Meeting on 13 March, the Council adopted the report of the Panel on United States imports of sugar from Nicaragua. In accordance with its terms of reference, the Panel had considered only the trade aspects of the matter and had concluded that reduction of the sugar quota allocated to Nicaragua by the United States for fiscal year 1983/84 was inconsistent with obligations of non-discrimination laid down in Article XIII:2 of the General Agreement. The Chairman of the Panel down in Article XIII:2 of the General Agreement. The Chairman of the Panel said that the Panel members were also convinced that withdrawal of the discriminatory measure by the United States would further the objectives of Part IV of the General Agreement regarding more favorable treatment for developing countries.

The representative of Nicaragua expressed appreciation for the conclusions reached by the Panel and its expeditious handling of the matter; he underlined the importance of the injury already suffered and called for prompt implementation of the Panel’s recommendations.

While not objecting to adoption of the report, the United States representative reiterated that the sugar quota allocated to Nicaragua had been reduced for broader reasons than trade considerations. His country had not derived any economic or trade benefit from the action. The United States could envisage withdrawing the measure in the context of solution of its broader dispute with Nicaragua.

More than thirty developed and developing countries supported the report’s adoption; some of them recalled that the Ministerial Declaration of 1982 had specifically condemned trade measures taken for political reasons.

At the request of Canada, the Council established a Panel to examine the reduction by the European Communities of its duty-free newsprint quota. Canada submitted that the reduction, from 1.5 million to 500,000 tons for 1984, was in breach of the General Agreement and detrimental to Canadian interests. The EEC, for its part, indicated that the quota reduction reflected the fact that newspaper imports from the EFTA countries—the principal suppliers and largest beneficiaries of the quota—had now become duty-free under the free-trade agreement between EFTA and the EEC.

The two parties expressed the hope that the bilateral consultations might still yield an amicable solution in the near future.

First commercial policy training course in Spanish

For the first time since the GATT training courses were started in 1955, a regular commercial policy course is under way in the Spanish language. The course—the 57th organized by GATT to date—is to last four months, ending on 5 June 1984. There are 24 participants, from 17 different countries (mostly Latin American) and 2 regional organizations.

New topics for consideration

Problems of trade in certain natural resource products and the trade effects of exchange-rate fluctuations are among the new topics identified by the Ministerial session of 1982.

The Council decided to establish a working party, open to all interested parties, to study the three sectors of non-ferrous metals and minerals, forestry products, and fish and fisheries products. Two studies have already been prepared—on lead and zinc, and on fish and fisheries products, respectively. The study on forestry products will be ready in the near future. The Council considered whether it would be appropriate to set up a working party at this stage to study certain products, or to wait until all the necessary documentation was available. It was favourable, in principle, to the establishment of a working party, on the understanding that the latter’s terms of reference would be determined in consultation with interested delegations.

In response to a request by the Ministerial meeting at Geneva in 1982, the International Monetary Fund has prepared a study on erratic fluctuations in exchange rates and their effects on trade. The study, which is entitled “Exchange Rate Volatility and World Trade” has been communicated to GATT members and some preliminary comments were made on it at the Council meeting.

Further comments can be expected at the Council’s next meeting, after authorities in national capitals have had time to examine the study.

On the relationship between exchange rate variations and protectionism, the IMF study considers, inter alia, that “there are difficulties in establishing an unequivocal relationship between exchange rates and the stance of trade policy” and in separating the effects of swings in exchange rates from other factors affecting competitiveness.

After describing the general problems in this area, the IMF study examines the measurement of exchange rate variability, empirical research carried out in this field, and analyses the effects of variability on the structure of output and investment and macro-economic policy.

The IMF will be publishing this study shortly; for the moment it is available only to GATT members.
QUANTITATIVE RESTRICTIONS AND
OTHER NON-TARIFF MEASURES

Quantitative restrictions were one of the principal means of protecting economies in the period following the Second World War; although their impact has weakened considerably since GATT has been in existence, their complete elimination has not been possible.

The influence of other non-tariff measures – like technical barriers, customs practices, subsidies and import licensing – on international trade has been recognized since the inception of GATT. The six multilateral Codes concluded in the Tokyo Round in respect of some of them have represented substantial progress toward trade liberalization; nevertheless, a large number of non-tariff measures are still in effect in the industrial area. The work of the Committee on Trade in Agriculture has recently highlighted the importance and diversity of non-tariff protective measures affecting agriculture.

The 1982 Ministerial session relaunched GATT’s efforts in this area, and a systematic examination is currently being made of existing quantitative restrictions and other non-tariff measures, the reasons for their application and their compatibility with the General Agreement. The examination is taking place with a view to eliminating restrictions not consistent with the General Agreement – or making them consistent with it – and achieving liberalization.

QUANTITATIVE RESTRICTIONS

Prohibited, though with many exceptions

The fundamental idea of the authors of the General Agreement was that customs duties were preferable to quantitative restrictions, provided their application was subject to well specified conditions. Article XI, which calls for the general elimination of quantitative restrictions in whatever form, provides several exceptions in its paragraph 2, inter alia for fishery products, agricultural products and foodstuffs or other essential products; those exceptions concern situations of shortage or, on the contrary, surpluses of domestic products similar to imported products, as well as standards for the classification or grading of imported commodities.

Numerous other exceptions are allowed under other provisions of the General Agreement, in particular:

- restrictions applied for balance-of-payments purposes (Articles XII and XVIII); the conditions for invoking this exception are more flexible for developing countries;
- prohibitions or restrictions applied to protect infant industries (Article XVIII); this exception mainly concerns developing countries;
- prohibitions or restrictions necessary to protect public health or security (Articles XX and XXI);
- restrictions that constitute a temporary measure taken as safeguard action (Article XIX).

In addition, restrictions can be applied in the context of waivers granted under Article XXV (exceptional circumstances); this is, for example, the case of the temporary waiver granted to the United States in 1955 to allow that country to maintain, inter alia, quantitative restrictions on certain agricultural products. Waivers have also been granted under Protocols of Accession negotiated by GATT members, for example that of Switzerland.

Non-discriminatory application of restrictions

This is the second principle governing quantitative restrictions, and is developed in Article XIII, in particular with respect to import quotas allocated among several suppliers.

Nevertheless, Article XIV allows exceptions from that principle when restrictions are applied for balance-of-payments reasons under Articles XII or XVIII.

A good beginning

Considerable progress was made in the early years of GATT’s existence, toward eliminating the quantitative restrictions that were being applied by most countries for balance-of-payments reasons.

By a Decision adopted in 1955, the Contracting Parties nevertheless granted temporary waivers so that industries which had enjoyed protection by means of quantitative restrictions over a certain period could adjust to the new situation.

In 1960 it was decided to clarify these residual restrictions by asking countries maintaining them to notify any that they recognized as being inconsistent with the General Agreement, and engage in consultations regarding them.

At the same time, efforts were made to liberalize restrictions particularly affecting the exports of developing countries. On the basis of the Haberler Report of 1958, the Contracting Parties made several recommendations in that context, and periodic consultations with developed countries applying restrictions took place in the late 1960s and early 1970s.

Sector approach

A sector approach to quantitative restrictions was also undertaken. A Committee was set up to examine problems resulting from generalized recourse to non-tariff measures in order to protect agriculture or contribute to maintain the income of agricultural producers. In addition, the various agreements on textiles (Short-Term Agreement and first Long-Term Arrangement on cotton textiles, then the Multifibre Arrangement of 1974) provided for existing restrictions to be progressively removed or aligned with the arrangement concerned, while establishing the possibility of introducing new restrictions in well-defined circumstances.
Little progress in multilateral negotiations

There were negotiations on quantitative restrictions, in both the Kennedy Round and the Tokyo Round but little progress was made toward their liberalization in either the industrial or the agricultural areas. In the Tokyo Round, the negotiators were unable to reach agreement on a multilateral approach; lists of requests and offers were exchanged on specific issues, yielding some improvements here and there. Multilateral disciplines were set up only in regard to import licensing formalities, some of which are applied in connection with quantitative restrictions while others merely constitute import formalities.

Continuing clarification efforts

GATT's work on quantitative restrictions continued between the Kennedy and Tokyo Rounds and, since then, more particularly on restrictions covering products of special interest to developing countries. Possibilities were examined for liberalizing certain restrictions, and the Committee on Trade and Development organized a series of bilateral and plurilateral consultations on the subject in March 1982. The developing countries called for a general approach to the elimination of quantitative restrictions inconsistent with the provisions of the General Agreement, and for restrictions affecting the interests of developing countries to be liberalized as a matter of priority. The developed countries, for their part, felt that appreciable progress had been made in that area during the Tokyo Round, particularly in respect of restrictions affecting tropical products.

Present situation

The Ministerial session of November 1982 called for further efforts to clarify and liberalize quantitative restrictions and other non-tariff measures, more particularly those affecting products of export-interest to developing countries.

The Group on Quantitative Restrictions and Other Non-Tariff Measures was set up to carry out these tasks, and is to complete its detailed examination in April. It will start to discuss its conclusions before the summer break, and in September and October will frame its recommendations for submission to the Contracting Parties in November. Initially the Group has updated existing documentation.

NON-TARIFF MEASURES

From the General Agreement to the Kennedy Round

GATT gave attention to non-tariff measures from the outset, and Part II of the Agreement contains numerous provisions in regard to their use. Although such measures, and in particular anti-dumping and countervailing duties, were examined in the late 1950s and early 1960s, it was not until the Kennedy Round that negotiations were non-tariff measures other than quantitative restrictions. The main result of those efforts was the Anti-Dumping Code of 1967.

A Herculean task!

In concrete terms, international trade involves the exchange of thousands of products. The inventory of quantitative restrictions is based on nomenclatures that are very detailed and comprise more than a thousand tariff lines. Notifications presented by contracting parties in this area represent nearly 1,000 pages. Even so, this effort to achieve transparency is by no means completed. The inventory of quantitative restrictions will continue to be updated, while the Group on Quantitative Restrictions and Other Non-Tariff Measures is drawing up its conclusions.

As to other non-tariff measures applied in the industrial sector, some thirty different types have been identified in another inventory which, though less voluminous, is nevertheless substantial (approximately 1,000 pages). The documentation on measures applied in the agricultural area comprises about 2,000 pages, but covers both quantitative restrictions and tariff bindings.

Our readers should note, however, that these documents are for use by delegations only and are not available to the general public.

Thereafter, five working parties were set up to study the five categories of non-tariff measures identified in the industrial sector (see box below) and an inventory of those measures was drawn up. The working parties assembled and analysed information on non-tariff measures, identified trade problems and examined possible solutions, including those of a multilateral nature, that could be negotiated. Their work served as a basis for the major part of the negotiations on non-tariff measures during the Tokyo Round.

What are non-tariff measures?

The inventory of measures applied in the industrial sector groups them in five categories:

1. State participation in trade, and restrictive practices tolerated by governments (State aids, countervailing duties, government procurement, etc.);
2. Customs and administrative formalities on imports (anti-dumping duties, customs valuation, consular formalities and documents, rules of origin, etc.);
3. Technical barriers to trade;
4. Specific limitations (various forms of quotas, prohibitions, exchange control, discrimination resulting from bilateral or supply agreements, price-control measures on the domestic market, export restrictions, etc.);
5. Import charges (prior deposits, surcharges, various taxes, border tax adjustments, discriminatory restrictions in regard to credit, etc.).

In the agricultural area, differentiation is made between measures affecting imports and exports but, although classified differently, they are more or less of the same types, as in the industrial area, with the exception of sanitary and phytosanitary regulations which are specific to agriculture.

H. E. Mr. André Onkelink (Belgium), Chairman of the Group on Quantitative Restrictions and Other Non-Tariff Measures, receiving from GATT experts the voluminous documentation on these matters.

1 An article on these consultations was published in FOCUS No. 13.
GATT’s Director-General on making good use of reciprocity

In an address¹ given on 23 March at the Chinese University of Hong Kong in the context of a programme of public lectures on trade and industry sponsored by Li and Fung, the Director-General of GATT, Arthur Dunkel, said that three fundamental principles underlie the General Agreement: non-discrimination, open markets, fair conditions of competition in third markets. They are basically simple and are underpinned by another principle or concept, that of reciprocity, or the equivalence of concessions which has, however, been the cause of some misunderstanding. Mr. Dunkel recalled that, from the political aspect, the principle of reciprocity has made it possible to overcome resistance and pressures for protection, since each concession granted has been matched by an equivalent opening of a partner’s market. In combination with the principle of the most-favoured-nation clause, reciprocity has brought about an enormous geographical extension of the benefits of tariff reduction.

"But the presentation of liberalization in terms of concessions and sacrifice has distorted the basic arguments for free trade to such an extent that the search for reciprocity now threatens to set back the process", warned GATT’s Director-General. The correct statement of the reciprocity concept is that “the benefit of liberal trade to each participating country increases as the number of participants increases, but it does not follow that one particular country cannot afford to practice liberal policies unless all others do”. The fact is, considers Arthur Dunkel, that trade liberalization benefits first and foremost the country practising it.

Moving forward

“It is interesting and significant that a number of countries have been able to agree in principle to advance the implementation of the tariff cuts negotiated in the Tokyo Round. This will be a very welcome symbol of the will to make progress, and although the agreement was reached without great fanfares, I know that it is not a negligible achievement. The next stage, which is to roll back protectionism by eliminating some of the measures now in force, will be much harder.”

As regards the possibility of undertaking new multilateral negotiations, which has been mentioned recently in several capitals, Arthur Dunkel sees that desire to move forward as an encouraging change from the defensive preoccupations which stultified the Ministerial meeting.

Re-stating his position in that regard, the Director-General of GATT underlined that any such initiative, if it were not to be premature and counter-productive, would have to be based on a widely shared understanding as to the agenda and objectives of the negotiations.

“Given the time major negotiations necessarily take, it would be important not to postpone the resolution of immediate problems, where it is possible, in the hope of wrapping them up in a wider package.”

Against this background, the GATT Work Programme adopted by the Ministers is important because it covers all the current trade issues, both those which are urgent in the short term and the possible long-term improvements in the trade system. It thus comprises both an agenda for the short term and a basis for thorough preparation of any longer-term initiative. “For these reasons I regard thorough and timely implementation of the Work Programme as the priority this year, and its follow-up next year as more important still.”

¹ This address is available from the GATT Information Service.

On 15 May, the Council is to hold one of its two annual special meetings devoted to examining the international trading system; a regular meeting will follow on 16 May.

GATT FOCUS

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Coming GATT activities

Provisional programme of meetings

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Six multilateral Codes, and liberalization in specific areas

Six multilateral arrangements on non-tariff measures were concluded in the Tokyo Round; they concern technical barriers to trade, subsidies and countervailing measures, updating of the Anti-Dumping Code, import licensing procedures, customs valuation and government procurement.

Bilateral or plurilateral negotiations are under way on other measures, for which no multilateral solutions were negotiated, through exchanges of requests and offers in respect of certain products (in particular agricultural and tropical products).

The Ministerial session of November 1982 established a new Group to continue GATT work on non-tariff measures and to examine them together with quantitative restrictions. It is still too early to predict what concrete results can be achieved in this very extensive sector. Nevertheless, some countries have indicated that they could more readily envisage liberalizing non-tariff measures than quantitative restrictions.