Adoption of the report on trade in semi-conductors

At its meeting on 4 May, the Council considered eight requests for the establishment of panels and several other items related to GATT's dispute settlement procedure. All the requests concerned agricultural issues. Five of them led to the establishment of panels.

Trade in semi-conductors

The panel suggested that the Contracting Parties take note of the statement by the Japanese Government that its policy was to improve access to the Japanese market in conformity with the General Agreement's most-favoured-nation principle.

On 4 May, the European Community again called for adoption of the report, pointing out that it established clearly that the Japanese measures were inconsistent with Article XI:1.

Japan presented its interpretation of the panel's conclusions. No finding had been given against the adoption of measures by exporting countries to prevent dumping. Furthermore, the exact meaning of the conclusion regarding non-consistency of the Japanese measures with Article XI did not seem clear; in particular, the supply-and-demand forecasts that manufacturers were requested to furnish did not constitute restriction in breach of the General Agreement.

Nevertheless, Japan would not oppose adoption of the report and the Japanese Government would take appropriate action as soon as possible to bring the monitoring of third markets into conformity with the General Agreement.

The United States stated that it could not accept that any contracting party could give its own interpretation of the panel's conclusions, and could not at this stage take a stand regarding any implementing measures which had not been put before the panel. It hoped that the report would be implemented in accordance with the recommendations and obligations deriving from the General Agreement.

Hong Kong, Australia, Singapore and Jamaica expressed the view that it was for the importing country - not the exporting country nor any other importing country - to take action to prevent imports into its own territory at a dumping price. They regretted in general that the panel had not been more specific regarding the relationship between Articles VI and XI. In their opinion, interpretation of the conclusions was a matter for the Council itself - and not for any individual contracting party. Several of them recalled that they had an interest in trade in semi-conductors and that they would closely follow the action taken by Japan to implement the panel's recommendations.

The European Community also stated that it could not accept that any contracting party could give its own interpretation of the panel's conclusions, and could not at this stage take a stand regarding any implementing measures which had not been put before the panel. It hoped that the report would be implemented in accordance with the recommendations and obligations deriving from the General Agreement.

The Council adopted the panel's report.

(continued on p. 2)
Restrictions by Japan on imports of beef and citrus products

The United States and Australia submitted two different applications with regard to Japan.

- **The United States** recalled that, at the two previous meetings of the Council, in March and April, it had informed the Council of the unsatisfactory outcome of its bilateral consultations with Japan concerning the latter’s restrictions on beef and citrus imports.

Japan considered that the United States had not shown understanding of its efforts to improve the situation and of its difficulties in immediately liberalizing those products. Japan would not oppose the establishment of a panel, but hoped that a practical compromise solution could be found through further consultations. It also argued that citrus products and beef were different cases, and noted that a request for a panel on beef had also been submitted by Australia.

Australia, Argentina, New Zealand, the European Community, Canada, Israel, Brazil and Uruguay reserved their right to make submissions to the panel.

- **Australia** said that its own consultations with Japan on the latter’s beef imports had not reached a satisfactory conclusion, and requested the establishment of a panel. Australia argued that the Japanese system of global quotas introduced before 1963 on the basis of Article XII and balance-of-payments difficulties was no longer justifiable and was not consistent with Article XI of the General Agreement.

Australia pointed out that its share of total imports of beef and beef products had shrunk from 74 per cent in 1974 to 41 per cent in 1987, and from 81 per cent in 1986 to 55 per cent in 1987 for products under quota.

Japan said that it was engaged in a process of consultations with Australia and hoped that these would allow an amicable agreement to be reached.

New Zealand said that, as the third largest supplier of beef to Japan, it had a substantial interest in the matter. Although it had been assured by Japan that it would benefit from any opening of Japan’s market, New Zealand considered it necessary to begin consultations under Article XXIII:1 with Japan and to reserve its rights to request the establishment of a panel.

The European Community, the United States, Argentina, Uruguay and Canada reserved the right to make a submission to the panel.

Both the US and the Australian requests were agreed by the Council. It was accepted that the Council Chairman would conduct consultations with a view to working out appropriate administrative arrangements for dealing with the issues.

Korean treatment of beef imports: two panels established

The United States and Australia also asked the Council to set up a panel to examine the Korean regime for beef imports. They recalled that they had already raised this question at the two previous meetings of the Council.

Australia stated that, prior to the closure of Korea’s market, it has supplied 90 per cent of the country’s beef imports. It considered that it had received no valid justification that the regime was consistent with the General Agreement during its consultations with Korea.

Korea did not oppose the request of the United States and Australia, but considered that the products covered by the two applications were different, and therefore two different panels should be established.

New Zealand recalled that, prior to the closure of the market, it had been the second largest supplier of beef to Korea. It had requested consultations with Korea under Article XXIII:1 and reserved the right to make submissions to any panels that were established.

Argentina, Uruguay, Canada, the United States and the European Community reserved the right to make a submission to the panels.

The Council agreed to establish two panels.

EC restrictions on apple imports: panel established

Chile recalled that it had already held two rounds of Article XXIII:1 consultations with the EC concerning two types of restrictions introduced by the EC on dessert apples: the unilateral and discriminatory suspension on 12 April of the granting of import licences to Chile, and the establishment of quotas for all suppliers, including those in the Southern hemisphere, from 15 February to 31 August 1988. It argued that these measures caused serious injury to Chilean interests, and were contrary to Articles I, II, XI and XIII of the General Agreement, to Part IV in favour of developing countries, and to the provisions of the Import Licensing Code. In view of the perishable nature of the goods, Chile requested that a panel be established rapidly.

The European Community agreed to the establishment of the panel. It pointed out that imports from the Southern hemisphere had increased while apple consumption and prices had fallen sharply in the EC, and large quantities of apples had had to be withdrawn from the market.

New Zealand said that it had held a first round of GATT consultations with the EC on the same subject; its trade losses amounted to tens of millions of United States dollars. New Zealand reserved the right to request the establishment of a panel at an appropriate moment.

South Africa also expressed concern at the adoption of these restrictive measures. It had serious doubts about their consistency with Article XIII:2 (d), and would pursue the aspect bilaterally with the Community.

(continued)
Hungary and Brazil supported Chile's request. The United States, Argentina, Canada, Uruguay, Australia, Romania and Poland also supported the request for the establishment of a panel and reserved the right to make a submission to it. Several of these countries considered that the Community's measures violated the standstill commitment undertaken at Punta del Este. Furthermore, the United States said that it was also concerned about diversion of trade towards the United States market as a result of the measures, and intended to hold bilateral consultations with the EC under Article XXIII:1. The EC said that it was disappointed at the turn taken by the discussions. It considered that the political commitment under standstill should not be confused with the exercise of a legitimate right by a contracting party. It had unfortunately proved necessary to take urgent measures, despite the assurances given four months earlier. The Community had not failed to live up to its obligations; it could understand that its measures might cause difficulties for other countries, and had promptly agreed to the establishment of a panel.

The Council decided to establish a panel to consider the matter referred to it by Chile.

EC subsidies for oilseeds and related animal-feed proteins: the Council will revert to the matter

The United States informed the Council that its Article XXIII:1 consultations with the European Community on this subject had not reached a satisfactory conclusion. Consequently, the United States requested the Council to set up a panel.

The US move could only be a claim that an emergency existed. It addressed measures which did not stem from a loss of competitiveness. Finally, it considered that all possibilities of finding an amicable arrangement had not been exhausted.

The United States pointed out that it had already in the past held numerous consultations on the issue. It considered that the right to request a panel had not been suspended during the Uruguay Round, and that the possibilities of conciliation were exhausted.

Canada supported the legal and commercial arguments of the United States, as well as its request for the establishment of a panel. It was considering requesting Article XXIII:1 consultations with the EC and reserved its right to make a submission to the panel, without prejudice to the exercise of its other rights.

Withdrawal or postponement of two requests for the establishment of a panel

The United States withdrew its request for the establishment of a panel to examine the prohibition on imports of almonds imposed by Greece, as the measure had been lifted on 29 April. It also said that it was pursuing consultations under Article XXIII:1 with Sweden concerning the latter's restrictions on imports of apples and pears.

Follow-up on three panel reports

The Council held a long discussion on the follow-up to be given on the report concerning United States taxes on petroleum and imported petroleum substances, which had been adopted in June 1987 but had not been implemented by the United States. The panel, set up at the request of the European Community, Canada and Mexico, had condemned some of the United States taxes.

On 4 May, the EC gave details concerning its request to be authorized by the Council to take retaliatory action under Article XXIII:2. It submitted a list of products that could be concerned by such action, and pointed out that the amount of compensation requested was well below the injury suffered.

The United States expressed doubts about the request. Nevertheless, it said that it would not oppose the establishment of a working party, open to all, to examine the issue.

Canada and Mexico, while sharing the concerns of the EC and understanding its reaction, wondered to what extent the adoption of retaliatory measures could speed up the elimination of the measures that had been condemned, which was

See Focus Nos. 53 and 54, respectively.

(continued on p. 4)
the primary objective of the GATT dispute settlement system. They would prefer the matter to result in liberalization rather than any further restriction of international trade.

Nevertheless, the two countries reserved their right to submit a similar request, and said that they were conducting a precise evaluation of their injury.

Malaysia and Norway expressed their interest in the matter. Nigeria voiced its serious concern, as a major petroleum supplier, at the failure of the United States to implement the panel’s conclusions, and the resulting injury to Nigeria. It pointed out that certain developing countries could not for the time being take retaliatory action against the United States because of their structural imbalances.

The EC explained that the primary objective of its request was to facilitate the implementation in full of the panel’s conclusions.

The Legal Adviser to the Director-General of GATT replied to requests for clarification about the calculation of damage and the procedure followed in the sole case where the adoption of retaliatory action had almost been carried through to completion, in 1952.

The Council agreed to revert to this item following informal consultations with interested parties.

- The United States in turn drew the Council’s attention to the measures which Canada was intending to adopt to replace the restrictions on exports of unprocessed herring and salmon, which had been found to be inconsistent with the General Agreement last March. It considered that these new measures would result in even greater trade damage for the United States.

Canada said that the new measures it intended to implement by 1 January 1989 at the latest would be fully consistent with its GATT obligations.

- With regard to quantitative restrictions by Japan on imports of certain agricultural products, the United States expressed concern at the fact that, three months after the adoption of the report by the Council, Japan had still not taken any action to implement the recommendations of the panel which had condemned those restrictions. As this would not require legislative action, it hoped that Japan would rapidly eliminate the restrictions. Australia, the ASEAN countries and Uruguay expressed their interest in a rapid settlement of the matter, and hoped that the measures taken by Japan would apply to all contracting parties concerned.

Concern with respect to the EC anti-dumping regulations

Japan informed the Council of its concern about the new anti-dumping regulations of the European Community, adopted in June 1987, affecting products manufactured in the Community using a high level of imported parts, when that production was designed to circumvent anti-dumping duties applied to the same finished products. The EEC had, on that basis, applied anti-dumping duties in April 1988 on five Japanese companies’ products. Japan reserved its rights under the General Agreement and said that it had requested a special meeting of the Committee on Anti-Dumping Practices on the matter, to be held later in the week.

The Community replied that it looked forward to providing explanations to Japan at that meeting.

Workers’ rights and trade

Finally, the Council held a long discussion on the request by the United States for the establishment of a working party to study the relationship of internationally recognized workers’ rights to trade. Some countries supported the request, while others felt that the matter fell within the competence of the International Labour Organization, and that the consultations held by the United States intended to implement by 1 January 1989 at the latest would be fully consistent with its GATT obligations.

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it could accept the establishment of a panel. At this point, however, France asked for the floor to express its Government's serious concern at the United States complaint and request for the establishment of a panel. It said that as a full contracting party France could not accept a panel and therefore there was no consensus in the Council. After a brief discussion, the Chairman of the Council said that the Council had agreed to set up a panel. The Director-General explained that, according to practices established a number of years earlier in the Council for GATT activities, the representative of the Community had the authority to commit the Community to a Council decision. Certain delegations confirmed that the action of the Chairman of the Council had not established a precedent and that they reserved their right, as individual contracting parties, to oppose a consensus in the Council.

Korean imports of beef from New Zealand

New Zealand reminded the Council that its possibilities of exporting beef to Korea continued to be confronted with the closure of that market, and that it had therefore suffered serious injuries since 1984. Furthermore, Korea had responded to its request for consultations under Article XXIII:1. It considered that it had fulfilled its obligations, however, having held eleven sets of bilateral discussions with Korea from 1984 to 1988. Consequently, it requested the Council to establish a panel to examine its complaint.

Concerns of Chile over apple exports to the Community

Despite the establishment of a panel by the Council on 4 May (see article above), Chile stated that it was facing an urgent problem: that of its shipments of apples already en route before the EC announced its import restrictions. These were perishable goods which could not await the results of a panel's work. The European Community considered that this matter fell within the purview of the European Court of Justice; a Chilean exporter had recently won a case before that body. In GATT, the issue could only be dealt with in the context of the work of a panel.

Further discussion on adopted reports

• United States taxes on petroleum and certain imported substances: the Chairman informed the Council that technical questions arose with regard to the EC request for authorization to take retaliatory action; the establishment of a working party might not be the most suitable way to address them. He suggested that the secretariat gives the two parties technical advice to determine the amount of the damages which would also be communicated to other interested parties. Mexico and Canada reserved their rights under the General Agreement. The Community said that the objective of its request remained the implementation of the panel's recommendations.

• Japanese quantitative restrictions on imports of certain products: the United States pointed out that Japan had still not implemented the panel's recommendations adopted in February. It requested Japan to hold multilateral consultations under Article XXII with it, as well as with all other interested contracting parties, to discuss the measures Japan intended to take to comply with the recommendations. Japan said that it would forward the request to its authorities.

Concern over United States sugar policy

Australia drew the Council's attention to its concern over the maintenance of very restrictive import quotas by the United States, which has led to a sharp increase in United States production while domestic consumption had fallen significantly. This policy could only lead to the payment of large export subsidies and thus bring further distortion into the world sugar market. Australia considered that this policy was contrary to the United States GATT commitments as well as its roll-back undertaking on protection measures under the Uruguay Round. It also contrasted with the United States approach to the liberalization of agricultural trade in the Round. On 7 June, Australia therefore held Article XXII consultations with the United States to establish the legal foundations for the application of such measures, but considered that the result was not satisfactory. The European Community also expressed its interest and concern in this matter. It announced that it had asked the United States for consultations under Article XXIII:1.

Application for accession by Bulgaria

Bulgaria informed the Council that it had submitted its trade memorandum to the GATT. It hoped that work would rapidly begin in the working group once the institutional arrangements had been made.
Articles and Provisions of the General Agreement (II)

Article XXIV constitutes with Article XXVIII, which was described in the previous issue of FOCUS, one of the key provisions of the General Agreement. It governs the conditions of territorial application of the General Agreement, and above all, in paragraphs 4 to 10, regional economic integration agreements – customs unions, free-trade areas and interim arrangements leading to the formation of such arrangements. Such agreements form exceptions to the Most-Favoured-Nation Clause in Article I of the General Agreement, and this subject is therefore clearly both important and topical.

ARTICLE XXIV

After successive drafts, the text of Article XXIV was settled by the Protocol of 24 March 1948, since when it has undergone very little change.

Under paragraph 4 of Article XXIV, "The contracting parties recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries' parties to such agreements. They also recognize that the purpose of a customs union or of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories".

Paragraph 8 defines customs unions and free-trade areas:
- a customs union meets two conditions: 1) duties and other restrictive regulations of commerce are eliminated which respect to substantially all the trade between the constituent territories; 2) substantially the same duties and other restrictions of commerce are applied by each of the member States towards third countries.
- a free-trade area meets only the first of these conditions.

Paragraph 5 specifies the conditions under which a customs union or free-trade area is authorized: customs duties and other regulations of commerce must not be higher or more restrictive than was previously the case. Under paragraph 6, if a bound duty is increased, compensation must be negotiated in accordance with the procedures of Article XXVIII.

In paragraph 7, Article XXIV also lays down the rules to be followed for interim agreements leading to the formation of a customs union or free-trade area. They must include a plan and schedule leading to such formation within a reasonable period. Paragraph 7 establishes for such agreements, and for customs unions and free-trade areas, the obligation to notify such agreements and to provide information to enable the Contracting Parties to make appropriate reports and recommendations. In practice, however, virtually all the arrangements notified to GATT were interim agreements, as the customs unions and free-trade area to the formation of which they were to lead had not been completed at the time when they were examined.

Finally, under paragraph 10 the Contracting Parties may, by a two-thirds majority, approve proposals which do not fully comply with the requirements of paragraphs 5 to 9, provided that such proposals lead to the formation of a customs union or a free-trade area.

- Difficulties of interpretation

The application of Article XXIV has raised several problems of interpretation; that is why the Contracting Parties have only rarely been able to reach unanimous conclusions as to whether regional integration agreements are consistent with the Article. In addition, they have never addressed recommendations to members of such agreements to modify them. This has been interpreted by some countries as meaning that the agreement should be presumed to be consistent with the General Agreement, and by others as expressing doubt as to its legal status.

Over the years, the Contracting Parties have adopted a constructive attitude which has allowed the difficulties of interpretation raised to be settled on a case-by-case basis, without hindering the conclusion of such agreements.

- Definition of customs unions and free-trade areas

No agreed criteria exist to determine whether "substantially all the trade" is covered by the regional agreement. The discussions have shown that this concept had both a quantitative and a qualitative dimension. Thus, it has been suggested that a specific percentage should be fixed for the level of trade to be liberalized, but it has also been argued that each case should be considered on its merits. Regarding the qualitative aspect, it has been suggested that, where a particular product sector, such as agriculture, is not subject to the liberalization process, the condition set by Article XXIV:8 cannot be considered as having been satisfied; other countries have rejected this interpretation.

Furthermore, under Article XXIV:8, restrictions justified under Articles XI, XII, XIII, XIV, XV and XX may be maintained, but the Article does not mention safeguards action taken under Article XIX. How is this exception to be interpreted? Is the list of Articles mentioned exhaustive? What is the status of measures taken under other provisions of the General Agreement, e.g. Article XVIII (balance-of-payments difficulties) and Article XXI (national security)?

Does the requirement that customs duties and other regulations of commerce should be substantially the same for non-member countries cover quantitative restrictions? In other words, are members of a customs union bound to apply common quotas?

- Issues relating to whether agreements are consistent with the Article

Questions have been raised about the link between paragraphs 4 and 5 to 9 of Article XXIV: some see paragraph 4 as a general principle that is spelled out in the other provisions, while for others it is an additional condition.

The major problem that has arisen in practice in the examination of regional agreements is that of how to interpret the words "the duties and other regulations of commerce... shall not be higher or more restrictive". No methodology exists for carrying out such
an assessment. Should it be done on a country-by-country and product-by-product basis? This is a moot point. Are quantitative restrictions also covered by this provision? How should the effects of proposed common customs tariffs be assessed? Using an arithmetical average or a trade-weighted average?

- Issues relating to compensation

Neither Article XXIV nor Article XXVIII to which it refers specify whether, in negotiations on compensation, account must be taken of tariff reductions by the members of the customs union on other items. One view is that compensation must be made on a product-by-product basis, while another view is that is should be global and take account of reductions on other products.

Conversely, the question whether advantages withdrawn by countries not members of the customs union should be taken into account has also been raised during the examination of agreements.

- Issues relating to notification and examination

In 1972, the Council took a decision inviting countries that sign a regional integration agreement to inscribe the item on the agenda of the next Council. However, no procedure was established to allow the work on the examination of the agreements which have been notified. In many cases, the reports submitted by the working parties to the Contracting Parties have noted the divergent views expressed by their members on the conformity of the agreements with Article XXIV. As pointed out above, the absence of recommendations to modify the agreements has been interpreted in different ways.

At their 27th Session, the Contracting Parties decided that agreements concluded under Article XXIV should be examined every two years. This guideline does not specify whether this obligation should continue to apply when a customs union or free-trade area has been fully completed.

- Specific problems of interpretation for certain countries

A specific problem of interpretation arises when agreements are concluded between contracting parties having different levels of economic development, which therefore do not provide for reciprocal liberalization of trade. Opinions vary as to whether, in negotiations on compensation, account must be taken of tariff reductions by the members of the customs union on other items. One view is that compensation must be made on a product-by-product basis, while another view is that it should be global and take account of reductions on other products.

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**GATT PUBLICATIONS**

Harmonized System tariff schedules now on sale from GATT

The complete tariff schedules of countries which have introduced the "Harmonized System" of customs classification can now be purchased from the GATT.

The Harmonized Commodity Description and Coding System began to operate from 1 January 1988. It has replaced a variety of different customs classification systems which, for many years, have complicated trade and frontier formalities. The new system also reflects technological changes that have taken place over recent years and the increasing diversification of trade. It allows a far greater degree of detail in trade statistics than was possible previously - a matter of considerable importance in trade negotiations, as well as to the conduct of trade itself.

Among the countries which have now introduced the Harmonized System are the following: Australia, Austria, Canada, Finland, Hong Kong, Japan, Republic of Korea, New Zealand, Norway, Sweden, Switzerland and Zimbabwe, as well as the European Economic Community. To facilitate the introduction of the system, these countries negotiated with their trading partners where conversion from their previous customs classification system entailed changes to the value of bound GATT tariffs.

The Harmonized System tariff schedules of the countries mentioned above are now available. They amount to some 7,000 pages and cost Swiss Francs 2,400. This price will also include, when available, the schedules for the United States, Czechoslovakia, Thailand, South Africa and Iceland, all of which are expected to introduce the new system shortly. The complete collection will be contained in 20 loose-leaf binders and will consist of a total of about 10,000 pages.

The tariff schedules of individual countries can be purchased separately at prices dependent upon the number of pages involved.

Orders should be sent to: GATT secretariat.

Revision of the Agreement on Government Procurement

The revised text of the Agreement on Government Procurement including the latest Protocol of Amendments, which entered into force on 14 February 1988, is now available from the GATT secretariat.

New provisions of the Agreement include: the lowering of the threshold (minimum value of government contracts) from SDR 150,000 to SDR 130,000; the inclusion of leasing contracts under coverage of the Agreement; increased transparency through improvements in the exchange of information; and a number of measures which bring the Agreement more in line with current procurement practices.

The Agreement, which resulted from the Tokyo Round of multilateral trade negotiations, aims to secure greater international competition in the government procurement market.

The 1988 revised text of the Agreement on Government Procurement and the Annexes to the Agreement may be ordered from the GATT secretariat or from accredited Sales Agents, at the price of Sw F 4 and 30, respectively.
Development issues figure strongly in recent meetings on services and agriculture

Both the Group of Negotiations on Services and the Negotiating Group on Agriculture received proposals, at recent meetings, regarding the treatment of developing countries in their respective negotiations.

**Tariffs – 18–19 April**

The debate indicated growing support for the application in the negotiations of a general harmonization tariff-cutting formula similar to that used in the Tokyo Round, but without excluding supplementary negotiations based on a request-and-offer procedure. The advantages of this approach, notably its potential for a wider coverage of world trade – and the disadvantages of the request-and-offer procedure – were outlined in a new proposal tabled at this meeting. Two participants announced new trade-liberalization initiatives in this area: New Zealand would be applying a Tokyo-Round type formula in a comprehensive tariff-cutting programme set to start at mid-year while Australia had taken immediate action to reduce government assistance to its car industry.

Participants exchanged views on the Chairman’s concern that, while preparations for the new Integrated Data Base were under way, it was not expected to be fully operational in time for the opening of the bilateral tariff negotiations expected to begin in early 1989. He suggested two options: the enlargement of the Tariff Study or the early submission of tariff and trade data to the new data base. Two delegations announced the decisions of their authorities to join the Tariff Study which presently contains computerized tariff and trade data for twelve participants (the EC counting as one). The Group then requested the secretariat to draw up information requirements, (e.g. product descriptions, bound tariff rates, value and volume of imports) for the negotiation.

**Tropical Products**

This meeting set the stage for the two rounds of comprehensive multilateral consultations scheduled for late May and June. A number of participants, as called for in the procedures agreed in January, submitted indicative lists containing either export products, offers or negotiating approaches; nine such lists were presented, coming from a total of 32 countries, the European Communities and ASEAN among them. It was also noted that the United States and the European Communities had addressed requests for additional information to many participants. Hungary introduced an offer which would reduce to zero its tariff rates on many tropical products covered by its Generalized System of Preferences (GSP) scheme and extend the scheme to further products. Hungary would also exempt the only four tropical products currently covered by its global quota system.

Several participants supplemented a joint list with suggestions for “negotiating modalities” in the areas of tariffs and non-tariff barriers. Switzerland advanced an extension of its proposal in the Negotiating Group on Tariffs for a tariff-cutting approach similar to that used in the Tokyo Round. A similar approach was advocated by a group of participants in an elaboration of an earlier proposal. Australia, in submitting its own list of export products, suggested that all countries bring their trade-distorting measures on tropical products to the table and then negotiate: the phased elimination within ten years, preferably on an accelerated basis, of trade barriers on all tropical products up to their primary processed stage, reduction in overall levels of protection for other tropical products, and tariff bindings on all tropical products. Many participants announced that their respective indicative lists would be tabled shortly.

Intensive consultations were being held in the week of 29 May with a view to

(continued on p. 9)
launching actual negotiations at the July meeting in the light of the need to achieve concrete results by the time of the Montreal meeting of the Trade Negotiations Committee.

- **Dispute Settlement**
  
  27–28 April
  
  Meeting informally, the group analysed points of convergence and divergence in its discussions to date. Among other points, participants discussed the group's negotiating objectives, the use of "early warning" and notification mechanisms, mediation and conciliation, panel procedures and arbitration, surveillance and implementation of panel reports, and political commitment of WTO members. Several delegates considered that existing dispute settlement procedures should be strengthened, and emphasized that the system must be made more efficient, if not more flexible. Other participants believed new options could be created so as to respond adequately to the different nature of disputes and to make the system more flexible, but that these options should not be turned into additional obligations.

  Views differed on the time-limits for the Council in establishing panels, on the use of standard terms of reference and on time-limits for the composition of panels. There was general acceptance, however, that the roster of non-governmental panelists be expanded and regularly updated. Delegates also addressed matters relating to dispute settlement mechanisms and developing countries.

- **Functioning of the GATT system**
  
  2–5 May
  
  While the question of surveillance through the regular monitoring of national trade policies was further discussed in informal sessions, the Group concentrated on the third part of its mandate relating to the contribution of GATT to achieving greater coherence in global economic policy-making especially through its relationship with other international institutions. There was a widely-held view in the Group that it would need to address some of the substantive issues raised in the previous sessions, including those relating to trade, finance and monetary issues in order to reach meaningful conclusions on institutional relationships. Equally, it was noted that, while trade liberalization alone could not solve all the problems of indebtedness and financing, protectionism served to aggravate these problems and made it more difficult for indebted countries to fulfil their obligations to the World Bank and the International Monetary Fund. However, some participants took the view that the Group's main objective was to determine how GATT could better relate to those dealing with problems of finance and indebtedness, and ensure that all the relevant organizations, whose philosophies were basically similar, moved along similar lines. Improvements in institutional relationships would lead to United improvements in the coherence of substantive policies.

  In further discussions, it was proposed by a number of participants that consideration be given to the idea of giving credit in the Uruguay Round for trade liberalization measures undertaken by developing countries either autonomously or as part of adjustment programmes supported by international financial institutions. It was also suggested that consideration of institutional relationships be extended to other organizations with responsibility in the field of finance and development, including UNCTAD and regional banks, and not limited to the World Bank and IMF.

- **Non-Tariff Measures**
  
  9 May
  
  Delegations took stock of the progress in the preparation of specific proposals. These are to be submitted before 30 June 1988, as called for in the Group's decision made in February. Several participants reported that they were preparing lists of measures which they would like to see taken up in the negotiations. A group of countries said that its preliminary work indicated that the use of non-tariff measures like surcharges, port and statistical taxes, quantitative restrictions, including prohibitions and import licensing procedures, was particularly widespread. Other, though lesser, problems included technical regulations and standards, consular formalities and government procurement practices. Australia provided more details on its proposal for using "effective rates of assistance" (ERA) to measure the impact of trade protection in this area.

  The participants then turned their attention to the issue of preshipment inspection, which is of potential interest to a number of developing countries to assess imported goods, which had been raised by Indonesia at the last meeting. It was generally recognized that preshipment inspection was used because of some very real problems faced by the countries concerned, but other countries, including the United States, supported by some delegations, expressed concern with several aspects of preshipment inspection: compulsory inspection of all goods to be imported, and in some cases exported; physical inspection for quality and quantity at the site of production, warehousing and shipment; and price comparisons to determine whether the f.o.b. price and other elements of the price charged in commercial transactions correspond to the prices generally charged in the supplying country or the international market. Some participants noted delays, additional costs and potential threats to confidentiality of information. Some of governments using PSI insisted that it could not be assumed to constitute a non-tariff measure on which negotiations should be held. Some pointed out the particular benefits of the system, including foreign-exchange savings and its deterrent effect on certain practices by exporters. It was suggested that a non-discriminatory and multilateral approach should be taken to questions relating to PSI.

- **Textiles and Clothing**
  
  5 May
  
  Delegates continued their examination of "techniques and modalities" which would permit the eventual integration of the textiles and clothing sectors into the GATT. A submission by Indonesia on behalf of the nineteen International Textiles and Clothing Bureau members was presented and reviewed by the Group's participants. The developing countries' proposal calls for a multiple process consisting of a reversal of the restrictive measures under the Multifibre Arrangement; the elimination of concepts and practices under the MFA which are incompatible with the General Agreement; the effective application of the GATT principle relating to developing countries to trade in textiles and clothing and the termination of the Multifibre Arrangement and all associated bilateral agreements.

  During discussion of this proposal and that tabled by Pakistan at the previous meeting, some developing importing countries stressed that, while the situation in their textile and clothing industries may have improved, they continue to face certain problems in their markets. Some exporting countries believed, however, that the principle of market disruption should be abolished and the principle of non-discrimination strictly observed. Views differed on members' rights under the present MFA vis-à-vis the standstill commitment in the Punta del Este Declaration.

- **Trade-related aspects of intellectual property rights**
  
  16–19 May
  
  Participants examined a factual document prepared by the World Intellectual Property Organization (WIPO) at the negotiating group, concerning the scope and form of existing internationally accepted and applied standards/norms for the protection of intellectual property. The document dealt with four rights: patents, copyright, trademarks and layout designs of integrated circuits. Information concerning other rights — (continued on p. 10)
designs, appellations of origin and other geographical indications – will be provided by WIPO, probably for the next meeting of the Negotiating Group at the beginning of July. On the basis of the information supplied by WIPO, participants discussed the existing standards and norms provided in international treaties and international guidelines. WIPO activities in this area and commonly applied national provisions and practices. Participants considered that the WIPO document had enabled them to acquire a better understanding of the current situation.

The Group also pursued its discussions on international trade in counterfeit goods. They focused on the following issues: what should be the scope of a multilateral framework in this area; what should be the mechanisms and remedies provided in such a framework to ensure effective action against trade in counterfeit goods; and what safeguards should be built in to ensure that these procedures and remedies do not themselves become barriers to legitimate trade.

**Trade in Services**

**22–25 March**

The Group concentrated on two new documents, one tabled by Argentina and the other by the Nordic countries. That by Argentina focused on development questions. It proposed that a multilateral framework should include a general principle that laws and regulations which pursue national policy objectives are not to be questioned – with such objectives being defined in the context of the general framework and, for developing countries, at the level of future sectoral disciplines. It envisaged, among other things, the granting of suitable latitude to developing countries to enable them to operate policy instruments required to facilitate their export of services and, at the same time, measures by developed countries to facilitate imports of services for developing countries. The paper recognized also the relationship between the growth and diversification of trade in services in developing countries and the process of technology transfer. With respect to market access, it introduced the concept of “equality of opportunity” among foreign suppliers.

The paper by the Nordic countries set forth a possible structure for the general framework on services. With respect to the principles to be applied, it included most-favoured-nation treatment; a requirement that regulations should not impose restrictions on services trade beyond those required to meet legitimate national regulatory objectives; and a “standstill” commitment. The coverage of the framework should extend to all cross-border trade as well as commercial presence and it should comprise a reasonable level of transparency subject to national security and commercial confidentiality. The general framework would also set down the modalities for subsequent negotiations on particular sectors or activities. The Nordic paper outlined some preliminary ideas on the nature of sectoral agreements.

**Trade in Services**

**16–19 May**

New proposals from Canada, the United States and Japan accounted for a major part of the discussion at this meeting. The Canadian proposal outlined a structure for the services agreement with four main elements: a set of principles providing a framework for further market access undertakings and liberalization measures; a set of rules concerning, in particular, transparency and non-discrimination requirements; institutional arrangements to ensure effective multilateral surveillance, enforcement and dispute settlement; and an exchange of specific market access undertakings and liberalization measures.

The United States paper discussed a three-phase procedure for reaching and implementing a multilateral services framework. In phase one, the paper envisaged the negotiation of rules and disciplines that would be incorporated in a framework whose provisions would be generally applicable to a wide range of service industries. The second phase would establish the sectoral coverage of the agreement with, as a first stage, participants notifying, anonymously, those sectors which they believe should be included. At this point participants would be able to notify reservations with respect to existing regulations which would not be immediately brought into conformity with the agreement. Phase three would involve negotiations among signatories aimed at the liberalization of measures not covered by the two first phases, including regulations and laws subject to reservations in the second phase. A dispute settlement system would rule on the conformity of measures with the framework.

In its proposal, Japan outlined a number of principles and rules which should be enforceable in the services framework; among them, transparency, non-discrimination, national treatment, special needs of developing countries, state enterprises, safeguards and dispute settlement. An agreement on the coverage would include the possibility of reservations for measures which are difficult to bring into conformity with the principles. Particular sectoral arrangements could be established where the special characteristics of the sector make it difficult to apply the principles of the general framework or when the enforcement of those principles alone would not remove trade obstacles.

A part of the meeting was devoted to an information-gathering exercise with three international institutions operating in the services field – the International Civil Aviation Organization, the UNCTAD with respect to the ‘Liner Code’ and the International Telecommunications Union – in order to give the group a better understanding of their functions and relevant current activities.

**GATT Meetings**

Provisional programme of meetings:

**Second half of June**

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<tr>
<td>16–17</td>
<td>International Meat Council</td>
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<td>20+22</td>
<td>NG Functioning of the GATT System</td>
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<td>20–22</td>
<td>Committees on Milk Powders, Milk Fats and Cheeses</td>
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<td>20–23</td>
<td>Textile Surveillance Body</td>
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<td>21</td>
<td>Surveillance Body (Uruguay Round)</td>
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<td>22</td>
<td>Committee on Budget</td>
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<td>23–24</td>
<td>NG Dispute Settlement</td>
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<td>NG Agriculture</td>
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<td>Technical Group on Measurement of Support</td>
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<td>27</td>
<td>NG Tariffs</td>
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<td>27</td>
<td>Working Party on EEC</td>
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**In July**

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<td>NG GATT Articles</td>
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<td>Working Party on China</td>
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<td>28–29</td>
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<td>Committee on Technical Barriers to Trade</td>
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<td>13–14</td>
<td>NG Agriculture</td>
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<td>13–15</td>
<td>Textiles Surveillance Body</td>
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<td>18–22</td>
<td>NG Services</td>
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<td>NG Non-Tariff Measures</td>
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**Week 25**

Group of Negotiations on Goods Trade Negotiations Committee
Despite some improvements, trade policies are still affected by economic, financial and monetary concerns

In the course of its biannual review of developments in the trading system, covering the period 1 October 1987 to 31 March 1988, held on 16 June, the GATT Council noted a mixed picture with regard to developments in trade policies and measures and in the trading environment.

In its draft\(^1\) to the Council, the GATT secretariat noted that trade policy formulation had continued to be dominated by concerns over trade imbalances, exchange rate uncertainties, problems of unemployment and slow growth in many industrialized countries, resistance to adjustment, as well as the continuing debt-servicing difficulties of many developing countries.

It appeared to the secretariat that the direction of trade policies and the state of trade relations among governments are becoming increasingly important factors in business confidence and in stock market assessments of growth prospects for the international economy. The outlook for new protectionist measures was exercising its own influence on the macro-economic environment, through market perceptions of the progress made towards a reduction in trade imbalances. It was pointed out in the debate that progress was being made in addressing major trade imbalances while one or two delegations were less convinced of the link between trade policy decisions and the macro-economic environment.

In its report, the secretariat observed that a considerable number and variety of countries had demonstrated that they were determined to allow market forces to have greater sway, in order to speed up the restructuring of their economies and thus make them more competitive. A number of countries had implemented or announced tariff reforms and reductions in quantitative restrictions, though many such measures continue to exist throughout the world. The countries noted in the report as taking such steps were Chile, Jamaica, Republic of Korea, Mexico, New Zealand, Taiwan, and Turkey, who were engaged in major tariff reforms, while Argentina, Australia, Brazil, Canada, China, Colombia, Thailand and Sri Lanka had also made moves to liberalize their tariff systems. During the Council debate, Australia, Brazil, Yugoslavia, Nigeria (continued on p. 12)

FORTHCOMING GATT PUBLICATIONS

In addition to the publications mentioned above, the GATT secretariat is preparing several booklets or reports for publication, some of them in a new presentation. They will be available from the secretariat.

- **"International Trade 1987/88"**
  The format of GATT’s annual report on world trade, currently being prepared, has been revised. Beginning this year, the report will be published in two volumes. Volume I will include a summary of recent trends in world trade, and analyses of longer-term development in world agricultural trade, and an examination of the role of trade policy in an integrating world economy. Volume II will be devoted primarily to statistical tables and charts.

- **"GATT Activities 1987"** has something of a new look, not merely because its cover has changed but, more importantly, because its contents reflect one of the busiest years in GATT’s history. The report, as usual, covers every aspect of analysis, discussion and negotiation in GATT, starting with a new chapter which links developments in the world economy, trade policy decisions and general trade issues to the detailed work in Geneva. The year itself was marked by intensive activity in the field of dispute settlement and by the first twelve months of the Uruguay Round negotiations. Both these fields of interest are reported in considerable detail as is GATT’s work related to the needs of developing countries, the many new accessions during the year and other more traditional subjects.
  
  The Director-General, in his introduction, ties up various strands of GATT’s work in a summing-up of world trade developments. He observes that, on its fortieth anniversary, “GATT is growing up in a world in which trade is increasingly a major driving force in the international economy and a world in which trade policies are at the centre of the political stage.”

- **"Ministerial Round-Table Discussion – The full debate"**. The full text of a round-table discussion between nineteen trade ministers held as part of the GATT’s 40th Anniversary celebrations last year will be available in August. The discussion was led by three well-known economic journalists and by a leading legal authority on the GATT. Attended by several hundred senior trade diplomats and officials from most of GATT’s member countries, discussion focused on current and future problems facing the GATT, the multilateral trading system in general, prospects for the Uruguay Round, international trade relations between developed and developing countries, and problems relating to trade in agriculture, textiles and clothing, dispute settlement procedures, the inclusion of services in the GATT, and the need for greater political commitment and will on behalf of GATT Contracting Parties to the General Agreement.

- **"Review of Developments in the Trading System, September 1987 – March 1988;”** After having served as a basis for discussion at the special Council meeting of 15 June (see article on page 7), this report will appear in final form, with additional information communicated during the discussion. It furnishes a substantial amount of information on trade measures and policies of GATT member countries, by sector of activity and type of measure. To be issued in August – SwF 25.

- **"GATT – Helping the World Grow"** is a booklet especially designed for businessmen, parliamentarians and, in general, groups engaged in international economic activity. It explains in simple and concrete terms how GATT operates, what it has achieved and why a credible multilateral trading system is essential for growth of the world economy. Limited distribution, free of charge.

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\(^1\) The final report will be available soon from the GATT secretariat at the price of SwF 25.
40th Anniversary party of GATT

As a belated celebration of the 40th anniversary of GATT, the staff of the secretariat and Geneva delegations were invited to a dinner-dance, with, as guest performer, Mr. Peter Ustinov, the well-known actor, writer, raconteur and ambassador extraordinary of the Office of the High Commissioner for Refugees, which shares the Centre William Rappard with GATT. A tombola yielded the sum of Sw F 8,940 for aid to refugees.

“This effort is a tangible demonstration of the spirit of co-operation, and shows that the humanitarian aspect of our work is no mere idle concept but can mobilize energy and effort for the benefit of others”, said Mr. Jean-Pierre Hocké, the High Commissioner for Refugees.

Jean-Pierre Hocké (left) and Arthur Dunkel as the cheque was handed over.

SPECIAL COUNCIL (continued)

and Colombia all referred to recent government decisions on new or extended trade reform plans while Japan drew attention to its own economic liberalization plans.

Recourse to subsidies continued to be a costly source of tension among governments. In agriculture, competitive subsidization among the major exporters has continued and, as was observed during the meeting, problems of access to markets for agricultural products remained.

It was noted, however, that the European Communities had decided for the first time to set a ceiling on agriculture spending. The United States Administration had proposed further changes in its legislation which could make agriculture more market-oriented. Recourse to subsidies continued to be a costly source of tension among governments. In agriculture, competitive subsidization among the major exporters has continued. Perhaps the most significant development at a regional level had been the initialling of the US/Canada free-trade arrangement. The European Communities had completed its customs union with Cyprus and pursued its objective to create a free single internal market by 1992. Various forms of trade agreements were being developed, including those between Australia and New Zealand, and others in Latin America and South East Asia. These developments had revived the debate over the effects of bilateral and regional economic groupings on the world trading system.

During the period under review, governments made greater use of GATT dispute settlement mechanisms to try to resolve problems in their trade relations. This was a welcome sign of confidence in those mechanisms, though it might also indicate a concern on the part of participants in the Uruguay Round to affirm and clarify rights under existing GATT provisions without having to wait for the conclusion of the negotiations. At the same time it is clear that, until solutions are found through the Uruguay Round, many major sources of trade conflict and difficulties in applying rules will remain.

During the discussions, and while noting the wide range of developments reviewed by the secretariat, the United States delegation said that one basic problem was that the report gave greater prominence to the situation in countries whose trade policy was transparent. It made a number of more detailed points; for instance, it considered that more emphasis should be placed on existing quantitative restrictions and on the generalized use of import licensing as an instrument of protection.

Many other countries considered that the reviews in the Council, which had been initiated in the early 1980s on an experimental basis, were becoming more substantive and were useful. Some countries stressed that it was particularly important to conduct this type of review in the Council, bearing in mind the consensus emerging in the Uruguay Round with regard to the establishment of regular reviews of the trade and trade-related policies of contracting parties.