Council

US PETROLEUM TAX DISPUTE SETTLED

In what many quarters praised as a timely demonstration of the effectiveness of the GATT dispute-settlement process, the Council adopted, at its meeting of 16-17 June, a report by a Panel which examined complaints by Canada, the European Communities and Mexico against certain provisions of the US Superfund Amendments and Reauthorization Act of 1986. The process – from the establishment of the Panel in February to the adoption of its report in June – took only four months.

The Panel examined two complaints: first, that the US petroleum tax for domestic oil was 8.2 US cents per barrel while that imposed on imported petroleum was 11.7 cents; and second, a tax on certain imported substances which provided for a further tax if importers failed to provide sufficient information.

With respect to the first case, the Panel concluded that the US petroleum tax was inconsistent with the first sentence of Article 111:2, which provides for National Treatment on International Taxation and Regulations and, consequently, constituted a prima facie case of nullification and impairment. It considered that an evaluation of the trade impact of the tax was not relevant to this finding. It suggested that the Contracting Parties recommend that the US bring the tax into conformity with its obligations under the General Agreement.

With respect to the tax on certain imported substances, the Panel found it constituted a tax adjustment corresponding to the tax on certain chemicals that was, in principle, consistent with Article III:2 and that the existence of the penalty rate provisions as such did not constitute an infringement of the same GATT provision since the US tax authorities had regulatory power to eliminate the need for the imposition of the penalty rate. It recommended that the Contracting Parties take note of the statement by the US to the Panel that the penalty rate would in all probability never be applied.

Many countries expressed satisfaction with the manner in which the dispute had been settled. Canada expressed appreciation for the co-operation of the principal and third parties. Mexico, after noting that it was the first time it had ever submitted a dispute to the GATT, praised the way the Panel had respected the calendar and the clear and precise language of its conclusions and recommendations. The European Communities said the Panel had probably set a record for expeditious work, and the process showed that the GATT dispute settlement mechanism could work effectively if parties cooperated. The United States said the process should serve as a model to other dispute panels because it had been efficient, expeditious and was a result of co-operation from all the parties concerned. Although it was still examining the implications of the report, they would not prevent the adoption of the report or of the recommendations.

Concerns raised

The Council also took note of three requests for consultations under Article XXIII:1 of the General Agreement.

- EC/US. The European Communities said that it had requested consultations concerning Section 337 of the US Tariff Act of 1930, particularly with regard to certain aramid fibres.

- Japan/US. Japan asked for consultations with respect to the US imposition last April of tariffs on US$ 300 million worth of Japanese goods. It claimed the measure violated Articles I (General Most-Favoured-Nation Treatment) and II (Schedules of Concessions) of the General Agreement. The United States expressed its willingness to discuss the issue.

- US/India. The United States requested consultations with respect to India's licensing regime as applied to almond imports.

Two other trade issues were raised at the Council meeting. The European Communities claimed that the United States, in transposing its tariffs to the Harmonized System had impaired the former's rights under the GATT, particularly with regard to tariff bindings on textiles and clothing. The United States, on the other hand, maintained that its transposition was globally neutral, and that it had restored the overall balance of concessions with respect to the Communities. The US, in turn, expressed reservations about the Communities' own conversion, particularly in the areas of scientific instruments and kraft paper.

(continued on page 2)
On another issue, Japan reported that in May, the Council of the European Communities had asked the EC Commission to submit a proposal for a regulation that would introduce 100 per cent duties on Japanese imports if US measures against Japan concerning semi-conductors would hurt EC producers. Japan said that the EC Council's decision also stated that any resulting action should comply with GATT, and it expressed the hope that this indeed would be the case. The EC described the decision as a precautionary measure.

The European Communities requested consultations which, however, failed to affect Nicaragua, the latter submitted a proposal which, among other things, recommended the prompt lifting of the US trade embargo (imposed in May 1985, and the subject of a panel report that had been submitted to the Council) and encouraged the granting of trade concessions by other contracting parties to the Central American country. The United States reiterated that its measures were justified under Article XXI (Security Exceptions) of the General Agreement, and urged the Council simply to adopt the Report. A group of six Latin American countries submitted a compromise proposal during consultations which, however, failed to gain acceptance. The Chairman was requested to continue his consultations on this issue.

The European Communities requested the establishment of a panel to examine the application of Section 337 of the US Tariff Act of 1930. At issue was the US action on certain aramid fibres where the EC claimed imported goods were subject to a separate and distinct procedure solely by virtue of their non-US origin. In the EC view, this constituted a denial of the national treatment provision of Article III of the General Agreement, while the United States maintained that the action was a valid application of the US patent law. The United States recalled that in 1983, the Council had adopted a Panel report which concluded that a Section 337 action with respect to US imports of automotive spring assemblies was consistent with GATT. It was, however, pointed out that this did not preclude future examination of the use made of Section 337 in individual cases from the point of view of consistency with GATT.

The other request for a panel came from the United States, which claimed that Indian import restrictions on almonds had nullified or impaired its benefits under the General Agreement and the Agreement on Import Licensing Procedures. India explained that the measure was taken in connection with its balance-of-payments situation and suggested that the Committee on Balance-of-Payments Restrictions, instead of the Council, was the more appropriate forum for discussion of the US complaint. The item remains on the Council agenda.

The Council adopted the report of the Working Party that had examined the 28th Annual Report of the United States in connection with the waiver granted in respect of the US Agricultural Adjustment Act. Several countries expressed concern about the lack of progress towards the removal of the waiver, which was granted 32 years ago. The United States responded that all its agricultural measures were on the Uruguay Round negotiating table.

Citing the acute supply problem faced by EC copper smelters, the European Communities proposed that the GATT Director-General arbitrate the dispute between themselves and Japan with respect to the latter's copper measures. The EC described as insufficient the concluding paragraph of the Report of the Group of Government Experts on Measures Affecting World Trade for Copper Ores and Concentrates, which noted the need for further liberalization of trade in these products through Uruguay Round negotiations. Japan noted that the Report's conclusions did not refer to any dispute between itself and the EC, and objected to the EC proposal.

The GATT Council, during its meeting on 15-17 July, considered several trade disputes. Among others, the Council received a proposal from Nicaragua about US trade measures, two requests for dispute settlement panels, and a suggestion for arbitration.

On United States trade measures affecting Nicaragua, the latter submitted a proposal which, among other things, recommended the prompt lifting of the US trade embargo (imposed in May 1985, and the subject of a panel report that had been submitted to the Council) and encouraged the granting of trade concessions by other contracting parties to the Central American country. The United States reiterated that its measures were justified under Article XXI (Security Exceptions) of the General Agreement, and urged the Council simply to adopt the Report. A group of six Latin American countries submitted a compromise proposal during consultations which, however, failed to gain acceptance. The Chairman was requested to continue his consultations on this issue.

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The GATT Director-General urged delegations to support the establishment of an Integrated Data Base aimed at unifying the six different data bases being used by the secretariat. As the international organization primarily responsible for trade policy, GATT should be the primary depository of trade data. He stressed that the Data Base would be a neutral management tool of the secretariat. Discussion of this subject will be continued at the next Council meeting.

There was an exchange of views on a US communication proposing a discussion within GATT about the relationship of internationally--recognized workers' rights to international trade. While some delegations expressed interest, many representatives of developing countries questioned the competence of GATT on the subject, and several of them suggested that the International Labour Organization would perhaps be the more appropriate forum. The Chairman would continue with informal consultations on this issue.

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Trade in Counterfeit Goods and other Trade-Related Aspects of Intellectual Property (I)

Trade-related aspects of intellectual property, including trade in counterfeit goods, are seen as one of the "new" or "non-traditional" areas in the Uruguay Round negotiations. This is not entirely the case. While it is true that up to the end of the 1970s these issues were virtually never taken up in GATT, the founders of the General Agreement had not completely overlooked them, and in recent years they have given rise to three trade disputes in the framework of the General Agreement. Whereas in the early 1980s the discussions in GATT focused above all on the problems raised by imports of counterfeit trademarked goods, the concerns of some delegations gradually widened to include trade-related aspects of other intellectual property rights, such as patents, copyright, designs, appellation of origin and geographical denominations and to the questions of the availability, scope and effectiveness of national protection in these areas, as well as the existence of domestic legislation giving preferential treatment to local activity over imports. Some other countries believe that many of these issues are not really trade ones but are issues concerning the protection of intellectual property and that the Uruguay Round is not the right place to consider them. This is an area which is now being thoroughly explored, and one in which participants starting positions differ substantially. In view of the complexity of the subject, it will be dealt with in two articles (the second appearing in the next issue of FOCUS).

PROBLEMS RAISED
Trade in counterfeit goods
While various types of intellectual property rights may be infringed by counterfeiting, initially GATT has concentrated on goods bearing unauthorized representations of legally-protected trademarks. This is the most blatant and commonly recognized form of counterfeiting, involving the infringement of an intellectual property right - trademarks - protected under the domestic law of most countries.

Countries complaining about trade in counterfeit goods stress that it has unfavourable effects for:
- Consumers: such products are often of lower quality than the genuine goods, and may even present a danger to health and safety; the consumer also has no right of legal remedy against the producer of the genuine good and little possibility against the producer of the counterfeit good.
- Producers: counterfeiting leads to a direct loss of sales and revenue, present and future, as well as unfair competition; time and money also have to be spent on identifying, tracking down and taking action against counterfeiters.
- Employment, in undertakings affected by counterfeiting.

Obviously, since this is an illegal activity, reliable figures concerning the volume of counterfeit goods cannot be available. Estimates by business circles may give a very rough, and usually sectoral, idea of the scale of the problems they encounter. It has been noted that the volume of trade in counterfeit goods increased over the past decade, that their marketing and distribution have become more internationalized, and that it concerns a broad range of products manufactured in both developed and developing countries.

The main problems raised are the lack of international disciplines regarding adequate procedures for effective control to be carried out at the border at the request of the holder of the trademark. More recently, the issue has been widened by some countries to include also the need for effective domestic enforcement measures.

Trade problems raised in connection with other aspects of intellectual property
In written submissions, the European Community, Japan, the United States, the Nordic countries and Switzerland have drawn attention to the trade problems they encounter in this area in some countries. These problems basically concern either the absence or limited scope of some intellectual property rights, or a lack of effectiveness of remedies to enforce rights that are protected in principle, or else excessive protection or discrimination in favour of domestic producers. The main problems mentioned by these countries are the following:

- With regard to copyright, in certain countries lack of protection of sound or video recordings or of cable rebroadcasts of artistic works, and pirating of literary or cinematographic works or of computer programmes, lead to major trade distortions. The problems in this area have recently grown much worse as a result of advances in reproduction technology.
- Protection by patent is insufficient or ineffective in many countries. Some products (e.g. of the food, chemical and pharmaceutical industries) cannot be patented in some countries. The duration of patents is considered to be often insufficient to allow innovations to be marketed and their costs recouped. Compulsory licensing for patents, complexity of procedures, and costs connected with taking out patents tend to hinder, rather than promote, trade in such products.
- Designs may be misappropriated, particularly in respect of textiles, ceramics, automobile spare parts, aircraft etc. The protection provided by local laws is often absent or of limited utility.
- Insufficient protection of appellations of origin and other geographical denominations is deemed a major problem by some countries, in particular in the case of wines and spirits.
- Insufficient protection of new technologies was also mentioned by certain countries, which consider that (Continued on page 4)
intellectual property law has not kept pace with development in technological innovation. They point in particular to computer software, semi-conductors and industrial applications of biotechnology, areas in which the dangers of trade distortions are considered particularly serious.

The extent and forms of protection of intellectual property rights thus vary considerably from country to country. It is hard to obtain definite information on the scale of these problems and to quantify their effects on international trade. The countries complaining about these practices nevertheless consider that these problems together affect a significant proportion of world trade and cause considerable harm to their commercial interests. For example, in some regions pirated sound and video recordings may represent 80 to 90 per cent of the market. Some other countries believe that, when assessing the proper level of protection for intellectual property, account has to be taken not only of trade matters, but also of the economic, industrial and technological needs of the country providing the protection as well as the broad range of other social goals intellectual property rights are intended to promote.

Practical problems of enforcement

Some countries believe that, even where the law protects intellectual property rights, trade problems are arising because in practice it may be very difficult to ensure that the rights are respected. The main obstacles referred to are the following:

- administrative or procedural problems preventing access to legal or administrative means of redress existing in the country;
- lack of legal provisions to enable the necessary evidence to be obtained in order to prosecute successfully; the slowness and cost of proceedings; and the absence of provisions enabling preliminary relief to be obtained;
- inadequate criminal sanctions and civil remedies for infringement of intellectual property rights, including in regard to seizure and forfeiture of goods' civil damages, fines, etc.

Problems of discrimination against imported products

Some countries have raised the issue of procedures and remedies specifically directed against imported goods suspected of infringing intellectual property rights, which therefore put the respondent in a less favourable position than under the equivalent procedures used against such goods produced and sold within the country. It is suggested that such procedures can lead to discrimination against imports and be used by domestic companies as a form of leverage against foreign companies.

EXISTING INTERNATIONAL LAW

The main conventions relating to the protection of intellectual property are listed in this box. Some countries feel that existing international law is not able to deal adequately with the trade aspects they have raised. Others consider that many of the issues raised would be most appropriately addressed in the context of existing conventions and institutions for the protection of intellectual property.

Most of the international conventions laying down standards for the protection of intellectual property rights are administered by the World Intellectual Property Organization (WIPO); UNESCO and the ILO participate in some of them. The main conventions are:

- The Paris Convention (WIPO), which concerns patents, utility models, designs and trademarks, trade names and indications of provenance appellation of origin, as well as the repression of unfair competition.
- With regard to copyright, the Berne Convention for the Protection of Literary and Artistic Works (WIPO) and the Universal Copyright Convention (UNESCO).
- The Madrid and Lisbon Agreements (WIPO) concern the repression of false or deceptive indications of source on goods, and the protection and registration of appellations of origin.
- The Rome and Geneva Conventions concern the protection of performers, producers of phonograms and broadcasting organizations.

The provisions of the General Agreement relating to intellectual property and developments in the work carried out within GATT on this subject will be discussed in the next issue of FOCUS.

GROUP OF NEGOTIATIONS ON GOODS — 26 JUNE

As noted in the report of the Chairman to the TNC, participants expressed themselves as largely satisfied with progress in the individual negotiating groups. Many delegations referred to the relationship between the Uruguay Round and global economic and trade conditions. Some spoke of the apparent contradiction between the progress being made within the Round and the difficulties affecting the conduct of trade relations in general. A number of participants expressed particular concern about the current problems relating to monetary instability, fiscal deficits, debt and balance-of-payments problems which, for some, confirmed the need for heightened co-ordination of macro-economic policies.

The GNG confirmed the dates of the third series of negotiating group meetings (page 6)

SURVEILLANCE BODY — 18 JUNE

The Surveillance Body, set up to oversee the commitments to 'standstill' and 'rollback' in the Ministerial Declaration considered a number of notifications of possible breaches of the standstill.

The Notifications covered three measures in the United States: the Customs User Fee (currently also the subject of a GATT dispute panel examination); the tax on imported petroleum and petroleum products (the subject of a recent GATT dispute panel report, adopted by the Council) and the Department of Defense Appropriations Act in respect of machine-tool procurement. A further notification covered a prohibition on the export of certain tropical woods by Indonesia and two others covered the extension of the list of products for which import licences are currently suspended in Brazil.

Since these notifications were circulated only shortly before the meeting, it was noted that the brief discussion on each of them could be continued at the next meeting of the Surveillance Body which will be in September or October.

A number of other issues were raised in general debate as representing possible threats to the standstill. There was widespread concern about a proposed tax on oils and fats in the European Community and protectionist draft legislation currently before the US Congress. In addition, a group of participants spoke of the danger that current Article XXVIII negotiations related to the implementation of the Harmonized System could lead to non-neutral results - thus creating unfair advantages in the Uruguay Round negotiations.
105 countries and territories participating in Round

The Trade Negotiations Committee, the senior-most body of the Uruguay Round, met on Friday 3 July and heard reports from the Group of Negotiations on Goods, the Group of Negotiations on Services and from the Surveillance Body.

Trade in Goods

In his report on the activities falling within the purview of the Group of Negotiations on Goods (GNG), Mr. Arthur Dunkel, Director-General of GATT and Chairman of the Group, said that progress so far in the fourteen individual negotiating groups had been regarded as generally satisfactory across a broad front. On a technical level, the negotiating process was working efficiently and had been brought quickly to matters of detailed substance through the tabling of a growing number of proposals. It was recognized that only through the submission of proposals could the negotiations be moved forward.

Mr. Dunkel said that the GNG has recognized that a great deal needed to be done if the initial phases of the negotiating plans were to be completed by the end of this year—an acceleration of the pace of work would be necessary in the autumn. He noted that there had been some discussion in the GNG of the possibility that early results might be achieved in some areas of the negotiations and might give a very positive signal to businessmen and policy-makers. At the same time, some participants, while recognizing this possibility, had suggested that, for the present, attention should be concentrated on the quality of results rather than their timing.

Trade in Services

Mr. Felipe Jaramillo, the Chairman of the Group of Negotiations on Services (GNS), told the TNC that discussion in the GNS had centred around the five elements set out in the initial phase of negotiations. He noted that differing degrees of emphasis had been placed on the importance, for the commencement of the negotiating process, of arriving at an agreed definition of trade in services and of a comprehensive data base. Considerable discussion had taken place on the availability and adequacy of statistics on trade and production of services and on the efforts that could be made to seek improvements that would further the negotiating objectives in this area.

With respect to the broad concepts upon which principles and rules for trade in services might be based, there had been a discussion of the significance and relevance of concepts such as transparency, non-discrimination, mutual advantage and national treatment among others. Mr. Jaramillo said that the Group had addressed itself to the possible relationship between existing international disciplines and arrangements and the multilateral framework on services. Suggestions had also been made as to how perceived barriers to trade in services might be examined.

Other TNC Decisions

The reports of the GNG, GNS and Surveillance Body were noted by the Committee. The TNC agreed that Guatemala should be allowed to participate in the Round—although the Guatemalan application for provisional accession to the GATT had been received after the 30 April deadline on Uruguay Round participation laid down in the Punta del Este Declaration. Members of the TNC agreed that the unavoidable delay in the transmission of the Guatemalan application warranted an exception in this case. This decision means that there is a total of 105 participants in the Round. The TNC also agreed the criteria under which other international institutions would be invited to attend Uruguay Round meetings in the initial phase of the negotiations.

Major agriculture reform plan tabled

A third series of negotiating group meetings began in late June. Following the meeting of the agriculture group on 6 and 7 July, at which a major new proposal on agriculture reform was tabled, the formal Uruguay Round meetings have been suspended, to restart in mid-September.

- Non-Tariff Measures

30 June

Discussion continued on possible practical approaches to the negotiation. One country proposed the reorganization of data on non-tariff measures into several categories corresponding to different negotiating methods for trade liberalization. One such method would be the bilateral request-and-offer approach. Others included rule changes and formula approaches. However, some delegations thought the proposal could lead to lengthy discussions which would delay negotiations, while others cited certain difficulties with the proposed categories. Two other submissions were related to the initiation of bilateral request-offer procedure which would be undertaken as part of a comprehensive approach to tariff and non-tariff measures. Some countries raised doubts about the appropriateness of integrating problems in these fields because the General Agreement itself specifically separated tariff from non-tariff measures. One of the submissions emphasized that no price should be required for the elimination of GATT-illegal practices in this area but that the question of GATT-consistency of non-tariff measures might be postponed until the end of negotiations. Some other countries said that this would not be consistent with the undertakings contained in the Ministerial Declaration.

- Tariffs – 29–30 June

Members of the group continued their exchange of views on different approaches to the tariff negotiations. Several written proposals were submitted. One of them envisaged the elimination by developed countries of tariffs on all products—initially, in favour of developing countries only but after ten years extended to all. In return, developing countries would consider binding and reducing their tariffs on a substantial number of products. A second proposal suggested that a request-and-offer procedure would be more

(Continued on page 6)
appropriate for countries which have already substantially reduced their tariffs and bound them in previous negotiations, while for others a more ambitious approach might be pursued through a general formula. Another proposal provided for the total binding of tariffs by all participants at levels subject to negotiations while a further approach favoured the binding and reduction of all rates to a maximum level to be agreed upon, without exception. The possibility of combining a harmonization formula for tariffs above a certain level with a request-and-offer procedure was also again discussed.

- **Textiles and Clothing — 1 July**

The group had before it a summary setting out the restrictions notified so far under MFA IV, which had been requested as part of the preparatory work. In addition, a group of developing countries submitted a report which examined developments in the US and EC textile markets during the period 1973–1986. It was stated that further reports along these lines would be made available later, as a contribution to the preparatory work. Some delegations commented on the specific nature of the work in the group and stated that negotiations in the areas of tariffs, tariff escalation and non-tariff measures should be dealt with in the appropriate groups. At the same time, the relevance of the work in other groups, particularly that on safeguards, was emphasized.

- **Natural Resource-Based Products — 1 July**

The discussion focused on a number of submissions and proposals put forward by some of the world’s leading traders in natural resource-based products. One submission identified abnormally high tariffs, dual pricing and export restrictions as distortions affecting raw-materials trade. Another submission added to this list: subsidies, government-ownership purchases and various tariff and non-tariff measures. Certain issues in the field of trade in fisheries products were also raised. It was argued that, since fishing rights are extensively affected by restrictive bilateral arrangements and that non-discrimination is a GATT principle, the ideal forum for identifying problems in this field, including access to fish resources, would be the GATT. However, many countries stressed that the issue of access was outside the scope of the negotiating mandate and of GATT, some warning that it might impinge on national sovereignty. Another submission noted that tariffs and non-tariff measures are the main barriers in the sector covered by the group. It reiterated a proposal that these problems be discussed as part of a comprehensive approach in other groups dealing with these barriers. A proposal that zero duties for all products be set by all developed countries was presented also to this group.

- **Tropical Products — 3 July**

For the first time in any of the fourteen negotiating groups, lists of specific products proposed for trade liberalization were placed on the negotiating table. Two separate export-interest lists were submitted, coming from a total of thirteen developing countries and covering some 300 products. One group of participants elaborated on its harmonization proposal whereby developed countries would align their tariffs on tropical products to the lowest prevailing tariff levels among them. Other participants, however, continued to express preference for the “request-offer” procedure, with one country maintaining that this approach would meet differing situations in the relevant markets. Discussion continued on the suggestion that background-study coverage be extended to include “emerging markets”. Several delegations argued that the group was established primarily for the benefit of developing countries and expressed doubt about the application of the principle of reciprocity within this sector. Two large developed countries pointed out that they were themselves modest exporters of tropical products.

- **Agriculture — 6 and 7 July**

As widely reported, the meeting was dominated by the tabling of a proposal, by the United States, on the reform of agricultural trade. The proposal has three elements: a ten-year phase-out of all agricultural subsidies, including export subsidies; the phase-out of import barriers over the same period; and action on health and sanitary regulations. The proposal envisages two stages in the negotiation.

First, measuring devices and an overall schedule of reductions should be agreed under which aggregate levels of farm support would be brought to zero. In this context, the use of the so-called public subsidy equivalent (PSE), developed in the GATT, OECD and elsewhere, is regarded as one possible approach. Government supports of all kinds would be covered with the exception of those direct income or other payments decoupled from production or marketing, and bona fide foreign and domestic aid programmes. The second phase of the negotiation would be the identification and monitoring of individual national plans and policies to achieve the necessary cuts in public support. Negotiations would also take place on the changes necessary to GATT rules to reflect the trading environment which will exist after the transition period.

Although all delegations needed time to consider it in detail in capitals, the tabling of the proposal was generally welcomed as representing a major step forward in the negotiations. A number of questions were raised in preliminary comments. For instance, it was widely pointed out that the plan would take agriculture to a position of virtual free trade — a state which implies far stricter disciplines in agricultural trade than those currently affecting industrial goods. Surprise was expressed at the very wide product coverage envisaged — including forest products, fish and fish products. Some delegations emphasized the need to recognize, in the negotiation, specific aspects of farming such as food security, geographical and climatic disadvantages and the wide disparities in average farm sizes. Others raised the apparent absence in the plan of any mention of special treatment for developing countries.

- **Trade in Services — 29 June–2 July**

A detailed discussion was conducted by the group on the subject of statistics relating to the production and trade of services. From the experience of national delegations as well as the four international institutions which presented papers and made

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### Negotiating Groups — Meeting Schedule (up-dated)

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As new round progresses, protectionist pressures remain strong...

On 16 June, GATT member countries considered the secretariat report on developments in the trading system from October 1986 to March 1987. They concluded that there was a clear contrast between the progress of work in GATT, particularly in relation to the negotiating process under the Uruguay Round, and the difficulties and tensions that had marked the actual conduct of trade policies. Mention was made of the growing concerns over the United States policies. Mention was made of the process under the Uruguay Round, and particularly in relation to the negotiating progress of work in GATT.

There had also been considerable use of anti-dumping and countervailing actions by a few countries over the period under review. However, it was difficult to say whether this reflected an increase in injurious dumping and subsidization, or a growing sensitivity related to perceptions of trading imbalances and high levels of import penetration.

The number of measures outside the GATT, or "grey-area" measures (orderly marketing arrangements or voluntary export restraints), continued to expand: the GATT secretariat noted 116 such measures taken during the past six months, compared to 93 for the previous period. These measures covered steel and steel products, machine tools, automobiles and road transport equipment, semi-conductors, electronic products, footwear, textiles and agriculture.

The GATT report considered that there seemed no reason why these problems could not be dealt with through normal GATT channels, including the dispute settlement mechanism, or in the Uruguay Round trade negotiations.

What kind of debate?

The Council members on the whole agreed that the GATT report correctly reflected developments in the trading system and the complexity of the issues covered.

They singled out factors of imbalance and tension of greatest concern to them. In general, they expressed concern at the discrepancy between the satisfactory manner in which discussion had been launched in the various Uruguay Round negotiating groups and the actual worsening of multilateral trade relations and of trading conditions or, in other words, between the negotiating process and day-to-day realities.

The European Communities maintained that the special Council meetings should carry out an evaluation of the GATT trading system as a whole. This was supported by some countries while others felt that the Negotiating Group on the Functioning of the GATT System should decide on how such an evaluation should be carried out in future.

Some members also raised the question of overlap between the Council's work in this area (with meetings being held twice a year since 1982) and the activities of the Uruguay Round's Surveillance Body. For the duration of the Round, the Body, set up in 1987, will monitor compliance with the standstill and rollback commitments undertaken at Punta del Este with respect to protectionist measures.

1 During the six-month period, 99 countervailing measures and undertakings and 535 anti-dumping duties and price undertakings were in force, an increase of about 15 per cent over the previous period.
All essential ingredients for improving international co-operation are present, but uncertainty clouds the picture

Speaking before the Plenary Session of UNCTAD VII on 28 July, GATT Director-General Arthur Dunkel underlined the importance of the fact that GATT’s member governments were now engaged in negotiations. “Nothing could be worse, in the rough times international trade is passing through today, than for governments to lack the possibility of sitting down at a negotiating table.”

Talking of the broad participation in the negotiating process, he said that “from the beginning, developing countries have shared fully in defining the objectives and guidelines of the negotiations and in getting them under way.” “They have thus demonstrated their deep concern that the trading system as a whole be improved and strengthened, as the basic prerequisite for the success of any efforts to meet their special needs. Among the specific negotiating proposals which are now coming forward, many are from developing countries, and reflect a positive and long-term view of the role which they can play in shaping the future of the trading system.”

“I am sure that the participating governments are highly appreciative of the support that UNCTAD is giving to this process as well as for the technical assistance it is offering to those participants in the Uruguay Round who need it”, Mr. Dunkel added. “In this area, I see many possibilities of co-operation with UNCTAD and other international institutions.”

Mr. Dunkel noted the increased attention being given by governments to the contribution of trade in goods and services to growth and development, and said this movement implied that governments were accepting a major challenge: the challenge of change and adjustment through competition. Steps had been taken in recent years in a broad cross section of developed and developing countries to deregulate, denationalize and, in general, to increase the role of the market mechanism. But it was equally clear that, in a number of countries, this growing enthusiasm for the virtues of competition often stops at the border. Imports were considered threatening and export markets difficult and uncertain.

He pointed to a number of important factors causing uncertainty in the international economic environment. Many are in the area of trade policy, such as self restraint agreements, market sharing, and trade distorting government interventions; but others, such as current account imbalances, wide fluctuations in exchange rates, the debt problem, the flow of financial and real investment resources to developing countries, while originating outside the trade field, had spillover effects on trade flows.

“The Trade Ministers at Punta del Este saw the link between a healthy trading environment and the solution of these problems. ...In other words, they have signalled clearly to the rest of the world that trade policies cannot, by themselves alone, solve the present imbalances in the world economy.”

In concluding his remarks, Mr. Dunkel underlined that “given its specific mandate, UNCTAD, and in particular the present Conference, offers another much needed opportunity to carry forward the collective consensus in favour of more integrated international action in the economic field.”

Mexico becomes a Party to four Tokyo Round Agreements

Mr. Hernandez Cervantes, Mexico’s Minister of Trade and Industrial Development, today signed, the 24 July, in Geneva four of the main Tokyo Round non-tariff agreements: the “Codes” on anti-dumping measures, technical barriers to trade, customs valuation of goods and import licensing. Mexico has thus fully abided by the commitments which it entered into when acceding to the General Agreement a year ago.

Mr. Hernandez Cervantes stressed that Mexican legislation in these areas is already to a large extent in conformity with the requirements of the Codes. He also said that Mexico was studying the possibility of joining other Tokyo Round agreements.

GATT Publications

Anti-Dumping and Countervailing Measures Legislation

The secretariat has just published a collection of anti-dumping and countervailing duties laws and regulations of parties to these two Codes. The collection is in loose-leaf form and will be updated as the legislation is amended. Available from the GATT secretariat. Price Sw F 30.

GATT Bibliography

International Trade and the Tokyo Round Negotiations

(Gilber R. Winham, Princeton University Press, New Jersey)

The author notes that international negotiations have become the essential mechanism whereby industrial nations draw up trade policy. This study retraces the political history of the Seventh Round of multilateral trade negotiations held in GATT from 1973 to 1979, presents the results and draws lessons for the future of the multilateral trading system.

GATT FOCUS

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