UNCTAD VI
Heads of international economic institutions condemn protectionism

At the opening of the sixth session of the United Nations Conference on Trade and Development at Belgrade in early June, the executive heads of the four world organizations concerned with economic matters all underlined the urgent need to reduce trade barriers in order to promote economic recovery and development.

The Director-General of GATT, Mr. Arthur Dunkel warns that “if the world economy is to gather strength, we need open trade policies now. We cannot wait for recovery before acting to roll back protectionist measures, and take new steps to liberalize trade, or recovery may never come”.

Speaking of the developing countries, he underlined that “if their debt burden is not to become insupportable, they must have the possibility of achieving a rate of increase in their export earnings that keeps pace with the growth in their debt-servicing requirements... Liberal trade policies will make an essential contribution to the relief of their present financial difficulties”.

Developing countries which had been able to adopt more open trade policies had promoted their own economic efficiency and growth. “The opening-up of new trade opportunities in the industrialized world for developing countries would encourage them to persevere with these policies.”

The Director-General of GATT went on to say that “trade policies are the cumulative effect of many specific decisions, involving particular domestic interests. If these decisions are not guided at every stage by political control and political courage, there is a great risk, at times when protectionist pressures are so strong, of national policies shifting to protectionism, whatever may be the intention of those responsible”.

Trade can only flourish, Mr. Dunkel said, in a context of security, and of

The Secretary-General of UNCTAD, M. Gamani Corea, stressed the changing character of the interdependence between developed and developing countries. “Today, it is not only that the fortunes of the developed countries affect the developing countries, it is also that, increasingly, the situation in the developing countries has its repercussions, whether negative or positive, on the industrialized countries and on the world economy.”

“The need to reverse protectionist trends”, Mr. Corea said, “is relevant to the recovery process of all countries, but it is a vital necessity for the reactivation of development. With barriers to their exports, the developing countries obstructed not only in terms of their capacity to service their debts but also in the very pursuit of development itself.”

Mr. Corea noted that there had for long been a consensus on the need for an open and non-discriminatory trading system and for the preferential treatment of developing countries. “What we are seeking today is to realize this commitment by reversing the trends that have negated it.”

The President of the World Bank, Mr. A. W. Clausen, insisted that “strengthening liberal trade is central to worldwide recovery. ...the current pressures for protection are partly provoked by recession, but more protection makes the recession worse–by discouraging production in other countries and by making the protected economy less efficient for years to come.”

“The best way for developing countries to revive their economies now – and the only way for indebted countries to finally overcome their current financial difficulties – is to expand exports”.

The newly industrializing countries, Mr. Clausen said, provide dramatic examples of how exports can stimulate rapid growth. “Access to markets in the industrial countries is an essential complement to outward-looking strategies on the part of the developing countries. The industrial countries should welcome competitive imports from the developing countries, and allow their own resources to be gradually reallocated to reflect shifts in comparative advantage.”

Mr. Clausen noted that all developing countries have gained from GATT negotiations, because multilateral trading rules assure all nations the same access to export markets that big trading partners negotiate. However, “because the main participants in GATT trade negotiations were the industrial countries, issues mainly of concern to the developing countries–escalating tariffs and barriers to trade in agriculture, textiles and clothing–have been virtually excluded from the agenda”. He suggested that “developing countries need to carefully assess the benefits and costs of more active participation in the GATT.”

The Managing Director of the International Monetary Fund, Mr. Jacques de Larosiere, said that if the problem of protectionism is not resolved “the world economy will be in danger of relapsing into a recessionary spiral.”

“The liberalization of world trade”, he said, “is a fundamental prerequisite to

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1The full text of Mr. Dunkel's speech is available from the Information Division of GATT (press release GATT/1338).

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THE AGREEMENT ON TRADE IN CIVIL AIRCRAFT

The Agreement on Trade in Civil Aircraft is one of the few sectoral agreements concluded under GATT auspices. It entered into force on 1 January 1980, with the possibility of a general revision three years after that date. The trade volume it covers is considerable but difficult to evaluate accurately. The civil aircraft market, which has contracted appreciably in the past three years because of the recession and the increase in oil prices, is generally expected to expand in coming years.

Objectives and disciplines

The idea of a negotiation specific to the civil aircraft sector took shape only in the latter stages of the Tokyo Round, in July 1978.

Although the civil aircraft negotiations were launched separately from the proposed sectoral approach, designed to achieve greater trade liberalization in the Tokyo Round in certain sectors, they shared the same underlying philosophy.

The Agreement aims to remove both tariff and non-tariff barriers affecting trade in civil aircraft, and to achieve a greater measure of liberalization than would result from the other Tokyo Round agreements.

Article 1 defines "civil aircraft" as comprising all aircraft other than military aircraft, together with engines, flight simulators and other parts and components, as listed in the Annex to the Agreement.

At present the Agreement has twenty signatories: Austria, Canada, the EEC and its ten member States, Egypt, Japan, Norway, Romania, Sweden, Switzerland and the United States. In addition, some twenty countries attend meetings of the Committee with observer status.

- The Agreement eliminates customs duties and quantitative restrictions as from 1 January 1980 (Article 2 and 5); this treatment is much more liberal than that provided for other industrial products on which the Tokyo Round tariff cuts and eliminations have in general been spread over seven years. The elimination of customs duties applies not only to signatories of the Agreement but also to third countries through the most-favoured-nation clause.

- The Agreement takes account of the special character of trade in civil aircraft where non-tariff barriers and trade distortions are concerned. Substantial capital resources and advanced technologies are needed to develop, produce and market new aviation products. In addition, reciprocal spill-over between civil and military aviation is an element to be taken into account. National authorities intervene in the aircraft sector in various ways: directly in the case of nationalized undertakings; but also in the private sector through aid to research, construction and exports as well as at the level of government procurement. For these various reasons, governments tend to look on the aircraft sector as particularly important in their economic and industrial policy. The preamble to the Agreement refers more or less explicitly to these specific characteristics of the aircraft sector.

- The Agreement on Trade in Civil Aircraft aims to reduce non-tariff barriers to the fullest extent possible:
  - Article 3 notes that the Tokyo Round Code on technical barriers to trade applies to these products
  - Article 6 provides that the Code on subsidies and countervailing measures is also applicable; it spells out the obligations of signatories as regards participation in, and support of, civil aircraft programmes and any adverse affects they may have. Paragraph 2 stipulates that "pricing of civil aircraft should be based on a reasonable expectation of recoupment of all costs..."
  - Article 4 lays down rules regarding government procurement: any signatory may require that its qualified firms be provided with access to business opportunities on a competitive basis and on terms no less favourable than those of the purchasing country. The signatories agree not to exert pressure on purchasers nor to attach inducements of any kind as an incentive to purchase.

Consultation and dispute settlement

While reaffirming the conciliation and dispute settlement procedures established by Article XXII and XXIII of the General Agreement, Article 8 of the Agreement on trade in civil aircraft sets up specific machinery for conciliation and dispute settlement, as in the case of the other Tokyo Round agreements. Signatories have broad possibilities for consultation. Article 8.1 provides for consultation on any matters relating to the operation of the Agreement, including developments in the civil aircraft industry, and on any matter for which it has not been possible to find a solution at bilateral level. Paragraph 6 of the same Article calls on members to consult with a view to conciliation within the framework of the Committee prior to the initiation of any investigation to determine the existence, degree and effect of any alleged subsidy.

Development of the Agreement

Article 8.3 provides that not later than the end of the third year of operation of the Agreement and periodically thereafter, members are to undertake negotiations "with a view to broadening and improving this Agreement on the basis of mutual reciprocity."

Operation of the agreement

Because the matters involved are highly technical, the Committee has established a technical sub-committee to assist it in its work.

As in the case of all the Tokyo Round agreements, the primary task of the Committee has been, and remains, to oversee the implementation and operation of the Agreement for which it has responsibility. As part of this task, the Committee asked certain signatories to clarify their trade regulations, and particularly trade restrictions covered by Article 5. This matter has been settled satisfactorily. In addition, the Committee has frequently discussed the subsidization of civil aircraft exports, and the link between obligations under Article 6 of the Agreement and those under the Code on subsidies and countervailing measures.

The Committee have also settled questions regarding the Agreement's coverage. Civil aircraft are defined by the Agreement as being all aircraft

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1 The signatories of the Agreement - the countries principally concerned in civil aircraft trade - communicate statistics on their trade to the GATT secretariat but the basis and comparability of those statistics vary considerably according to the country concerned so that no valid overall quantitative estimate is feasible.

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stability and predictability — an area in which governments have an important rôle to play. "If one government deviates from a system of law, this cannot justify other governments in doing the same. There are real problems today in international trade relations, but the answer to them lies in negotiation, not in further breaches of the rules which must weaken the whole trading system." He added: "If our objective is to maximize economic welfare and development, I see no viable alternative to the present system".

Referring to the work programme adopted by Ministers at the November 1982 session of the Contracting Parties to GATT, Arthur Dunkel noted that "we have already laid down the groundwork in GATT for a common effort to respond to many of the specific trade problems and opportunities which face us today". The GATT work programme, he pointed out, addresses the main present issues including, among others, the troubled sectors of agriculture, tropical products, textiles, non-tariff measures, and safeguard measures. GATT's Director-General underlined that the work programme "focuses on particular concerns of developing countries, and offers a starting-point for further work on opening up markets for their exports. It suggests special action to further the export growth of the least-developed countries." Carried through successfully, the work programme can "go far to restore the multilateral trading system to health and allow it to make its full contribution to international recovery, to the health of the financial system and to economic development."

CIVIL AIRCRAFT (continued)

other than military aircraft. The Committee has now defined the latter as being aircraft purchased by the military entities enumerated in a list annexed to the agreement. It has also set up a customs clearance system based on the criterion of end-use of the product, to ensure that imports (in particular of parts and components) are in fact used in the aircraft industry. A particular issue was that of aircraft repairs: it has been agreed that Article 2.12, which provides for elimination of customs duties and other charges on civil aircraft repairs, should be interpreted as applying such treatment only to the products listed in the annex to the Agreement.

Following consultations in the Committee on initiating an investigation in the United States regarding subsidies reported to have been paid to French and Italian producers of certain commuter aircraft, the investigation concluded that no injury, or threat of injury, existed.

Negotiations under Article 8.2 of the Code were scheduled to begin in January 1983 with a view to broadening and improving the Agreement. Several countries have made proposals to this end. A consensus now seems to be emerging to extend the list of products covered to sixteen more tariff headings, to which further additions could be made.

As decided by the ministers in November 1982, the Contracting Parties are to review the operation of the Agreement on trade in civil aircraft in November 1983, together with all the other Tokyo Round agreements and arrangements.

The Ministerial Declaration of November 1982 has given new force to the work of the Sub-Committee on Trade of Least-Developed Countries, set up in 1980. The Declaration recognizes the commitment of GATT members to make every effort to facilitate trade of the least-developed countries and reduce tariff and non-tariff obstacles to their exports; in addition, the Annex to the Declaration, on GATT rules and activities relating to developing countries, spells out (in paragraph 3) action to be undertaken to attain this objective.

At its meeting on 25 May, the Sub-Committee on Trade of Least-Developed Countries revised its 1980 work programme in the light of the Ministerial Declaration and of guidelines received from the Committee on Trade and Development. The Sub-Committee will monitor how those aspects of the Ministerial Declaration which concern the least-developed countries are being put into effect.

In particular, it will examine improvements to GSP schemes and in most-favoured-nation treatment for products of export interest to the least-developed countries, their participation in the Tokyo Round agreements and arrangements, and strengthening of activities to promote their exports. The work programme also provides for strengthening of the GATT secretariat's technical assistance facilities.

The Sub-Committee has also arranged to launch a series of consultations between least-developed countries and their trade partners. The aim will be to identify, for each least-developed country taking part, the problems it encounters in developing and diversifying its exports, and to examine possible solutions. The Sub-Committee has agreed to hold consultation sessions starting this autumn.

New efforts to boost trade of least-developed countries

Coming GATT activities

July
8 Working Party on Structural Adjustment
11 Committee on Import Licensing
12-13 Council (special session on notification, consultation and dispute settlement, followed by regular session)
14-15 ad hoc Group on Implementation of the Anti-Dumping Code
18-22 Textiles Surveillance Body

Provisional schedule of meetings for September
14 Working party on Structural Adjustment
15-16 Textiles Surveillance Body
19-20 Working party on US Import Restrictions on Agricultural Products
COUNCIL

Conciliation and dispute settlement

Meeting on 26 May, the GATT Council adopted the report of the panel set up to examine a Canadian complaint regarding imports of certain automotive spring assemblies into the United States. It did so on the basis of an agreed interpretation of some of the conclusions in the report, which included the understanding that adoption of the report would not foreclose future examination of the use of Section 337 of the United States Tariff Act of 1930 to deal with patent infringement cases from the aspect of consistency with Articles III and XX of the General Agreement.

The panel had concluded that the exclusion order issued by the International Trade Commission of the United States against these products on grounds of patent infringement was consistent with Article XX (“General Exceptions”) of the General Agreement, in particular with paragraph (d) regarding protection of patents. The panel also examined the issue of use of Section 337 by the United States authorities in connection with protection of patents, and reached some cautiously worded conclusions.

The Council was also informed that agreement had been reached between the parties concerned on terms of reference for the panel set up to examine a United States complaint about imports of citrus fruit into the EEC from certain Mediterranean countries on preferential conditions. The agreement included understandings on the products to be considered by the panel, examination procedures, and participation of interested countries in the panel’s work.

The representative of Nicaragua informed the Council that consultations would soon be starting between his country and the United States, under the General Agreement, concerning procedures established by Article XXIII of the General Agreement, in particular with regard to the question of counterfeit goods. The consultations are designed to help the Council to examine the question of counterfeit goods so as to determine whether joint action in the framework of GATT on the trade aspects of commercial counterfeit is appropriate, and if so, how it should be undertaken, having regard to the competence of other international organizations. The Director-General of GATT had reported on discussions on the matter in GATT, and the Director-General of WIPO provided information about the specific provisions of the Paris Convention relating to counterfeit goods and how they had been applied, as well as on the situation regarding possible further developments in the framework of WIPO. While any action would have to be decided on by governments, they agreed that it seemed desirable that the two secretariats pursue a co-operative effort in this area.

Subsidies and countervailing measures

Meeting on 9 May and on 9 and 10 June, the Committee on Subsidies and Countervailing Measures considered the reports by two panels established at the request of the United States to examine subsidies maintained by the European Community on exports of pasta products and of wheat flour. These were the first reports by panels set up under the dispute settlement procedure of Article 18 of the Code on Subsidies and Countervailing Measures, adopted at the end of the Tokyo Round.

With respect to pasta products, a majority of the panel found the subsidies inconsistent with Article 9 of the Code; one member did not.

In the case of wheat flour, the panel was unable to conclude as to whether the subsidies had resulted in the EEC “having more than an equitable share” of trade in this product, in terms of Article 10 of the Code, which lays down rules regarding export subsidies on primary products. The panel was not convinced, however, that the application of these subsidies had not caused disturbance to the commercial interests of the United States; it considered it desirable that the EEC make greater efforts to limit the use of these subsidies. From a broader perspective, the panel considered that solutions to the problem of subsidies in this area could only be found in making certain provisions of the Code more operational, stringent and effective in application. It underlined the need to arrive at a clearer and common understanding of the concept of “more than equitable share” and to consider whether international understandings relating to sales on other than commercial terms adequately complement and support intended disciplines on export subsidies.

Discussions in the Committee on Subsidies and Countervailing Measures have revealed some of the difficulties encountered by members of panels and of the Committee, in particular regarding interpretation of certain provisions of the Code such as the term “more than an equitable share” and the respective coverage of Articles 9 and 10 of the Code.

All participants who spoke recognized that the Committee on Subsidies and Countervailing Measures had responsibilities in regard to dispute settlement and an obligation to take appropriate further action on the two reports. In view, however, of differing opinions as to how the Committee should carry out its responsibilities, it has been agreed that the parties concerned should hold intensive informal consultations and that the Committee should meet again in mid-July.

At a meeting on 18-19 May, the Committee on Subsidies and Countervailing Measures decided to establish a panel to examine an EEC complaint regarding the sale on subsidized terms of 1 million tons of wheat flour to Egypt by the USA.