewhat smaller, but still very substantial.

I believe the most important part of the Tokyo Round results is not, however, the reductions achieved in tariff levels. Far more significant, in the long run, will be the multilateral agreements on a number of non-tariff measures, and on bringing up to date some important provisions of the General Agreement on Tariffs and Trade.

Altogether there are eleven such agreements. A procès-verbal will now be opened at GATT headquarters, by which the national representatives who sign it will indicate the various texts for which they intend to seek the approval or other decision of their governments, as embodying the results of their negotiations in the areas concerned. Not all delegations are expected to be able to sign immediately, but are invited to do so at their earliest convenience.

On non-tariff measures, there are agreements on opening up government purchasing to foreign suppliers, on import licensing procedures, on the application of subsidies and countervailing duties, on the reduction of technical barriers to trade, and on customs valuation practices. In the case of customs valuation, although most of the basic text is generally acceptable, several developing countries have proposed some additional provisions; it will therefore be open to governments to accept the agreement with or without these provisions. All the non-tariff agreements provide not only a new set of disciplines which should reduce the trade hampering effects of some of the most serious non-tariff measures, but also a framework for developing future cooperation in each of these areas.

In the area of agriculture, there are separate multilateral agreements on trade in bovine meat and in dairy products. In the case of dairy products, there are still some amendments by a few delegations.
An important agreement - in fact, a whole package of multilateral agreements - has been reached under the general heading of "Framework", the reference being to the Tokyo Declaration's call for negotiations on improvements to the framework for international trade. One element of the package, to which I have referred already, is the agreement on a so-called "enabling clause", giving permanent legal standing, in particular, to the grant of trade preferences by developed to developing countries, and by developing countries to one another. Other agreements cover the use of trade measures for balance-of-payments purposes, the use of safeguard measures to help development, and the improvement of the GATT procedures for notification, consultation, dispute settlement, and surveillance. Since all these agreements affect the rules of GATT itself, they will have to be considered formally by a session of the GATT Contracting Parties, who will be called on to consider the matter later in the year.

In addition, bilateral negotiations have resulted in agreement to lift or ease specific non-tariff barriers to trade, although a complete picture on this side is not yet available. A number of participants have tabled an agreement they have reached on free trade in the civil aircraft sector, which they have invited other governments to join. Some members of the existing Anti-Dumping Code have provided for aligning some of its provisions with those of the new code on subsidies. There is also a supplementary proposal on Anti-Dumping by some developing countries. Agreement has been reached to pursue discussions on a possible multilateral body to consult on agricultural policies. There is also agreement that a priority issue after the end of the Tokyo Round will be a reassessment of the GATT rules governing export restrictions and changes.

To complete the picture, I should recall that in the area of tropical products, most developed countries have already put into effect concessions and contributions to ease import duties and other restrictions affecting imports of these products from developing countries. Some further concessions on tropical products have been made during the final weeks of the negotiations.

I have already referred to some other features of the negotiated results as they affect developing countries. The major benefits to these countries will be felt both through the liberalizing of trading conditions and through the strengthening and greater transparency of the basic rules of the GATT system, together with the provisions on consultation, surveillance and dispute settlement that should ensure that the rules function effectively. The various multilateral agreements include many provisions designed to help in meeting the particular problems of developing countries, and in several cases allow for flexibility that should enable countries which might not otherwise be able to accept the agreements to do so. Some special provisions have been made for the least-developed countries. The GATT secretariat intends to issue a detailed analysis of the results for developing countries shortly.
Separate negotiations by a number of developing countries concerning their possible accession to GATT remain to be completed.

All negotiation demands compromise, and no negotiator ever obtains all that he asks for at the beginning. I have no doubt that many - indeed, perhaps all - participants will not fail to remind us that the results of the Tokyo Round fall short of their declared initial expectations. Nonetheless, the results achieved represent, when taken together, a very substantial achievement.
THE TOKYO ROUND AGREEMENTS

IMPORTANT: The following brief summaries of:
the main features of the Tokyo Round results
are issued to help the Press. They are NOT:
an official interpretation: only the full
texts of the various agreements themselves
are authoritative.

Agreements concluded in the Tokyo Round cover:

1) Tariff concessions

Comprehensive records of agricultural and industrial commitments offered on tariffs up to 12 April 1979 have been drawn up by 14 delegations (Australia, Austria, Bulgaria, Canada, Czechoslovakia, European Communities, Finland, Japan, Hungary, New Zealand, Norway, Sweden, Switzerland and the United States), and are being deposited with the GATT secretariat. These records will be used to establish, by 30 June 1979, the Schedules that will make the concessions legally binding; it is not excluded that further concessions may be negotiated before that date with other MTN participants.

Nearly 20 other participants, including a large number of developing countries, are also offering tariff concessions and contributions. In addition, several countries are offering tariff bindings or reductions in the context of their negotiations for accession to GATT membership.

Preliminary analysis of the results

The industrialized countries have agreed to reduce, mostly over an eight-year period beginning on 1 January 1980, their import duties on many thousands of products. The reductions agreed are specified in detailed records. Certain developing countries have also agreed to make contributions in the form of bindings and reductions. Although the concessions agreed upon have been negotiated bilaterally, their benefits will, of course, under the most-favoured-nation rule, be extended to all GATT member countries.

A preliminary computer analysis has been made of the results of the tariff negotiations, based on the concessions agreed to by Austria, Canada, the European Communities, Finland, Japan, New Zealand, Norway, Sweden, Switzerland and the United States.
Very tentative estimates suggest that as of today the level of all industrial tariffs taken together has been reduced by one third if measured on the basis of customs collections and by about 35-38 per cent if based on simple average rates. The average for individual countries would differ from the overall figure, being affected, among other things, by the base date or base rate to which the calculations relate. Thus, on a global basis the cut agreed in the Tokyo Round appears to be only slightly less that that achieved in the Kennedy Round. The value of trade affected by these reductions exceeded $110 billion in 1976 and would cover an appreciably higher figure now. The most important cuts have been concentrated in non-electrical machinery, wood products, chemicals and transport equipment while less than average reductions are being made in the textiles and leather sectors.

In addition, tariff concessions were also exchanged on a number of agricultural products. These affect some $12 billion out of $18 billion of all agricultural imports in 1976.

The use of an agreed formula for tariff cutting has had the effect that those countries which had the highest initial level of tariffs have tended to make the largest reduction. Also, as a result of this harmonization effect, cuts in tariffs on finished and semi-finished products are deeper than those on raw materials, so that there has been progress in reducing the problem of tariff escalation.

As far as tariffs facing exports of developing countries are concerned, data available so far are only fragmentary. Nonetheless, it appears that the average most-favoured-nation reduction was less deep than the overall cut, being about one quarter compared with one third. There are two reasons. First, the products to which the tariff-cutting formula was not applied are relatively more important in exports of developing countries. Second, to a lesser extent, it is because the rate of reduction affecting products eligible for the Generalized System of Preferences was somewhat lower than the average overall cut. This is of course to the advantage of developing countries benefiting from those preferences. For tropical products, the most-favoured-nation rates are being cut by about one-tenth only, the tariff action taking the form mainly of improvements in the GSP. The full picture regarding most-favoured-nation cuts is, however, different if products of potential interest to developing countries are taken into account. Based on the simple average, the rate of cut then appears to be about 35 per cent, that is, only slightly less than that for all industrial products combined.
### Percentage Reduction of Ten Markets' Tariffs Combined

#### Overall Assessment

<table>
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<th>Sector</th>
<th>Calculated on the weighted average</th>
<th>Calculated on the simple average</th>
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<tr>
<td>Industry (excluding petroleum)</td>
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<td>38</td>
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<td>Raw materials</td>
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<td>36</td>
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<tr>
<td>Semi-manufactures</td>
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<tr>
<td>Finished manufactures</td>
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<td><strong>Industrial sectors:</strong></td>
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<td></td>
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<tr>
<td>Wood, pulp, paper and furniture</td>
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<tr>
<td>Textiles and clothing</td>
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<tr>
<td>Leather, rubber, footwear, travel goods</td>
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<tr>
<td>Metals</td>
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<td>Fuels (excluding petroleum)</td>
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<td>Chemicals and photographic supplies</td>
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<td>Non-electric machinery</td>
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<tr>
<td>Electric machinery</td>
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</tr>
<tr>
<td>Minerals and precious stones and metals</td>
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<tr>
<td>Manufactures n.e.s.</td>
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<tr>
<td><strong>Agriculture (products on which concessions were exchanged)</strong></td>
<td>41</td>
<td>32</td>
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MORE
## Percentage Reduction of Ten Markets' Tariffs Combined

Assessment for Products of Interest to Developing Countries

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<tr>
<th>Category</th>
<th>Weighted Average</th>
<th>Simple Average</th>
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</thead>
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<tr>
<td>Industry (excluding petroleum)</td>
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<td>37</td>
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<tr>
<td>Raw materials</td>
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<tr>
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<tr>
<td>Finished manufactures</td>
<td>24</td>
<td>39</td>
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<tr>
<td>Agricultural tropical products</td>
<td>12</td>
<td>7</td>
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MORE
(2) Multilateral agreements and arrangements on the following:

(Brief descriptions of all these agreements, the full texts of which are now available on request from the GATT secretariat, are given on the following pages.)

(a) Framework for the Conduct of World Trade, covering:

(i) Differential and more favourable treatment for developing countries, reciprocity by developing countries in trade negotiations, and their progressive fuller participation in GATT;

(ii) Trade measures taken for balance-of-payments purposes;

(iii) Safeguard action for development purposes;

(iv) Understanding on notification, consultations, dispute settlement and surveillance in GATT;

(v) Understanding regarding export restrictions and charges.

(b) Non-Tariff Measures:

(i) Customs Valuation

(ii) Government Procurement

(iii) Import Licensing

(iv) Subsidies and Countervailing Duties

(v) Technical Barriers to Trade

(c) Agriculture:

(i) Multilateral Agricultural Framework

(ii) Bovine Meat

(iii) Dairy Products

(3) Tropical products

Trade concessions and contributions on exports of tropical products from developing countries have already been implemented by most industrialized countries and were the first concrete results of the Tokyo Round. (For details, see GATT Activities in 1976, pp. 31/32). A complete assessment, including further concessions offered in the later stages of the Tokyo Round, will be published shortly.

(4) Other sectoral and non-tariff agreements, negotiated on a bilateral or plurilateral basis, covering:

(a) Trade in civil aircraft

(b) Amendments to the GATT Anti-Dumping Code.
BRIEF DESCRIPTIONS OF MULTILATERAL AGREEMENTS AND ARRANGEMENTS CONCLUDED IN THE TOKYO ROUND

(a) Framework for the Conduct of World Trade

Background

The Tokyo Round negotiations have not been confined to the lowering of tariff and non-tariff barriers to trade in industrial and agricultural products, and to the linked question of safeguards. They also presented the opportunity to review and improve the working of some of the fundamental provisions of the General Agreement on Tariffs and Trade. Although it had been modified from time to time since it originally entered into force in 1948, the General Agreement was clearly in need of some changes to keep it abreast of the great shifts that have taken place in international trade relations in recent years. Five important agreements incorporating such changes have emerged from the Tokyo Round.

The basis for these negotiations was paragraph 9 of the Tokyo Declaration, which called for consideration to be given "to improvements in the international framework for the conduct of world trade", a phrase which thus also provided the name for the "Framework" negotiating group entrusted with the task. Much of the credit for initiating and carrying through the negotiations belongs to a group of developing countries, led by Brazil, which put forward the proposals that led to the "Framework" group being set up in November 1976, and which vigorously pressed their ideas until agreement was reached in April 1979.

Brief descriptions of the five agreements concluded in the "Framework" group are given below.

(i) Differential and more favourable treatment, reciprocity and fuller participation of developing countries.

The text adopted on this subject marks an historic turning point in international trade relations by recognizing tariff and non-tariff preferential treatment in favour of developing countries as a permanent legal feature of the world trading system.

To appreciate the significance of this move, it is worth recalling that since about 1960, there has been a major shift in views about the position of developing countries in the world trading system. It has become accepted that the offer of tariff preferences is an appropriate way for developed countries to help developing countries, that preferences can also help to create and expand trade among developing countries, and that the least developed countries also need special help. In the same way, it has been accepted that the usual rule of reciprocity in trade negotiations - that a
country is expected to make trade concessions equivalent to those it receives - could not apply as far as developing countries were concerned. Preferences for, or between, developing countries were accepted in GATT by specific "waiver" decisions to authorize them in 1971, but continued to have no recognition as a permanent legal feature of the world trading system. The new agreement provides such recognition.

Non-reciprocity was recognized in 1965, in paragraph 8 of the new Article XXXVI added then to the General Agreement, but it required clarification and elaboration.

This has been done as a result of the agreement reached in the "Framework" group.

Main provisions of the text

This text has sometimes been referred to as an "enabling clause", since its key provision permits GATT members to give preferential and more favourable treatment only to developing countries, notwithstanding the most-favoured-nation provisions of Article I of the General Agreement. Such treatment is defined as covering

(a) preferential tariff rates accorded by developed to developing countries under the Generalized System of Preferences (GSP);

(b) differential and more favourable treatment for developing countries under agreements concerning non-tariff measures negotiated multilaterally in GATT;

(c) regional or global arrangements among developing countries for the mutual reduction or removal of tariffs, and - subject to whatever conditions may be prescribed - of non-tariff measures; and

(d) special treatment for least-developed countries.

There are various qualifying provisions (for example to ensure that preferential treatment is designed to help the trade of developing countries and not to raise barriers to the trade of other GATT members), and arrangements for notification and consultation. The latter provide opportunities for countries affected by preferential treatment, its modification or extension, to seek a satisfactory solution to any difficulty they experience.

On reciprocity, developed countries state that they do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of developing countries, i.e. they do not expect developing countries, in trade negotiations, to make contributions inconsistent with their individual development, financial and trade needs. Developed countries should not seek, nor should developing countries be required to make, such inconsistent concessions. Particular restraint is required in seeking concessions or contributions from the least-developed countries.
In addition, the agreement affirms the expectation of developing countries that the progressive development of their economies and improvements in their trade situation will improve their capacity to make contributions or negotiated concessions or take other mutually agreed action under the provisions of GATT, thus participating more fully in the framework of rights and obligations under the General Agreement.

(ii) Trade measures taken for balance-of-payments purposes

The draft Declaration on this subject states principles and codifies practices and procedures regarding the use of trade measures to maintain or restore balance-of-payments equilibrium. The provisions for examination of these measures by GATT's Balance-of-Payments Committee, stipulated in the General Agreement, shall henceforth apply to all restrictive import measures taken for balance-of-payments purposes.

In the preamble of this Declaration, GATT's member countries expresses their conviction that restrictive trade measures are in general an inefficient means to maintain or restore balance-of-payments equilibrium; although the needs of developing countries are recognized both as regards the use of such measures and the selection of the type of the measure to be applied. The Declaration notes that restrictive import measures, other than quantitative restrictions, have been used for balance-of-payments purposes, and that the impact of trade measures taken by developed countries on the economies of developing countries can be serious. Developed countries recognize that they should in principle avoid having recourse to trade measures for balance-of-payments purposes. If they do so, however, they agree to take account of the export interests of developing countries in determining the products to which the measures will apply.

The procedures set by the draft Declaration for regular consultations on balance-of-payments measures taken by a developing country establish certain criteria on the basis of which GATT's Balance-of-Payments Committee will decide whether to apply "simplified" or "full" procedures in each particular case. (Since December 1973, the procedure for regular consultations with developing countries has been simplified to permit the consultations to be completed on the basis of a written statement by the consulting country unless the Committee considers it desirable to have a further examination on the basis of a report from the International Monetary Fund and detailed discussions.) Provision is also made in this Declaration for the Committee to draw attention to the relation that may exist between restrictive trade measures maintained by other countries and the balance-of-payments measures of the consulting country. The technical assistance of the GATT secretariat is made available on request to developing countries in preparing for the consultations.
By giving recognition to the particular situation of developing countries with regard to their balance-of-payments, and by improving the procedures for review of difficulties they may have in this area, the draft Declaration provides an equitable and secure basis for their participation in the process of consultation on the use of trade measures for balance-of-payments purposes provided for in the General Agreement.

(iii) **Safeguard action for development purposes**

The text on this topic relates to the derogations from other GATT provisions which are accorded to developing countries under Sections A and C of Article XVIII of the General Agreement, giving them greater flexibility in applying trade measures to meet their essential development needs. Section A deals with the modification or withdrawal of tariff concessions by developing countries, and Section C with the adoption by them of measures not otherwise consistent with the General Agreement, e.g. quantitative restrictions, whether or not these affect the value of previous tariff concessions.

The purposes for which Sections A and C can be invoked have been extended. Whereas under the existing provisions of these Sections developing countries can take measures only for the purpose of establishing a particular industry, they would now be entitled to do so in order to attain broader development objectives. Developing countries are also given the possibility, in certain circumstances, of avoiding procedural delays in implementing such measures by being allowed to introduce them before carrying out the prescribed processes of consultation or negotiation.

The new provisions regarding the application of Article XVIII are expected to make it easier for developing countries to adapt their import policies to the changing needs of their economic development.

They should also permit more effective use of the GATT provisions designed to meet these needs.

(iv) **Draft Understanding on notification, consultation, dispute settlement and surveillance in GATT**

This draft Understanding contains an "agreed description" of customary GATT practice in the field of dispute settlement, as well as improvements in the existing mechanisms concerning notification of trade measures, consultations, resolution of disputes and surveillance of developments in the international trading system.

The "agreed description" aims at codifying past practice so as to bring as much clarity and transparency as possible into the operation of the dispute settlement provisions of the General Agreement. This will make resort to these provisions more predictable, and the rights and obligations of individual countries more clearly defined.

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Procedures regarding notification of trade measures and consultations have been refined, and rules have been developed concerning conciliation and resolution of trade disputes. On this last subject, detailed provisions govern the establishment, composition, prerogatives and functions of panels set up to examine complaints. Also regulated are the submission and handling of panels' findings and recommendations, and follow-up action by the Contracting Parties.

The rules governing composition of panels stipulate that their members should have a sufficiently diverse background and wide spectrum of experience to be able to deal effectively with issues involving developing countries. If a case is brought by a developing country, the Understanding provides that follow-up action on a panel's recommendations should be taken quickly.

A number of provisions deal specifically with the problems and interests of developing countries which should be given special attention during consultations. Special procedures available for the settlement of disputes between developing and developed countries have been reaffirmed. In such cases developing countries may request the good offices of the Director-General of GATT.

In their surveillance role, the Contracting Parties will pay particular attention to trade developments affecting the interests of developing countries, which may request technical assistance by the GATT secretariat on all aspects of the dispute settlement process.

The adoption in the Tokyo Round of commonly agreed and strengthened rules for the resolution of trade disputes is an important contribution to the maintenance of an open and balanced international trading system. Such rules are valuable for safeguarding the trade interests of all countries, especially of the smaller and developing countries.

(v) Understanding Regarding Export Restrictions and Charges

Past trade negotiations in GATT concentrated on the liberalization of access to markets. In recent years, however, more and more voices were heard calling for an extension of trade negotiations to the field of access to supplies. Export and import controls served similar effects, it was argued, and the Tokyo Round should therefore comprise both matters. In response to these views, the issue of export restrictions was added to the work programme of the Framework Group. However, the relative novelty of the issue and its complexity as well as diversity of views on the substance and time constraints led the Group to the conclusion that substantive negotiations on export restrictions and charges could not be fruitfully undertaken in the Tokyo Round.
The negotiators therefore limited themselves to an examination of the various provisions of the General Agreement relating to export controls and to drafting an Understanding in which the participating countries in the Tokyo Round agree upon the need to reassess these provisions in the near future in the context of the international trade system as a whole and the development, financial and trade needs of the developing countries. They request the Contracting Parties to address themselves to this task as one of the priority issues to be taken up after the Tokyo Round.

(b) Non-Tariff Measures

Background

At the heart of the Tokyo Round have been the painstakingly negotiated codes and agreements to eliminate, reduce or bring under more effective international discipline a great host of non-tariff measures affecting world trade.

In recent years, as the general level of tariff protection has declined, non-tariff measures have had increasingly distortive effects on world commerce. The complex and often very difficult negotiations to counter the negative effects of these measures have constituted one of the major features that have distinguished the Tokyo Round from earlier rounds of GATT trade negotiations.

Standing committees will administer multilateral agreements on non-tariff measures reached in the Tokyo Round. The agreements contain provisions for consultation and dispute settlement; they also provide for special and differentiated treatment for developing countries.

The principal aims and provisions of the Agreements are outlined below.

(i) Customs Valuation

Background

Customs valuation practices can have serious restrictive effects on international trade. Uncertainty over the value of an imported good for the assessment of customs duties can have a more restrictive effect on trade than the customs duty itself. The customs value is important not only for the assessment of customs duties; it is also used as a basis for taxes and charges levied at the border and for the administration of licences and import quotas when these are based on the value of goods.

The Customs Valuation Code

The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (known as the Customs Valuation Code) is intended to provide a fair, uniform and neutral system for the valuation of goods.
goods for customs purposes: a system that conforms to commercial realities, and which outlaws the use of arbitrary or fictitious customs values.

Several developing countries, while agreeing to the Code's main provisions, have put forward a separate text which contains, in their view, some important amendments to the Code's third section concerning special and differential treatment for them.

The Code provides a revised set of valuation rules, expanding and giving greater precision to the provisions on customs valuation already found in the GATT, which do not set forth the elements of a complete valuation standard. Until now, because of the provisional application of GATT, those countries whose pre-GATT legislation contained provisions not in accordance with GATT Article VII (for example, valuation on the basis of the value of merchandise of national origin) were not obliged to modify them in order to bring them into line with GATT provisions. This is why governments have so far used widely varying assessment methods, some of which have a clearly protective character.

The Code sets out five valuation methods, ranked in a hierarchical order, which must be followed by customs officers of all signatory countries. Only when no valid customs value can be found under the first method, can the second method be used, and so on.

The first, and primary, method is to base customs value on the transaction value as expressed by the invoice price - the price actually paid or payable for the goods being imported. The second and third methods, to be used if there are doubts over the invoice, rely on the transaction value of identical or similar goods exported to the same country. Under the fourth method, the re-sale price of the imported goods is used as the starting point for calculation of customs duties; the fifth method relies on computed value which consists of material and manufacturing costs, profits and general expenses for the goods being valued.

The Code, as it exists in the complete text, would give developing countries more flexibility in applying it. For instance, those developing countries that accept the Code would be able to delay applying it for five years from the date of its entry into force. They would also be able to delay application of the computed value method for a further period of three years. As the Code will enter into force on 1 January 1981, developing countries, according to this text, would have eight years before they have to apply the Code in full.

The developing countries' amended version of the Code's third section, dealing with special and differential treatment, would give greater powers to their customs' authorities to counter what developing countries see as potentially unfair advantages to exporters and importers who are related, and also to combat what their authorities might judge to be
fraudulent invoicing. The amended version would also permit developing countries to delay application of the Code for ten years from the date of its entry into force for the particular country concerned.

In both texts, the Code provides for technical assistance to developing countries to help them set up new valuation systems based on its provisions. Developed countries will furnish, on mutually agreed terms, technical assistance to developing countries that ask for it. This could include training of personnel, assistance in preparing implementation measures, access to sources of information regarding customs valuation methodology, and advice on application of the Code.

The Code also contains provisions on more technical aspects of customs valuation such as currency conversion, the right of appeal to a judicial authority, publication of laws and regulations concerning customs valuation, and on the prompt clearance of imported goods. The Code provides for the establishment of a Committee on Customs Valuation to supervise the implementation of the Code and allow signatories to consult on matters concerning its management. A Technical Committee under the auspices of the Customs Co-operation Council (CCC) in Brussels is also established.

(ii) Government Procurement

Background

In most countries the government, and the agencies it controls, are the largest purchasers of goods, ranging from farm products to simple manufactures and high technology equipment.

However, obstacles to trade which follow from discrimination in favour of domestic suppliers, or between foreign suppliers, tend to restrict international trade in products subject to government purchasing. This discriminatory treatment may take the form of price preferences to national suppliers or various kinds of preferential treatment in administrative practices and procedures. Such treatment is sometimes required by mandatory national legislation. In other cases, it results from administrative discretion or long-standing practice and habit. Existing GATT provisions permit discrimination by governments in their procurement activities.

The Agreement on Government Procurement

The Agreement on Government Procurement aims to secure greater international competition in the government procurement market. Increased competition, besides benefitting exporters, would also make more effective use of taxpayers' money in government purchases of goods.
The Agreement contains detailed rules on the way in which tenders for government purchasing contracts should be invited and awarded. It is designed to make laws, regulations, procedures and practices regarding government procurement more transparent, and to ensure that they do not protect domestic products or suppliers, or discriminate among foreign products or suppliers. The Agreement's provisions will apply to individual government contracts worth more than SDR 150,000 (about US$ 195,000).

The Agreement applies to products rather than services (which are covered only to the extent that they are incidental to the supply of products and cost less than the products). For the purposes of the Agreement, the buyer is a government entity or agency which has been listed in an annex. This list of entities resulted from negotiations among the signatories of the Agreement, which also envisages future rounds of negotiations to bring further entities within its coverage. To join the Agreement, a country is required to make a contribution in the form of a list of its purchasing entities which are covered.

For developing countries, this contribution is to be in relation to their individual development, financial and trade needs, with least-developed countries making the smallest contribution. In addition to this aspect, developing countries are able to seek exclusions, subject to periodic review, from the national treatment provision in the light of their development needs and with respect to their participation in regional or global arrangements among developing countries. Provision is also made to establish information centres for developing countries and to make available technical assistance to them for the purpose of participating in tenders and improving their procurement systems.

On the question of non-application, the Agreement says that it will not apply between parties accepting it if, at the time of acceptance or accession, one party makes clear that as far as its government procurement market is concerned, another party is excluded.

The Agreement will enter into force on 1 January 1981 for those countries which have accepted it. A Committee on Government Procurement, consisting of representatives of parties to the Agreement, is established to administer the Agreement. The parties agree to make every endeavour to resolve disputes bilaterally; rules on multilateral dispute settlement are also provided. Each year the Committee will review the Agreement's implementation and operation. Not later than the end of the third year, and regularly after that, the parties agree to undertake further negotiations aimed at broadening the Agreement's coverage and at improving it. They also undertake to explore, at an early stage, the possibilities of expanding the Agreement to cover service contracts.
(iii) Import Licensing Procedures

Background

Governments issue import licences to keep track of the nature and quantity of imports, and also to administer different types of import restrictions such as quotas (where fixed quantities of a product are allowed for import during a set period).

Import licensing requirements in some countries often involve time-consuming, needlessly complicated and expensive procedures, which can become import barriers in themselves. On the other hand, many governments find such licences helpful, and sometimes indispensable, in two ways: first, by using so-called "automatic" licensing procedures, they can gather statistical and other factual information on imports in a relatively efficient and inexpensive manner. Such licences are not related to any restrictions on the inward flow of goods, and are issued freely, with little delay. Second, in countries where there are restrictions on imports (for instance, in the form of quotas), administrations often issue "non-automatic" licences which are evidence that the particular goods being imported are permitted under those restrictions.

The Agreement on Import Licensing Procedures

The Agreement on Import Licensing Procedures aims at ensuring that these devices do not in themselves act as restrictions on imports. The Agreement recognizes that the procedures can have acceptable uses, but also that their inappropriate use may hamper international trade. By becoming parties to the Agreement, governments will commit themselves to simplifying their import licensing procedures and to administering them in a neutral and fair way.

The procedures covered are clearly defined in the Agreement, under which the parties will ensure that their administrative procedures used to implement import licensing régimes are in conformity with the relevant GATT provisions. Rules and information concerning import licensing procedures will have to be published by governments and made available to the GATT secretariat. Application forms and procedures will have to be as simple as possible, with importers given reasonable time to submit their applications and required to approach only one administrative body in nearly all instances. Licence applications cannot be refused because of minor errors in documentation, and licensed imports cannot be refused because of minor variation in value or quantity.

"Automatic" licensing procedures will have to be administered so as to have no restrictive effects on imports, and can be maintained only as long as the circumstances giving rise to their introduction prevail, or as long as their underlying administrative purposes (for example, collection of statistical information) cannot be achieved in a more appropriate way.

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The Agreement, which will enter into force on 1 January 1980, stipulates that "non-automatic" licensing procedures, which include those related to the administration of quotas and other types of import restrictions, should not have trade restrictive effects on imports in addition to the effect of the import restrictions themselves.

No multilateral agreement was reached in the Tokyo Round on liberalization of the quotas, import prohibitions and "voluntary" export restraints themselves. These were dealt with mainly on a bilateral and plurilateral basis among the participants, while a great deal of factual information on these measures was collected during the Tokyo Round for future use.

(iv) Subsidies and countervailing duties

Background

The issue of government subsidies, and the countervailing duties that are applied to offset them, has been one of the most difficult, sensitive and important of the Tokyo Round negotiations. Production and export subsidies have had a growing and distorting influence on international trade, often protecting inefficient production at the expense of competitive industries. The use of countervailing duties has grown proportionately, and resort to both measures has been encouraged by increasing protectionist pressures over the past few years.

The Code on Subsidies and Countervailing Duties

The Code on Subsidies and Countervailing Duties clarifies existing provisions on these measures already found in the General Agreement. The Code (formally known as the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade) aims to ensure that the use of subsidies by any signatory does not harm the trading interests of another, and that countervailing measures do not unjustifiably impede international trade. For this purpose, the Code establishes an agreed framework of rights and obligations covering these measures, and a mechanism for international surveillance and dispute settlement.

The Code recognizes that governments use subsidies to promote important objectives of social and economic policy, and also that subsidies may have harmful effects on trade and production. Signatory governments will commit themselves not to subsidize exports of manufactured products and minerals, and to limit export subsidies which they grant on primary (i.e. agricultural, fishery and forestry) products. The definition of the ways in which export subsidies on primary products can give an exporting country more than an equitable share of world export trade in these products has been made more precise, and the Code contains, as an Annex, an illustrative list of export

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subsidies which should not be granted. Signatories also undertake not to use domestic production subsidies in a way that would seriously harm the trade interests of other signatory countries. Here again, the Code gives examples of domestic production subsidies likely to cause such serious prejudice.

The Code brings more transparency to the practice of granting subsidies. A signatory may address a written request for information on subsidies granted by another signatory, which should give this information as fully and as quickly as possible.

On countervailing duties, signatories agree that they will apply these in accordance with the provisions of Article VI of the GATT, which requires demonstration that the subsidized imports in question are in fact responsible for causing injury to the domestic industry which has lodged the complaint. The Code sets detailed provisions for procedures in countervailing investigations, including an obligation to consult with the exporting country before such an investigation is opened. The Code stipulates that countervailing duties may be replaced by voluntary price undertakings, and sets rules for provisional and retroactive application of the duties. It also gives a precise definition of material injury and of causality.

The Code provides special procedures for settlement of disputes in the case of subsidies that are deemed to be inconsistent with the provisions of the Code or which are considered to nullify or impair the benefits accruing to a signatory under the GATT. These procedures provide that if a mutually acceptable solution has not been reached within the period specified following a request for consultations, any of the governments involved in a dispute may refer the matter to a Committee of Signatories which is established under the Code. Signatories agree to make every effort to reach a mutually acceptable settlement within the specified period. Failing this, the Committee would examine the matter and make its recommendations. If these are not followed, the Committee may authorize countermeasures. This possibility already exists under the established complaints procedures of GATT's Article XXIII. The important change is that the authority to act has been transferred from the GATT Council to the Committee of Signatories, and that strict time limits have been fixed.

The Code recognizes that subsidies are an integral part of developing countries' economic programmes. Developing countries which sign it would agree not to subsidize their industrial products in a manner which would harm the trade or production of another signatory. They would also enter into commitments to reduce or eliminate export subsidies when the use of these is inconsistent with their competitive and development needs. Developing country signatories would therefore not be subject to the flat prohibition of export subsidies on non-primary products, and the Code says there shall be no presumption that export subsidies granted by developing
country signatories result in serious prejudice to the trade or production of developed countries. The existence of serious prejudice must be demonstrated by positive evidence, through an economic examination of the impact on trade or production of the affected country. No countermeasures against developing country signatories having entered into a commitment to reduce or eliminate export subsidies will be authorized under the complaints procedure.

The Agreement will enter into force on 1 January 1980 for the governments which have accepted or acceded to it by that date.

(v) Technical barriers to trade

Background

Technical barriers to trade, resulting from technical regulations specifying characteristics to which products must conform, are likely to grow in importance as governments adopt more regulations to protect the health and safety of their populations, to safeguard the environment and to protect consumers. These regulations are often adopted for perfectly legitimate reasons, and are not intended in themselves as barriers to trade. However, they can create trade barriers in many different ways, and so can the testing requirements and certification systems which are designed to ensure that the regulations have been met.

International trade can be complicated and inhibited by disparities between regulations at local, State, national or regional levels. Governments sometimes give insufficient information on complex and detailed testing requirements, or they introduce regulations without allowing time for producers, especially foreign exporters, to adjust their production. In other cases, authorities make frequent changes to regulations which create uncertainty, or they draw up regulations in terms of design rather than performance so as to suit the production methods of domestic suppliers, thus causing difficulties to suppliers using different techniques. Other barriers to trade include complicated testing requirements; the denial of access to certification systems; and the manipulation of regulations, testing procedures or certification systems to discriminate against imports.

The Standards Code

The Agreement on Technical Barriers to Trade (also known as the Standards Code) aims to ensure that when governments or other bodies adopt technical regulations or standards, whether for reasons of safety, health, consumer or environmental protection, or other purposes, these should not create unnecessary obstacles to trade. For the first time in the field of standardization, there will be legally binding rules between governments, enabling them to complain about, and obtain redress for, code violations by
other signatories. It is important to note that the Code does not set out to draw up new technical regulations, testing and certification schemes, which fall within the activities of other institutions and organizations.

The Code applies to agricultural as well as to industrial products. Excepted from its provisions are measures deemed necessary by governments for the protection of human, animal or plant life and health; environment and national security; and the prevention of deceptive practices.

Among its major provisions, the Code requires that national technical standards and regulations should be based on international standards, where these exist. The Code stipulates that systems for certifying that standards have been met should not create unnecessary obstacles to trade; it also provides for a freer flow of information on technical regulations, through notification to the GATT secretariat of the products involved and through prior consultation with other signatories. The Code applies to local, State and regional regulations, and to voluntary standards. Central governments accept a "best endeavours" clause to this effect, and accept responsibility for compliance. Special provisions are designed to provide technical assistance to developing countries.

The Code, which will enter into force on 1 January 1980 for those governments which have accepted or acceded to it by that date, provides for the establishment of a Committee on Technical Barriers to Trade in particular with settlement of disputes.

(c) Agriculture

The agreements on tariff and non-tariff concessions, and all the multilateral agreements reached in the Tokyo Round apply to world trade in farm products, as well as to industrial products.

It has been recommended to the GATT Contracting Parties to develop active co-operation in the agricultural sector within an appropriate consultative framework, and to define this framework and its tasks as soon as possible.

In addition, the participating countries in the Tokyo Round drew up two multilateral agreements on Bovine Meat, and Dairy Products, whose aims and main provisions are described below.

(i) Arrangement Regarding Bovine Meat

International trade in meat has in recent years been particularly prone to fluctuations in supplies and prices, causing uncertainty to both exporters and importers. The Arrangement Regarding Bovine Meat aims to promote expansion, liberalization and stabilization of international trade in meat and livestock as well as to improve international co-operation in this sector. The Arrangement covers beef and veal, and live cattle.

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Signatory governments agree to establish within GATT an International Meat Council which will review the functioning of the Arrangement, evaluate the world supply and demand situation for meat, and provide a forum for regular consultation on all matters affecting international trade in bovine meat, including bilateral agreements on trade in this sector reached during the Tokyo Round. If the Council finds that a serious market imbalance has developed or is threatening to do so, and is affecting international trade in any of the products in question, it will identify possible remedial solutions for consideration by governments.

The Council will be made up of representatives of the participating countries and will meet at least twice a year. Decisions will be taken by consensus.

Under the Arrangement, signatory governments agree to provide the Council regularly and promptly with information which will enable it to monitor and assess the overall situation of the world meat market as well as the world market situation for each specific product.

The information that signatories undertake to provide includes past, current and forward-looking data on their meat production, consumption, prices, stocks and trade, as well as information on their domestic policies and trade measures, including bilateral and plurilateral agreements in the bovine sector, and they agree to notify as early as possible any changes in their policies and measures that are likely to affect the international meat trade.

Participating developing countries agree to give the Council all information they have available to them concerning the meat sector. In order to help these countries improve their data collection systems, industrialized participants commit themselves to consider sympathetically any requests for technical assistance in this sphere.

The GATT secretariat will monitor variations in international meat market data, (particularly herd sizes, stocks, slaughterings and domestic and international prices), so that symptoms of any serious imbalances in the supply and demand situation can be detected at an early stage.

The Arrangement contains provisions for consultation aimed at avoiding or resolving problems that may arise for participants. Any participant may raise before the Council any matter affecting the Arrangement. Participants have the right to request special meetings of the Council at short notice.

Entry into force of this Arrangement on 1 January 1980 entails abolition of the International Meat Consultative Group established by GATT in 1975.¹

¹See GATT Activities in 1977, pp. 55/56
(ii) International Dairy Arrangement

The world market for dairy products is no less unstable than that for meat, to which it is closely linked. There are many factors underlying this instability, notably that the market has been oversupplied in recent years, and also the smallness of the international dairy market in relation to dairy production, which primarily aims at supplying domestic markets.

International arrangements\(^1\) negotiated in GATT (setting floor prices for world trade in skimmed milk powder and in milk fat), and under the auspices of the OECD (the "Gentleman's Agreement" on minimum prices for whole milk powder) have worked satisfactorily over the past decade, and even though they only covered part of the world dairy market, they helped to avoid excessive tensions.

Participating countries in the Tokyo Round negotiated an International Dairy Arrangement which, will enter into force on 1 January 1980 for those countries having accepted it by that date; it will supersede the two arrangements negotiated earlier in GATT and referred to above. The aims of the new Arrangement are to expand and liberalize world trade in dairy products; to achieve greater stability in this trade and therefore, in the interests of exporters and importers, to avoid surpluses and shortages, undue fluctuations in prices and serious disturbances in international trade; to provide better possibilities for developing countries to participate in the expansion of world trade in dairy products so as to further their economic and social development; and to improve international cooperation in these areas. (Amendments to the Arrangement proposed by certain delegations, but not accepted by the other participants, are annexed in a separate complete text of the Arrangement.)

The Arrangement in general covers all dairy products. More specifically, as Annexes to the Arrangement, there are three Protocols which set specific provisions, including minimum prices, for international trade in: (i) certain milk powders, (ii) milk fats including butter, (iii) certain cheeses.

The participants have agreed to establish within GATT an International Dairy Products Council which will review the functioning of the Arrangement and evaluate the situation in, and future outlook for, the world dairy market. If the Council finds that a serious market imbalance has developed or is threatening to do so, and is affecting international trade in any of the products in question, it will identify possible remedial solutions for consideration by governments.

\(^1\)The Arrangement Concerning Certain Dairy Products, and the Protocol Relating to Milk Fat.
The Council will be made up of representatives of the participating countries and will meet at least twice a year. Decisions will be taken by consensus. Countries participating in the Arrangement agree to provide the Council regularly and promptly with the information that it needs to monitor and assess the world dairy market and the market for individual dairy products.

The information that the participants undertake to provide includes past, current and forward-looking data on their dairy production, consumption, prices, stocks and trade, as well as information on their domestic policies and trade measures, including bilateral and plurilateral agreements in the dairy sector, and they agree to notify as early as possible any changes in their policies and measures that are likely to affect the international dairy trade.

Participating developing countries agree to give the Council all information they have available to them concerning the dairy sector. In order to help these countries improve their data collection systems, industrialized participants commit themselves to consider sympathetically any requests for technical assistance in this sphere.

The Arrangement contains provisions for consultation aimed at avoiding or resolving problems that may arise for participants. Any participant may raise before the Council any matter affecting the Arrangement. Participants have the right to request special meetings of the Council at short notice.

Participants agree to foster recognition of the nutritional value of dairy products and of ways to make them available to developing countries. They agree, within the limits of their possibilities, to furnish dairy products to developing countries as food aid. Provision is made in the Arrangement to avoid harmful interference of food aid or concessional transactions with normal patterns of production, consumption and trade.

(4) Other sectoral and non-tariff agreements, negotiated on a bilateral or plurilateral basis in the framework of the Tokyo Round, covering:

(a) Trade in Civil Aircraft

Canada, the EEC, Japan, Sweden and the United States have reached an Agreement on Trade in Civil Aircraft which commits signatory governments to eliminate, by 1 January 1980, all customs duties and any similar charges of any kind on civil aircraft, aircraft parts, and repairs on civil aircraft. These zero duties will be legally "bound" under the GATT.

The Agreement contains an Annex listing all the products covered, ranging from passenger airliners, helicopters, gliders and ground flight simulators to food warmers and oxygen masks.

(The Agreement does not cover any military aircraft or military aircraft parts.)
Signatories agree that the provisions of the Agreement on Technical Barriers to Trade will apply to trade in civil aircraft.

As regards government procurement, the signatories agree that purchasers of civil aircraft will be free to select suppliers on the basis of commercial and technological factors. The Agreement further stipulates that "signatories shall not require airlines, aircraft manufacturers, or other entities engaged in the purchase of civil aircraft, nor exert unreasonable pressure on them, to procure civil aircraft from any particular source, which would create discrimination against suppliers from any signatory."

Signatories also agree "to avoid attaching inducements of any kind to the sale or purchase of civil aircraft from any particular source which would create discrimination against suppliers from any signatory".

The signatories agree not to apply import quotas or import licensing requirements to restrict imports of civil aircraft in a manner inconsistent with GATT provisions. This does not preclude import monitoring or licensing systems consistent with the GATT.

The Agreement notes that the provisions of the Code on Subsidies and Countervailing Duties apply to trade in civil aircraft. The signatories agree to take into account the special factors which apply in the aircraft sector, in particular the widespread governmental support in this area, their own international economic interests, and the desire of producers in all signatory countries to participate in the expansion of the world civil aircraft market.

The Agreement also establishes a Committee on Trade in Civil Aircraft, composed of all signatory countries, which will meet as necessary, not less than once a year, to review operation of the Agreement, and to provide a forum for consultation and dispute settlement.

(b) Amendments to the Anti-Dumping Code

Ten of the participants in the Tokyo Round (Australia, Austria, Canada, EEC, Finland, Japan, Norway, Sweden, Switzerland and the United States) have agreed on a revision of the GATT Anti-Dumping Code (formally known as the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade), which was negotiated by a group of major industrialized countries during the Kennedy Round (1964-1967).

This revised version of the Anti-Dumping Code brings certain of its provisions (notably those concerning determination of injury; price undertakings between exporters and the importing country; imposition and collection of anti-dumping duties) into line with the relevant provisions of the Code on Subsidies and Countervailing Duties.
Several developing countries have put forward a text which contains further amendments to the Anti-Dumping Code. A major feature in these amendments concerns products imported into developed countries from developing countries. The text put forward by the developing nations says that because of the special situation prevailing in the internal markets of their countries, the normal value for the purposes of ascertaining whether goods are being dumped shall be determined by a comparison of the export price from the developing country concerned with the comparable price of the like product when exported to any third country.