COUNCIL

China’s foreign trade regime under examination

Introducing a memorandum on China’s foreign trade regime to the Council on 4 March, the Chinese Ambassador stated that his country would continue its policy of openness and reform. China, like all the developing countries, wished a policy of openness and reform. China, like all the developing countries, wished to modernize its economy. China’s trade had borne witness to that policy of openness. He asked that a working group be established in line with the usual procedures to examine the Chinese trade regime and to set the conditions for China’s return to GATT.

China’s request received the approval of many countries who also expressed their interest in participating in the work of the group in a constructive spirit. The European Community took the view that China’s request had a symbolic value betokening support for the multilateral system. China’s accession to GATT, he said, would modify the balance of rights and obligations, and the negotiations would have to define clearly China’s present and future contribution to GATT.

The Council agreed to establish a working group. It instructed its Chairman, Ambassador Alan Oxley (Australia), to hold consultations on the chairmanship and terms of reference of the working group and on any matter relating to its establishment. It invited contracting parties to put their questions on the Chinese memorandum in writing as is the normal procedure.

Trade disputes in progress

The Council established a panel to examine the customs user fee charged by the United States under the Consolidated Omnibus Budget Reconciliation Act of 1985 as amended in 1986. The European Community and Canada, in two separate complaints, held that that fee, which was charged on an ad valorem basis, was not commensurate with the cost of the service rendered and was inconsistent with the provisions of Articles II and VIII of the General Agreement. Several other countries expressed their interest in the matter and reserved the right to submit a communication to the panel.

The United States representative observed that many countries charged similar fees. In view of the number of countries interested in the question he took the view that a working group open to all would have been more appropriate than a panel, but he did not oppose the consensus reached on the establishment of a panel.

The terms of reference and composition of the panel will be decided upon after consultation.

The United States representative warned the Council against the repercussions which blocking the examination of a dispute would have on the new round of multilateral negotiations. The representative of the EEC warned the Council against the repercussions which blocking the examination of a dispute would have on the new round of multilateral negotiations.

The Council authorised its Chairman to hold consultations on the establishment of a panel so as to enable it to take a decision at the 15 April session. The EEC representative requested that the panel’s terms of reference and composition should also be included in the consultations.

Sixty-third GATT Trade Policy Course

Twenty-four officials from as many developing countries are taking part in the sixty-third GATT Trade Policy Course which began on 23 February and will end on 16 June 1987. The course, to be conducted in French, will emphasize the issues under consideration in the Uruguay Round of trade negotiations.

Since the programme began in 1955, the GATT trade policy courses have benefited 1,002 officials from 113 countries and ten regional organizations.

(Continued on page 6)
Tariffs, GATT’s traditional territory

Tariffs have been the GATT’s traditional and most successful field of activity. While there are exceptions, the tariff is, in principle, the only instrument of protection allowed by the General Agreement. Under Article II, contracting parties can “bind” their tariffs—i.e. so doing, they are fixed and can only be raised if compensation is negotiated under the terms of Article XXVIII. Article XIX authorizes emergency action, which may take the form of raising tariffs, and provides for the grant of compensation. Under Article XVIII, Section A, paragraph 7(a), developing countries are accorded more favourable treatment enabling them to raise tariffs in order to promote the establishment of an industry.

Although the seven rounds of trade negotiations held in GATT since 1947 have lowered the level of tariff protection in industrialized countries to a point where they are of minor significance in their trade effect, there are still some peaks of tariff protection for sensitive goods whose export is often of interest to developing countries. The level of tariff protection is generally higher for agricultural products than for manufactures. In developing countries not only is the level of customs duties higher than in developed countries on average, but the degree to which such duties are bound is much less; as a result, they can be raised at will and without engaging in the negotiations for the grant of compensation provided for in Article XXVIII.

Although tariff negotiations have been somewhat overshadowed by more recent interest in non-tariff measures, they are, nevertheless, expected to retain considerable importance in the new Round.

The field of negotiation

The negotiation plans adopted by the Group of Negotiations on Goods on 28 January 1987 marked out the field of negotiation by identifying the main questions on which the negotiators will have to take decisions in the initial phase, thus:

• Would it be appropriate to devise a **general formula of tariff reduction**, expressed as a mathematical equation, or to resort to other negotiating techniques such as a system of requests and offers as used before the Kennedy Round? In the past, the total value of concessions obtained through the exchange of lists has proved smaller than that achieved through the application of a general formula of reduction, even one qualified by exceptions.

• Should such a formula have a **harmonising** effect, i.e. should it provide for a reduction more or less proportional to the level of the tariffs, so as to “crop” the highest tariffs?

• What negotiating technique should be applied to **agricultural products**? In the past such products have escaped the application of a formula of tariff reduction and concessions have been exchanged through lists of requests and offers.

• Should tariffs of less than 5 per cent, which are regarded as “nuisances” because the cost of collecting them exceeds the revenue they yield, be eliminated or should they be maintained as a form of protection? What scope should be allowed in negating them at a time when recent currency fluctuations have far exceeded such rates?

• Should more marked results be sought in **certain sectors** by eliminating or reducing relatively high duties and tariff escalation? Escalation means applying higher duties as the degree of processing of a product increases. It consequently favours the importation of a particular product at the primary commodity or semi-manufacture stage at the expense of its importation as a finished product. While of interest to some industrial countries tariff escalation is of particular importance to many developing countries. It affects particularly, though not exclusively, products of which they are exporters, such as natural resource-based products.

The search of a higher degree of liberalization in certain sectors, both on tariff and non-tariff measures was discussed and then abandoned during the previous round of negotiations. The Agreement on Trade in Civil Aircraft, however, represents a more comprehensive approach, going as it does beyond the elimination of tariffs and non-tariff measures.

• What commitments could be undertaken with regard to the **binding** of tariffs? There are wide discrepancies even between developed countries, and the developing countries in general bind their tariffs only to a minor degree.

• What treatment should the **developing countries** be given for purposes of tariff negotiation? This question affects the whole Round, but its application could be varied to suit the characteristics of each negotiating sector. If the developing countries should make tariff cuts, would they adopt the same technique as the developed countries or one specific to themselves? Some participants believe that one contribution the developing countries could make to the tariff negotiations would be to accept a higher degree of binding of their tariffs.

• The establishment of a **comparable data base** for the tariffs applied by all countries participating in the negotiations is a technical question of vital importance. The situation is complicated by the fact that a new commodity description and coding system, the Harmonized System will take effect at the beginning of 1988. The transposition of tariffs into this new system entails in many cases renegotiating their existing lists of concessions in order to maintain the balance of concessions and levels of protection. These renegotiations, which are in progress, are being held under the terms of Article XXVIII of the General Agreement. Should the pursuit of the multilateral tariff negotiations await the institution of this new system, and how should the negotiations under Article XXVIII be co-ordinated with the multilateral negotiations?

(Continued on page 5)
The negotiating group meetings have largely concentrated on general statements outlining starting positions together with consideration of practical activity necessary to move the negotiations forward in line with the plans agreed in late-January.

**Tariffs – 10 February**

The group looked at the approach to a tariff cutting exercise; for instance, whether it should be based on a request-and-offer procedure or on a mathematical formula affecting all products and sectors. The need for major reductions in or the elimination of particularly high tariffs was raised as was tariff escalation and the extension of tariff bindings. Among the practical matters discussed was the expansion and up-dating of the data base needed to carry out the negotiation and the relationship between the Harmonized System of customs nomenclature, to be introduced on 1 January 1988, and the tariff negotiations in the context of the Round.

**Non-tariff Measures 10 February**

As required in its mandate, the group began an examination of the issues to be covered and the relationship between this negotiation and those in other areas – for instance, natural resource-based products and textiles and clothing. For some delegations there was an important distinction to be made between negotiations in this group and the ‘rollback’ of measures which were not in conformity with the GATT. At the group’s first meeting these countries made clear that the main focus would be to return the textiles sector to GATT rules. The group concentrated on the need to prepare up-to-date new background material on the current state of the textiles sector. In this respect, it was suggested that parts of the Secretariat study “Textiles and Clothing in the World Economy”, first published in 1984, should be updated.

**Textiles and Clothing 11 February**

For certain textile exporting participants in the Round textiles is a key element of major economic significance, having long been subject to institutionalized restrictions outside the GATT. At the group’s first meeting these countries made clear that the main focus would be to return the textiles sector to GATT rules. The group concentrated on the need to prepare up-to-date new background material on the current state of the textiles sector. In this respect, it was suggested that parts of the Secretariat study “Textiles and Clothing in the World Economy”, first published in 1984, should be updated.

**Agriculture – 16–18 February**

In line with the first point in its negotiating programme the group devoted a large part of its first meeting to general statements concentrating on the identification of major problems affecting trade in agriculture and their causes. Some delegations chose to propose some initial approaches to remediing those problems. It was agreed that existing information on measures and policies affecting trade in agriculture should be updated urgently through national notifications. (Continued on page 6)

### Uruguay Round

#### Negotiating Groups

1. Tariffs
2. Non-Tariff Measures
3. Natural Resource-Based Products
4. Textiles and Clothing
5. Agriculture
6. Tropical Products
7. GATT Articles
8. MTN Agreements and Arrangements
9. Safeguards
10. Subsidies and Countervailing Measures
11. Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods
12. Trade-Related Investment Measures
13. Dispute Settlement
14. Functioning of the GATT System

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<td>Textiles and Clothing</td>
<td>Director-General of Agriculture, The Netherlands</td>
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<td>Vice-Chairman: Mr. Siaka Coulibaly (Côte d'Ivoire)</td>
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<td>Director-General of Trade Policy, Department of External Affairs, Canada</td>
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**Surveillance Body**

Chairman: Mr. Madan G. Mathur
Deputy Director-General, GATT
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The Tariff Rounds, from Geneva (1947) to Uruguay

The history of GATT is bound up with that of the tariff rounds. The main negotiations have been as follows:

April–October 1947  The first multilateral negotiations—Geneva Round: The 23 countries participating in the drafting of the Havana Charter negotiated at the same time tariff cuts covering a trade volume representing half of world trade. 45,000 tariff concessions were exchanged.

1949–1956  Tariff negotiations were held at Annecy (1949), Torquay (1950–51) and Geneva (1955–56). Only the Torquay Round yielded appreciable tariff reductions (of some 25 per cent in relation to the 1948 level).

May 1961–March 1962  Dillon Round. Following the establishment of the European Economic Community in 1957, large-scale tariff negotiations were held between September 1961 and May 1962 under Article XXIV:6 of the General Agreement. Under that Article, any customs union or free-trade area must be examined by GATT in order to ensure that its establishment does not result in a higher average level of protection of its members in relation to third countries.

These Article XXIV:6 negotiations were supplemented by a round of tariff negotiations, proposed by Douglas Dillon, Under-Secretary of State of the United States. The Dillon Round yielded modest results: only 4,400 tariff concessions were exchanged, and agriculture and certain sensitive products were excluded from them.

November 1963–May 1967  Kennedy Round. The adoption of new tariff negotiating methods (multilateral across-the-board reduction) for industrial products resulted in an average tariff reduction of 35 per cent in this area, staged over five years. Product-by-product reductions in the agricultural sector were much less substantial.

With the Kennedy Round, the negotiations went beyond the subject of tariffs for the first time, leading in particular to the conclusion of the Anti-Dumping Code, the first multilateral GATT agreement on non-tariff measures. This Round was also the starting point for formal recognition of a preferential mechanism in favour of the developing countries (non-reciprocity; faster implementation of concessions on products of interest to them; food aid) which was subsequently embodied in Part IV of the General Agreement, adopted in November 1964.

September 1973–Tokyo Round. The Ministerial Meeting held at Tokyo from 12 to November 1979 14 September 1973 ended with unanimous adoption of the Tokyo Declaration by the 102 developed and developing countries represented there which were resolved to engage in trade negotiations of unprecedented scope. In February 1974 a work programme was adopted by the Trade Negotiations Committee (TNC) set up to oversee the negotiations. Ninety-nine countries, representing nine-tenths of world trade, took part. The results went far beyond the scope of previous negotiations, particularly in the non-tariff field and in agriculture, and included the preparation of a legal framework and the institution of an agreement on free trade in civil aircraft.

Tariffs have been reduced on thousands of industrial and agricultural products, the cuts being implemented in stages up to January 1987 and ahead of schedule by several developed countries. The value of trade affected by these tariff cuts amounts to some US$300 billion. The weighted average duty, i.e. the rate of duty weighted according to the volume of trade in the product concerned, of the nine principal industrial markets has been reduced from 7 to 4.7 per cent for industrial products, representing a cut of 34 per cent. By way of comparison, the weighted average duty was 35 per cent before the establishment of GATT and 15 per cent before the Dillon Round. Generally speaking, the biggest cuts have been applied to the highest duties, so that the tariffs of the principal countries have been brought closer together or "harmonised". In the agricultural sector, on the other hand, the cuts have been less substantial.

Furthermore tariff and non-tariff cuts have been granted on exports of tropical products from developing countries. Most of these were implemented in 1976 and 1977.
Work of the Negotiating Groups Gets Under Way (continued)

- Tropical Products – 26 February

This is an area in which extensive preparatory work for a negotiation had already been carried out in the GATT prior to the Punta del Este meeting. This fact, along with the special attention envisaged for tropical products in the Ministerial Declaration led many delegations, especially those from developing countries, to call for a particularly expeditious process in this area. It was agreed that work should go ahead on the updating of background information and the database necessary for the negotiation.

- Review of GATT Articles

The first meeting of this group gave delegations a chance to indicate which GATT Articles might be the subject of review and possible negotiation. Naturally, it was recognized that some Articles will be treated, at least in the first instance, in other negotiating groups (for instance, that on subsidies). Among the most frequently mentioned Articles were XXIV (rules relating to customs unions and free trade areas) and XXVIII (rules governing negotiations for the modification of tariff schedules). Reviews of Articles XVII, XI, XII, XIII, XV, XVIII, XXI, XXV and the Protocol of Provisional Application were also proposed.

- MTN Agreements and Arrangements – 6 March

Initial ideas on which of the Tokyo Round codes might be the subject of improvements were tabled. At the same time, certain more general questions were raised: for instance, whether or not non-signatories to the codes could participate in their renegotiation; the link between the work of this group and the activities of other groups which may affect Tokyo Round codes; and the relationship between negotiations in this Group and the existing commitments of the code committees to revise and improve their agreements.

* * *

- Negotiating Group on Services

The first meeting of this group began with a wide ranging general debate on the legal basis of the negotiation and the general objectives in seeking a framework of rules and disciplines for the services sector. Further debate focused on the elements agreed in the programme adopted at the end of January. Thus, there was discussion on definitional and statistical issues, on the concepts on which principles and rules might be based, on the coverage of the framework, and on measures or practices which contribute to or limit the expansion of trade in services.

- Surveillance Body – 26 February

The Surveillance Body, which is responsible, with the Trade Negotiations Committee, for overseeing the ‘standstill’ and ‘rollback’ commitments in the Punta del Este Declaration spent its first meeting considering several aspects of its working procedures. In particular, it discussed the nature and content of notifications on national measures; the relationship between the political commitments of concern to the Surveillance Body and matters taken to the legally-based GATT disputes procedure; and the possibility of surveillance body discussions on potential measures which have not passed national legislatures or not been implemented.

COUNCIL (continued)

In addition the Council established a working group to examine the restrictions applied by Canada to exports of unprocessed salmon and herring. The United States considered that the restrictions were not justified under Articles XI and XX of the General Agreement and that their essential purpose was to preserve jobs in Canada. The United States and Canada had held consultations on the question, in the course of which Canada had maintained that its restrictions were not contrary to the General Agreement and were applied pursuant to its legislation on the preservation of species.

Canada repeated its arguments but did not oppose the establishment of a panel. The panel’s composition and terms of reference will be decided upon after consultations.

Several cases relating to draft legislation were also brought to the Council’s attention. In particular a number of countries expressed their anxiety with regard to the planned EEC tax on vegetable fats and oils, stating that that tax would cause injury to their exports. Japan for its part, drew the Council’s attention to the draft anti-dumping regulations under study in the EEC as they affected products assembled in the Community.

Textiles

On the occasion of the adoption of the Textiles Committee’s report, several developing countries expressed their anxiety with regard to the bill of a United States “Textiles and Apparel Law” of 19 February which, if enacted, would cause them great injury. In their view, that bill was not merely inconsistent with Article XIX of GATT, which it invoked, but with the Multifibre Arrangement and the commitments made at Punta del Este with regard to standstill and the return of the textile sector to GATT. They argued that the bill would be unjustified having regard to the improvement of the situation in the United States textile industries and would undermine the chances of success for the Uruguay Round.

Convention of Lomé

In addition the Council established a working party to examine, in accordance with the usual procedures, the third Convention of Lomé concluded between the European Community and the African, Caribbean and Pacific (ACP) States.

Concern about pensions and salaries

The informal group established by Ambassador Chiba (Japan), the Chairman of the Council, in 1986 to examine the situation resulting from the fall of the dollar as it affected the salaries and pensions of Professional staff of the GATT Secretariat stated that the situation had worsened and that the system of monetary correction had not had the effects expected of it.

The Council agreed to take up the question again at its May session on the basis of a report from the Budget Committee on the various options.