AGRICULTURE
Committee on Trade in Agriculture enters active work phase

After adopting its work programme on 2-3 March, the Committee on Trade in Agriculture (which had been established to carry out a two-year work programme defined in the 1982 Ministerial Declaration) met on 29 June to review progress on its documentation. At present, it is assembling information and seeking greater transparency. The Committee will begin its substantive task early in the autumn. The recommendations made by Ministers with regard to agriculture constitute an important element of the Ministerial Declaration as a whole.

All members of the Committee should have notified to the secretariat by 15 July all measures affecting trade in agricultural products, together with subsidies and other forms of aid granted on these products. In addition, an analytical index is being prepared to illustrate how the General Agreement has been implemented in respect of agricultural subsidies and other forms of aid.

All this documentation will serve as a basis for in-depth discussions in the Committee in the period October 1983 to mid-March 1984. The Committee has confirmed that its discussions will focus on two main topics:

- first, examination of measures affecting market access and supplies, including those maintained under exceptions or derogations from the General Agreement. This examination, which will proceed country by country, could

(continued on page 3)

An important task

The examination which is to be undertaken by the Committee on Trade in Agriculture should enable the Committee to make recommendations to the Contracting Parties in November 1984 on two major problems for world agricultural trade: trade barriers and competition in third markets.

This examination should have an impact on the future of international co-operation in the agricultural sector which is troubled by many difficult disputes.

COUNCIL

At its meeting on 12 July, the Council adopted the report of the Panel on restrictions against imports of certain products from Hong Kong and, as suggested in the Panel's conclusions, recommended that France terminate the quantitative restrictions which it applies on eight products mentioned in the complaint.

The Panel considered in particular that it would be wrong to interpret the fact that because over a number of years there had been no complaint against a measure under GATT's Article XXIII, this amounted to tacit acceptance of the measure by contracting parties. The Panel said the complaint should be considered strictly in the light of the provisions of the General Agreement, and not according to the principle referred to as « the law-creating force derived from circumstances », because that principle could only be relevant in the absence of law. The Panel underlined that even if some of the restrictions had been changed, they nevertheless constituted a regime of non-automatic licensing amounting to a quantitative restriction. The Panel noted that no GATT justification had been advanced for the quantitative restrictions, and that the latter were not consistent with Article XI of the General Agreement on general elimination of quantitative restrictions.

The European Community stated that it was seriously concerned by recent US decision to raise tax legislation (DISC); the United States representative informed the Council that the bill revising the tax system which had been found inconsistent with the GATT, was proceeding toward enactment.

The Council's attention was drawn to two trade issues that were causing keen concern on the part of the contracting parties affected. The European Community stated that it was seriously concerned by recent US decision to raise

(continued on page 4)

1 Including certain electronic watches, certain knitwear and clothing, radios, pleasure and sports boats, and compound optical microscopes.

2 See FOCUS No 22
AGREEMENT ON GOVERNMENT PROCUREMENT

The Agreement on Government Procurement reflects the growing importance in economic life and international trade of purchases by public authorities. Like all the non-tariff agreements drawn up in the Tokyo Round negotiations of 1973-79, it makes provision for further negotiations to improve and extend its coverage. Negotiations of this kind will be started in the autumn.

AIMS AND DISCIPLINES

The idea of liberalizing government procurement emerged only fairly late in the Tokyo Round, in 1976. A first attempt in this area had been made some years earlier in OECD, but without success. The only progress to date until then has been achieved at regional level, in the framework of EFTA and of the European Community.

Liberalization of government procurement is a new field of activity for GATT:

Article III: 8 (a) of the General Agreement stipulates that the non-discrimination obligation in respect of foreign suppliers and producers does not apply to the procurement by government agencies of products purchased for government purposes.

In the course of the negotiations it gradually became clear that not all government purchases could be open to international competition. Some countries were not in a position to subscribe to the same obligations because they have a federative structure. Furthermore, certain sectors are the responsibility of the private economy or of the State, according to the country concerned. Lastly, the EEC could not accept an agreement with broader coverage than that existing at the Community level.

The Agreement on Government Procurement is being applied by the following signatories: Austria, Canada, EEC, Finland, Japan, Norway, Singapore, Sweden, Switzerland, United Kingdom on behalf of Hong Kong, and the United States. Israel acceded to the Agreement on 29 June 1983. Several other countries have expressed interest in acceding and the Philippines has carried out active consultations to that end.

In addition, a number of developing countries are following the work of the Committee on Government Procurement, which administers the Agreement, with observer status.

The main aim of the Agreement is to ensure increased international competition and thus permit more effective use of public resources.

To this end it lays down the principles of non-discrimination and of national treatment for products from other countries parties to the Agreement and suppliers in those countries, in respect of legislation, procedures and practices regarding government procurement.

As regards coverage, the entities covered in each country party to the Agreement have been fixed by negotiation, and a list of them is annexed. In most cases, they are government entities at the central and federal level. As regards entities not covered by the Agreement, such as those which are de-centralized or are not under the direct control of the central or federal authorities, the State has only an information obligation in respect of them.

The Agreement applies to all products purchased by the entities covered, as regards civil defence purchases, an exhaustive list of the products covered is annexed.

Contracts must be in respect of products; services are covered only to the extent that they are ancillary to the supply of products and when their value is less than that of the product concerned.

The Agreement covers only procurement contracts of a value not less than SDR (special drawing rights of the International Monetary Fund) 150,000 - i.e. approximately $ 190,000 at the time when the Agreement was concluded.

Apart from the lists of entities covered, most of the provisions of the Agreement are devoted to tendering procedures. Transparency is particularly important in those procedures, so that non-discrimination in respect of foreign suppliers can be implemented and monitored. Moreover, parties to the Agreement must furnish a list of the publications carrying official information on government procurement.

The Agreement makes provision for more favourable treatment for developing countries, recognizing that government procurement is still more important for them than for industrialized countries, having regard to their financial and industrial development needs. It allows exemptions from certain obligations under the Agreement subject to negotiation. In addition, the Committee can grant temporary exemptions from the rules on national treatment to certain entities of developing countries. Lastly, industrialized countries are called on to give technical assistance to developing countries and to extend the benefits of the Agreement to least-developed countries not parties to it.

(continued on page 3)

1 Parties to the Agreement must publish all laws, regulations, judicial decisions and administrative rulings regarding government procurement.

GATT FOCUS

Newsletter published 10 times a year in English, French and Spanish by the GATT External Relations and Information Division
Centre William Rappard, 154 rue de Lausanne, 1211 Geneva 21 (tel. 31 02 31)
"HARMONIZED SYSTEM"
To facilitate international trade

The adoption of a harmonized commodity description and coding system ("harmonized system") by the Customs Co-operation Council, at its meeting in Brussels on 13–17 June, has important implications for GATT. This system should make international trade easier, ensuring greater uniformity among countries in customs classification and thus a greater ability for countries to monitor and protect the value of tariff concessions.

New negotiations planned
On 12 July, the GATT Council adopted procedures for introducing this system—a decision that in no way prejudices the position of contracting parties on adoption of the system. The latter is to become effective by 1 January 1987, provided a minimum of seventeen States or customs or economic unions have signed the relevant international convention.

Adoption of the harmonized system will require major modifications to the schedules of tariff concessions annexed to the General Agreement, more particularly in the case of countries which, like Canada and the United States do not apply the Customs Co-operation Council Nomenclature (CCCN), in the event that these countries decide to adopt the harmonized system.

In some cases, the conversion of existing concessions to the new system can be done simply through the rectification procedure, but in many others schedules will have to be renegotiated. The procedures just adopted by the Council take the form of questions and replies, and special consideration may be given to certain measures.

- Subsequently, the Committee will examine the operation of the General Agreement in the area of agricultural subsidies.

This work will begin on 4 October, at a session scheduled to last two weeks.

The Committee has elected as Chairman Mr. Aert de Zeeuw, Director-General of AGRICULTURE (continued)

Further weakening of dairy prices
The market situation for dairy products is causing keen concern. At their sessions on 27 and 28 June, the Committees which administer the protocols regarding certain milk powders, certain cheeses and milk fat noted that stocks continued to rise in the early part of 1983 and are currently at a very high level. Milk production is rising strongly in many countries, while consumption is tending to level off. The increase in cheese consumption, which until now had been a positive factor in the market, is slowing down.

This situation is reflected in generally weaker dairy prices (although these are still above the minimum levels fixed by the protocols) and also in keen competition among producers.

The Committees are to meet again on 26 and 28 September, and the International Dairy Products Council on 29 and 30 September.

define the principles and rules to be observed in connection with introduction of the harmonized system.

No tariff increases
The fundamental principle is that existing GATT bindings should be maintained unchanged. The alteration of existing bindings should not involve a significant or arbitrary increase of customs duties collected on a particular product.

Furthermore, countries should not take this opportunity to modify their bindings for reasons not associated with adoption of the new system.

Where concessions are modified, the objective in the relevant negotiations will be to maintain a general level of reciprocal and mutually advantageous concessions no less favourable to trade than that existing prior to such negotiations. The procedures to be followed in such cases will be those of Article XXVIII of the General Agreement and would be transparently simplified to take account of the considerable amount of renegotiation that is expected.

Negotiations should start at least eighteen months before the harmonized system is implemented, i.e. not later than mid-1985.

GOVERNMENT PROCUREMENT (continued)

- Consultations and dispute settlement
The Committee on Government Procurement oversees implementation of the Agreement. Like all the other committees administering non-tariff agreements, it establishes a specific mechanism for conciliation and dispute settlement.

OPERATION OF THE AGREEMENT

The Agreement on Government Procurement has been in effect only since 1 January 1981. Because the national legislation of some parties had first to be aligned with it. The Agreement constitutes a significant first step to reducing protection for domestic products and suppliers, and to providing transparency in this area. It has been operating successfully since then. The commercial impact will materialise only gradually, as entities become familiar with the opportunities it opens in markets which had traditionally been closed to foreign competition. At its meeting in November 1983, the Committee will make a major review of the special and differential treatment granted to developing countries.

The Committee has examined implementing legislation for the Agreement, as well as several matters concerning its coverage, in particular its applicability to leasing and similar practices. It has discussed the inclusion of taxes in the minimum value of procurement contracts, as well as possibilities for improving the identification of contracts covered by the Agreement.

In the context of settlement of disputes under the Agreement, a panel has been established to examine, at the request of the United States, the European Community's practice of excluding value-added tax from the contract price of purchases by EEC member States, in order to determine whether or not purchases are covered by the Agreement.

Future negotiations
Article IX:6 (b) of the Agreement provides that not later than the end of the third year from its entry into force, negotiations are to be undertaken with a view to broadening and improving the Agreement on the basis of mutual reciprocity, having regard to the provisions of Article III relating to developing countries. The Committee will explore possibilities of expanding the Agreement's coverage to include service contracts.

The Committee has decided to start these negotiations at its meeting from 2 to 4 November. It seems clear that two types of negotiations could be launched:
- the first would be on an extension of the number of entities covered: participants would exchange lists of offers and requests and would negotiate their reciprocal concessions according to the procedure used in the Tokyo Round.
- the second would concern clarification of certain provisions of the Agreement and its improvement. Several matters have already been raised in this connection.

The start of these negotiations will coincide with the major review of operation of the Agreement which the Contracting Parties are to make in November 1983 pursuant to the 1982 Ministerial Declaration.

The text of the Agreement and the lists of entities covered are obtainable from the GATT Information Division.
Japan drew the Council's attention to the given by the United States in several special steels; it questioned the significance of the undertakings recently applied on certain special steels, and pointed to the serious trade injury suffered by European producers. The Community reserved its rights under the General Agreement and asked the United States to enter into consultations. Other countries likewise expressed concern and reserved their rights. The United States declared itself ready to enter into consultation with interested countries regarding the measures, which would shortly be notified to GATT.

Safeguards – Examination of measures taken

On 12 July, the Chairman of the Council, Mr. Hans Ewerlöf, made a progress report to the Council on the informal discussions concerning safeguard measures. Rather than any restatement of positions of principle, it had been considered more useful to examine frankly, in an informal group, measures of a safeguard nature that had actually been taken, and the underlying reasons for them, with a view to improving the safeguard system.

In the discussions, he said it had become clear that the scope of these measures extended far beyond Article XIX of the General Agreement, which is the fundamental provision on safeguards. The measures were of very different kinds, comprising not only bilateral arrangements between governments (such as voluntary export restraints, orderly marketing arrangements providing for quantitative restrictions, surveillance systems, price undertakings or export forecasts) but also industry-to-industry agreements where the specific role of governments was not always clear, and unilateral actions. These measures, which were much more frequent than those taken under Article XIX, had also been used as substitutes for procedures relating to other GATT articles, notably anti-dumping or countervailing duties provided for in Article VI. The discussions had also thrown some interesting light on the circumstances in which both Article XIX and these other protective measures had been used.

The informal group had discussed the effects of certain individual measures on the trade of the importing or exporting countries involved and of third parties; concern had been expressed over the increasing use of such actions.

The examination of existing measures had aimed to answer the following questions:
- What was the precise nature of the action?
- What were the reasons that led countries to take such action?
- What were the reasons that led exporting countries to accept them?
- What were the reasons why Article XIX action had not been taken?
- What were the effects of the action, including effects on trade of third countries?
- What could be said about the phasing out of the action, including any problems that needed to be dealt with and how multilateral disciplines could be established?

The Chairman and the Director-General intended to carry forward the informal consultations, and to broaden them after the summer break. They hoped to be able to develop pragmatic proposals in time for the 1983 session of the Contracting Parties, as envisaged by the Ministerial Decision of 1982. Those proposals should aim to restore and strengthen the role of international disciplines in the use of safeguard measures, and provide for greater security, equity and transparency in the functioning of the trading system.

Reform of the international safeguard system was among the Tokyo Round objectives, but it did not prove possible to conclude the negotiations on this issue. The current informal consultations, in which participants are acting in a personal capacity, are designed to overcome the deadlock on this fundamental issue.

Special Council Meeting:

Review of developments in the international trading system, and of undertakings on protectionism

At the Council's special meeting on 12 July, the review of developments in the international trade system, carried out in the context of the Council's 1979 work programme, took on a new dimension. Henceforth, this review is to be carried out in the light of commitments set forth in paragraph 7(i) of the Ministerial Declaration of November 1982, which called on GATT Contracting Parties to resist protectionist pressures and to refrain from taking any measures inconsistent with the GATT. The Council confirmed the conclusions reached by the Consultative Group of Eighteen in May 1983 that the Council was the most appropriate forum for this review.

In view of the unfavourable trend in international trading relations, it is particularly important to be able to compare current developments in trade policy with the commitments undertaken in November 1982. Underlining this, the Director-General added that the objective should be to improve transparency and increase the ability of governments to resist pressures for the adoption of protectionist measures.

The Council decided that it would be preferable to hold two special meetings each year to consider this matter. It requested the secretariat to continue its efforts to improve transparency in regard to trade measures, and called on delegations to intensify co-operation with the secretariat. The Council will hold another special meeting before the session of the Contracting Parties in November.

1 Article XXVIII allows a contracting party to unbind a tariff in order to increase it, provided compensation is offered to the parties directly concerned. The amount of compensation is fixed by negotiation.