Two separate complaints about the United States sugar import régime by Australia and the European Community, were brought before the Council on 22 September. However, the two complaints only partially concern the same products, and take a different approach.

Australia recalled that in July it had requested the establishment of a panel to examine the negative impact of restrictive measures maintained by the United States on imports of raw and refined sugar. Australia specified that the restrictions were applied under the “Headnote” in the United States tariff schedules, and did not encompass sugar-containing products, which were covered by Section 22 of the United States Waiver of 1955. That did not imply that Australia accepted the manner in which the waiver was applied.

While considering its practices to be consistent with its GATT obligations, the United States did not oppose Australia’s request.

Brazil, Nicaragua, Argentina, Colombia and Thailand supported Australia’s request, and considered that the restrictions were not consistent with the General Agreement. They reserved the right to make a submission to the panel, as did Canada and the European Community.

The Council agreed to establish a panel.

Under a different agenda item, the European Community recalled that the waiver granted to the United States in 1955 for certain agricultural products had still not been repealed. Over time, it was becoming an infringement of the GATT’s principles and a source of disequilibria, tensions and weakening of GATT’s principles and a source of disequilibria, tensions and weakening of the trading system, encouraged by the contracting parties’ collective passiveness. The Community considered that the waiver had spurred cumulative effects which had contributed to the disruption of trade in the agricultural products it covered.

The Community said that it had held consultations with the United States under Article XXIII:2, but without results. In its view, various approaches to ending the waiver could be envisaged. In particular, there was the possibility for the CONTRACTING PARTIES to decide by a two-thirds majority vote whether or not the waiver was still justified. However, the Community preferred to adopt a more persuasive attitude at the present stage; it therefore requested the Council to establish a panel to examine, to begin with, one of the products covered by the waiver: sugar and sugar-containing products. That was only a start; the Community reserved the right to submit a complaint concerning other products, as well as the waiver as a whole.

The United States pointed out that the waiver was only one of the arrangements concluded within the overall GATT system. The United States had put the waiver on the negotiating table in the Uruguay Round, where it could best be discussed. It recognized the right of any country to ask for a panel to be established. However, in the present case sugar had only barely been touched upon in the consultations with the EEC, and the United States had not had the possibility of studying the new version of the Community’s complaint. It therefore considered the request premature.

Japan said that the waiver granted to the United States raised a number of problems, owing to its lack of precision and ambiguity concerning the time-period for its application and the products covered. The maintenance of the restrictions over more than thirty years was causing inequity in world agricultural trade, as well as serious distortions identical in their effects to other quantitative restrictions which were deemed to be inconsistent with the General Agreement. Their maintenance, despite the conditions stipulated at the time when the waiver was granted, created imbalances in the rights and obligations of contracting parties. A fundamental review of the waiver was essential for equitable and balanced agricultural negotiations in the Uruguay Round.

Australia, New Zealand, Argentina, Uruguay, Peru and Nicaragua supported the Community’s request, as did Brazil, and reserved their right to make a submission to the panel, if established. Canada stressed the Community’s right to request a panel to examine the measure in question; but the nature of the complaint and the products it concerned did not seem clear at present, and therefore Canada wanted to see greater precision before the Council took a decision. Furthermore, it considered that the United States should have an opportunity to comment before a decision was taken. New Zealand also said that it would like greater precision concerning the possibility of extending the scope of the complaint to include other products covered by the United States waiver in which New Zealand had an interest too. Jamaica considered that before taking a decision on the establishment of a panel, some clarification was required as to the

(continued on page 2)
COUNCIL
(sugar-trade policy continued)

nature of the request and as to whether another procedure, such as a working party or group of governmental experts, would be more appropriate, in view of the generic nature of the waiver and the particular rules attached to panels. Jamaica also wanted some clarification regarding the link with the Uruguay Round negotiations. Peru considered that the waiver should be eliminated unilaterally and not be negotiated.

The European Community said that its statement embraced the whole waiver. However, not even the United States could identify the precise products to which the waiver applied. There were several possible ways to squeeze the substance out of the waiver. The Community’s request concerned a precise product, sugar and sugar-containing products, and the violation of Article XXIII of the General Agreement; and the Community had invoked Article XXIII:2 to request a panel. Other requests for the establishment of a panel might follow.

The United States requested the Community to submit its complaint in writing, taking account of the requests for clarification made by some delegations. The Council agreed to revert to the matter at its next meeting.

AGRICULTURAL PRODUCTS SPOTLIGHTED
Two new panels established

The United States informed the Council that its consultations with the European Community on its restriction on apple imports had not reached a satisfactory outcome. It believed that the Community’s closure of its market to Southern Hemisphere producers injured United States producers and diverted trade towards the United States market.

It considered that these restrictions contravened Article XI, and requested the establishment of a panel to examine its complaint. It hoped that the panel’s composition and terms of reference would be the same as those of the panel established in May to examine Chile’s complaint.

The European Community said that it was perplexed by the United States’ complaint and its timing; it doubted that this was a proper use of the dispute settlement machinery, in particular in view of the fact that the United States’ economic interests in the matter were so small. Nevertheless, the Community recognized the right of any country to request a panel and would not oppose the United States request. However, it would like to have more time to reflect on the question of the panel’s composition and terms of reference, following the normal procedures. Chile and Australia supported the United States request, and reserved the right to make a submission to the panel, as did Canada, New Zealand and Argentina, which expressed their trade interest in the matter.

The Council agreed to establish a panel, whose terms of reference and membership would be decided in consultation with the parties concerned.

New Zealand told the Council that its consultations with Korea in August concerning the latter’s treatment of imports of beef had not reached a satisfactory conclusion. Consequently, New Zealand once again requested that a panel be established, and asked to receive equivalent treatment to that already accorded to the United States and Australia, which had obtained the establishment of two panels in May. It said that it expected the membership and terms of reference to be the same as those of the other two panels.

Korea did not oppose the establishment of a panel and said that it was prepared to hold consultations on the terms of reference and membership of the panel in accordance with established practice. The United States and Australia supported New Zealand’s request for harmonizing the proceedings for the three panels.

Canada and the European Community reserved the right to make a submission to the panel, if established. The Council agreed to establish the panel.

UNITED STATES TAXES ON PETROLEUM
Compensation for injury: technical solution still pending

The Council discussed the European Community’s request to be authorized to take retaliatory action against the United States under Article XXIII to compensate for the injury suffered as a result of the application of a tax on petroleum and imported petroleum products. The panel had found the tax to be inconsistent with the General Agreement; fifteen months after the adoption of the panel’s report by the Council, the United States had not abolished the tax, despite the repeated complaints of the EEC, Canada and Mexico.

The Council had agreed last June to request the GATT Secretariat to provide technical advice to determine whether the Community’s assessment of damages was correct and, if not, what the appropriate amount would be. The technical advice had been submitted to the parties to the dispute and communicated to Council members. In its advisory note, the Secretariat gives three options for calculating the injury and the retaliatory response, which it considers equally appropriate. It points out that one of these options is close to the calculation made by the European Community. With regard to the proportion that should exist between injury and retaliation, it stresses that Article XXIII does not require that the two be equal. It leaves it to the contracting parties to decide if they wish to take other factors into account in examining the appropriateness of the proposed retaliatory measure.

The European Community said that the technical advice did not definitively state what the level of compensation should be. It wished to hold consultations with the United States and with the other contracting parties directly concerned in determining the level of compensation.

Mexico commented at length on the Secretariat’s technical advice. In particular, it regretted that the calculation did not include the economic impact of the measure, which went far beyond the sector directly concerned. It considered that the advice did not provide a sufficient basis for the contracting parties to be able to accede to the Community’s request, unless the latter accepted it as a satisfactory solution for itself. In any case, the advice could not constitute a precedent for the other parties to the dispute or for other cases.

Canada, the third co-complainant, said that it would by far prefer the United States to remove the tax in question. However, if the United States continued to fail to do so, Canada might itself be left with no option but to request compensation. The United States said that the Secretariat’s advice clearly illustrated

(continued on page 8)
NEGO T IAT IO NS ON TRADE IN SERVICES (I)

The services sector is increasingly important for international trade and economic activity. It is therefore not surprising that in the early 1980s an increasingly large number of countries felt that GATT could play a role in this fast growing sector. It was considered that the elaboration of appropriate international rules would favour trade in services just as they had done for trade in goods, and reinforce the sector’s inherent dynamism.

GATT discussions on services began in 1982, at the Geneva Ministerial meeting. Contracting parties’ interest in the inclusion of services in the GATT work programme decided to undertake an exchange of information on the basis of national sectoral studies and contributions from organizations carrying out activities in the services sphere. They agreed to examine the problems arising in the sector and see if multilateral action would be appropriate and desirable.

The preparatory work carried out since then has allowed a better understanding of a complex and diversified sector of activity. The negotiations on trade in services, launched in September 1986 at Punta del Este at the same time as, but distinct from, the negotiation on goods, bear witness to an awareness of the sector’s interest from the standpoint of international trade. The negotiations are following GATT procedures and practices. When the results of the trade negotiations have been established in all areas, their implementation at the international level will be decided by Ministers at a special session of the Contracting Parties.

So far, forty-seven negotiating proposals concerning trade in services have been submitted to the Group of Negotiations on Services (GNS) and examined by it. Some concern particular aspects, while others are broader and lay the foundations for an international arrangement to govern trade in services. The issues relating to the definition and coverage of trade in services will be discussed in the first part of this article. In the second part, appearing in the next issue of FOCUS, the international disciplines and arrangements relating to services will be described briefly, followed by a discussion of the central issues in the negotiations, i.e. the role of services in development, the concepts which could be elaborated in a multilateral legal framework, possible form of that framework, and possibilities for a progressive liberalisation of trade barriers in this sector.

A booming international market

Services comprise a large number of highly varied activities: transportation, communications, touring, insurance, financial and banking services, construction, dissemination of know-how, advertising and so forth. It is estimated that production of services often accounts for more than 60 per cent of the GDP of developed countries and between 30 and 70 per cent of GDP in developing countries. Only a rather small part of this production crosses borders and is internationally traded. The fact that a service often requires the presence at the place of sale of the person supplying it accounts for the fact that international trade in services is relatively small in comparison with world production.

However, the development of communications and data-processing technologies and the general trend towards deregulation in many services sectors and their trade have meant that in recent years the proportion of services that can be traded across borders has increased. The increasing share of multinational companies in international trade has had a similar effect.

According to International Monetary Fund statistics and definitions (see table below*), in 1987 world trade in services amounted to 959 billion dollars, or 30 per cent of world trade and 43 per cent of trade in goods. Whereas trade in goods expanded by 150 per cent from 1979 to 1987, trade in services increased by 240 per cent over the same period. It is generally agreed that in fact calculations of trade in services based on the invisibles account of the balance of payments underestimate the real importance of services in international trade, because many services are not covered by any statistics.

Data on the percentage of workers employed in services indicate the sector’s importance for employment: in developed countries, it ranges from 50 to 70 per cent, and in developing countries from 20 to 60 per cent. Overall, the sector accounts for 32 per cent of jobs worldwide, as against 27 per cent in 1970. This figure reflects the importance of the agricultural sector in many developing countries.

(continued on p. 4)

GATT meetings

Provisional programme of meetings in November

31-1 Textiles Surveillance Body
31-1 NG GATT Articles
31-3 Group of Negotiations on Services
2-3 NG Textiles and Clothing
2 NG Dispute Settlement
4-5 NG Tropical Products
7-9 44th Session of the Contracting Parties
10-11 NG Trade-Related Investment
10-11 Measures
10-11 NG Subsidies
14-15 NG Agriculture
14-15 NG Safeguards
14-16 Textiles Surveillance Body
15 NG Dispute Settlement
16-18 Group of Negotiations on Goods

* World \(^1\) trade in goods and services, 1976–87

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>in billions of US dollars</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>1,184.9</td>
<td>2,591.7</td>
<td>2,778.7</td>
<td>3,209.8</td>
</tr>
<tr>
<td>Merchandise</td>
<td>903.1</td>
<td>1,820.3</td>
<td>1,927.6</td>
<td>2,250.6</td>
</tr>
<tr>
<td>Services (^3)</td>
<td>281.8</td>
<td>771.4</td>
<td>851.1</td>
<td>959.2</td>
</tr>
<tr>
<td>Share of total</td>
<td>23.7</td>
<td>29.8</td>
<td>30.6</td>
<td>29.9</td>
</tr>
</tbody>
</table>

\(^1\) Excluding eastern Europe.
\(^3\) Other goods services and income in source. Includes investment income and other official goods, services and income.
SERVICES (continued)

Growing share of developing countries

The industrialized countries continue to be both the biggest producers and the biggest consumers of trade in services, but over the last decade developing countries have increased their share not only in the so-called traditional sectors - transportation, travel and tourism - but also, for some countries, in highly advanced industries (engineering consultancy, data processing).

The developing countries' total share of exports of services has risen from 21.7 per cent to 24.4 per cent; the non-oil developing countries' share has increased most, as may be seen from the table below.

Share in world exports of services, 1976 and 1986

<table>
<thead>
<tr>
<th>Items</th>
<th>Industrial countries</th>
<th>Developing countries</th>
<th>Oil-exporting countries</th>
<th>Non-oil developing countries</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>78.3</td>
<td>75.6</td>
<td>21.7</td>
<td>24.4</td>
</tr>
<tr>
<td><strong>Shipment</strong></td>
<td>85.8</td>
<td>78.0</td>
<td>14.2</td>
<td>22.0</td>
</tr>
<tr>
<td><strong>Other transportation</strong></td>
<td>78.0</td>
<td>74.5</td>
<td>22.0</td>
<td>25.5</td>
</tr>
<tr>
<td><strong>Travel</strong></td>
<td>72.7</td>
<td>71.9</td>
<td>27.3</td>
<td>28.1</td>
</tr>
<tr>
<td><strong>Other private</strong></td>
<td>79.0</td>
<td>78.0</td>
<td>21.0</td>
<td>22.0</td>
</tr>
</tbody>
</table>


Definitions of trade and sectors covered

There is no generally accepted, satisfactory definition of trade in services. It has therefore been approached by defining it as the residue of transactions remaining after trade in goods has been deducted. But this definition is much too vague, and not good enough for the Uruguay Round negotiations.

Participants do not all attach the same immediate degree of importance and urgency to the need for a definition of trade in services. One approach is that as long as there is no definition, it will not be possible to begin to negotiate a set of principles and rules, since it would not be possible to determine the scope of rules and the possible overall balance of advantages that would emerge from the expansion of trade in this area. Others think that a generic definition of trade in services, based on general features of the trade, is by no means essential, and progress in the negotiations should not be predicated upon it; a pragmatic approach covering the various services activities or transactions of interest for the various participants would be satisfactory.

Discussions in the GNS indicate that there are different possibilities for grouping service activities according to certain common characteristics to arrive at a definition of trade in services for the purpose of the negotiations.

A major effort is being made to achieve a more satisfactory statistical base, and the work will certainly continue over many years, well after the end of the Uruguay Round. Various positions have been advanced by participants in the negotiations concerning the lack of statistics on trade in services that are as detailed and as reliable as those for trade in goods. While some countries are reluctant to embark on the drafting of rules to govern trade in services until they have a more accurate idea of the trade flows concerned, others consider that this shortcoming should not impede progress on the substance of the negotiations.

COUNCIL (continued)

REGIONAL AGREEMENTS

Greater transparency sought

At the council of 22 September, the United States requested that the trade provisions of the regional agreements concluded by Brazil, Argentina and Uruguay be notified to the GATT and be examined. It appeared that the agreements included not only preferential access in terms of tariffs, but also derogations from GATT provisions concerning non-discrimination in the administration of quantitative restrictions, licensing and State-owned enterprises. It suggested that the GATT Committee on Trade and Development should be chosen as a forum for these discussions.

Brazil said that the agreements were linked with the Latin American Integration Association, which had already been under review in the Committee on Trade and Development. The United States had already asked for information on the agreements in that Committee in June. Brazil hoped to be in a position to respond at the next session.

NEGOTIATING OBJECTIVES

The Punta del Este Declaration provides that:

"Negotiations in this area shall aim to establish a multilateral framework of principles and rules for trade in services, including elaboration of possible disciplines for individual sectors, with a view to expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting economic growth of all trading partners and the development of developing countries. Such a framework shall respect the policy objectives of national laws and regulations applying to services and shall take into account the work of relevant international organisations." The Programme adopted by the Group of Negotiations on Services in Geneva in February 1987 for the initial phase of the negotiations lists a number of elements to be examined in accordance with the negotiating objectives:

- definitional and statistical issues;
- broad concepts on which principles and rules for trade in services, including possible disciplines for individual sectors, might be based;
- coverage of the multilateral framework for trade in services;
- existing international disciplines and arrangements;
- measures and practices contributing to or limiting the expansion of trade in services, including specifically any barriers perceived by individual participants, to which the conditions of transparency and progressive liberalisation might be applicable. It was understood that the list was exhaustive, and that neither the formulation of the terms nor the order in which they were listed prejudged their relative importance or any ordering for negotiating purposes.

(continued on page 8)
Tropical products negotiation moves ahead as industrial countries begin to table offers

The United States, Japan and the Nordic countries have now tabled lengthy and specific lists of offers for trade liberalisation in the area of tropical products, at least some of which could be implemented, provisionally, following the Montréal Mid-Term Review in December. A meeting of the Tropical Products Negotiating Group, on September 20, also heard of detailed liberalisation measures being undertaken by New Zealand in this area and other participants promised to table offers of their own.

- Dispute Settlement
  6 and 7 September
  Participants focused their discussions on proposals for special and differential treatment of less-developed contracting parties in the GATT dispute settlement process, and examined a paper which compared existing GATT texts on dispute settlement with a summary of proposals made to date. Participants continued their examination of objectives of the dispute settlement mechanism and procedures related to notification, consultations, good offices and mediation and conciliation. Requests for, and council decisions to, establish panels and their terms of reference and composition were discussed as were multi-complainant procedures, third-party rights, and the adoption and implementation of panel reports. The delegation of Mexico said a proposal focusing on special and differential rights for developing countries in the dispute settlement mechanism was forthcoming.

- Agriculture
  12 and 13 September
  Among new submissions made to the group on this occasion was a comprehensive proposal by Egypt, Jamaica, Mexico, Morocco and Peru, supported by a number of other developing countries with interests as food importers. With respect to market access the proposal envisages a formula tariff-cutting approach leading to zero or low tariffs in developed country markets. GSP improvements and reforms in the non-tariff area including the removal of voluntary export restraints and bilateral quotas affecting developing countries. In the context of improving the competitive environment the proposal called for the strengthening of rules and disciplines affecting trade-distorting subsidies but would leave it for each contracting party to decide the extent to which such subsidies were affecting its market and the remedies to be applied. It warned that policy reforms in this area should not lead to increased world market prices being passed on to importing developing countries. New rules and disciplines affecting trade in agriculture would have to recognise the major role played by this sector in the economic development of developing countries and their dependence on agricultural trade both as exporters and importers: this would involve, for example, a degree of flexibility for these countries in accepting new obligations.

A statement by Japan spelled out in greater detail than hitherto the position of that country in the negotiation in advance of the presentation of a further formal submission before the next meeting. The statement covered the possibilities for short-term "temporary" measures which could be implemented after the Mid-Term Review in December, while stressing that such measures would have to conform to the fundamental elements of the long-term framework which should be agreed upon at the same time. While noting that it was already liberalising in the farm sector, Japan considered it important that participants be given the flexibility to select the concrete measures to be implemented in the context of short-term actions. In discussing the longer term, Japan recognised the need for a much greater liberalisation of agricultural trade but considered that the final picture could not be one of complete liberalisation. In this context it believed that a reformed Article XI could permit an exception to the general elimination of quantitative restrictions for "basic foodstuffs". The intention was not to reinforce the scope of import restrictions but to recognise that a stable supply of basic foodstuffs was essential for every country from the point of view of food security, and especially for those with a low self-sufficiency rate. In the case of Japan, rice was an example where there was a "solid national consensus" that it be supplied domestically even if at a higher cost.

The Group agreed to establish a working group on sanitary and phytosanitary regulations and barriers which, among other things, would look at the scope for greater international harmonisation of international standards in this area and at the possibilities for strengthening GATT rules and disciplines. The technical group which is already looking at the development of approaches to the measurement of government support for agriculture, was asked to report on options for the use of aggregate measurement in connection with possible commitments which might be adopted at the Mid-Term Review.

- Trade-Related Aspects of Intellectual Property Rights
  12-13 September
  Members of the Group pursued their examination of the proposals submitted by Switzerland and the EEC at the previous meeting. Switzerland gave examples of the types of situations which could be included in the indicative lists suggested in its proposal. These are situations where insufficient or excessive protection, or the lack of any protection, for intellectual property rights may create trade distortions. The EEC provided further explanations on certain points, for example the relationship and compatibility between its suggestions and existing conventions concerning intellectual property, possible conflicts between those conventions and the General Agreement, and dispute settlement machinery.

Japan submitted a further elaboration of the proposals it had tabled last autumn. Other countries expressed their views on substantive standards and the degree of specificity of the undertakings to be made, and the mechanisms which should be established to ensure observance of intellectual property rights at the frontier. Several countries presented relatively detailed views on the fundamental objectives and scope of possible undertakings under the GATT and the procedures, remedies and safeguards which should be provided in relation to barriers to legitimate trade. The provisions of the General Agreement applicable to the protection of intellectual property were again discussed in order to find common ground in the perception of those provisions. Several developing countries recalled the concerns they had also expressed in the Group of Negotiations on Goods in July with regard to the differing interpretations of the

(continued on page 6)
negotiating mandate given in Punta del Este with regard to trade-related intellectual property rights.

● MTN Agreements and Arrangements

14 September

Participants discussed the Agreements on Import Licensing Procedures and Technical Barriers to Trade. The United States submitted a proposal stating that the overall use of import licensing, particularly non-automatic licensing, should be minimized or decreased and that no licensing procedures shall be adopted or maintained without an accompanying GATT justification and notification. While some delegations praised the proposal’s objectives and agreed that licensing practices often result in extra costs and do constitute a barrier to trade, others viewed the US proposal as trying to change the scope and nature of the Code.

In their discussion of the Agreement on Technical Barriers to Trade, participants examined proposals from the United States, Japan and the European Communities. Proposals from the US called for improved transparency in regional standards activities and in bilateral standards-related agreements. A communication by Japan set out a number of options for modalities to integrate the textile and clothing sector into GATT.

The Group also received a submission by the US calling for improved transparency in regional standards activities and in bilateral standards-related agreements. A communication by Japan set out a number of options for modalities to integrate the textile and clothing sector into GATT.

● Textiles and Clothing

19 September

Members of the International Textiles and Clothing Bureau (ITCB) put forward a number of proposals for consideration by ministers at the mid-term Ministerial meeting in Montreal. Members said ministers should recognize that any regime for textiles that is selective and discriminatory has no future under strengthened GATT rules and disciplines and that ministers should emphasize the crucial importance of achieving results in this sector. In their statement, members said the examination of modalities which would allow the eventual integration of this sector into GATT is over, that a firm basis for the negotiations should be adopted at Montreal and that the group should start to engage in substantive negotiations early next year. The statement also said that a former submission by ITCB members should be adopted as the framework for future negotiations and that a first priority should be to freeze further restrictions and to stop the introduction of new selective and discriminatory restrictions under the MFA. ITCB members said a date for the termination of the discriminatory and exceptional treatment given to this sector will have to be agreed upon in the course of the Uruguay Round.

The Group also received a submission by Canada outlining a range of options for modalities to integrate the textile and clothing sector into GATT. The options were divided into two categories. One pertaining exclusively to options for phasing out the MFA. The other, for phasing out the MFA in the context of provisions which would be necessary to permit the integration of this sector into GATT. Participants did not object to a request by the Nordic countries for an analysis to be carried out by the Secretariat concerning the global economic and trade consequences of dismantling the MFA and other trade restrictions in this field, provided that the study be requested and undertaken in the framework of the GATT Textiles Committee.

● Natural Resource-Based Products

16 September

Chile called on other participants to recognize an urgent need to liberalize trade in this area. It proposed that negotiations should: bear on the reduction or elimination of government aid to this sector which affects trade; follow a generic, rather than a product-by-product approach and focus, at the first stage, on existing product groups (non-ferrous minerals, forestry and fisheries) to facilitate results in Montreal. Several delegations shared, in general, the Chilean view, including Australia which reiterated that subsidies inhibit and distort trade in this field and cited as an example extensive government support to the coal industry in several industrial countries. Some other members did not see the need for greater urgency, they viewed work in the Group as proceeding satisfactorily in terms of bringing to the notice a wide range of trade problems and a substantial body of background information. Opposing views were expressed on product coverage with some delegations maintaining the importance of including energy-related products in the negotiations.

● Tropical Products

20 September

Five initial offers or elaborations of previous proposals – involving leading markets and hundreds of tropical products – were tabled. The Nordic countries gave more precision to their proposal for a Tokyo Round tariff-cutting formula with the submission of illustrative lists from Finland (57 products) and Norway (139 products), and a Swedish offer to eliminate duties on several tropical products. Japan tabled an initial offer covering some 144 tropical products: 123 proposed for tariff reduction or elimination, and some others for removal of certain non-tariff measures.

The United States, while reiterating a previous proposal based on its submission to the Agriculture Group, stated it was prepared to negotiate the elimination of all market-access barriers on some 128 agricultural tropical products which make up over 75 per cent of the value of its imports of such products but preferred leaving the negotiation of support measures to the Agriculture Group. On non-agricultural tropical products, the US suggested aiming for the elimination of duties on raw products, lowering duties on semi-processed or processed products, the reduction of very high tariffs, and the elimination of very low duties; non-tariff measures were to be reduced or eliminated to the maximum extent possible. New Zealand gave details of its current trade liberalization programme as it applied to a comprehensive list of tropical products. In an elaboration of an earlier proposal, Switzerland offered a specific formula for possible tariff-cutting on tropical products. The new submissions, except for New Zealand’s, provided for early implementation but were made contingent on certain factors, including the extent of contributions from other participants. They were generally welcomed as a significant advance although some delegations requested clarification of certain points. On the Group’s table now were several significant offers, including previous ones from the European Communities and other participants, enabling work to proceed into the next stage under the arrangements agreed in July consultations and negotiations. In order to keep all participants abreast of developments in possible bilateral and plurilateral negotiations, the Group agreed to hold informal sessions during October.

● GATT Articles

20-21 and 23 September

Two new communications were submitted to the Group during the meeting. One, from the United States, concerned the balance-of-payments provisions of the General Agreement; it noted the harmful effects of which, the United States believes, the use of those provisions has had upon trade, and advocated stricter disciplines focusing on adjustment rather than the adoption of import restrictions. The other communication, from Chile, stressed that most of the GATT articles under
charges, in tariff bindings, some

has concentrated on the notion of the
understanding of trade in goods, which

By analogy with the traditional
duties, and not only customs duties and

with Article II. for the inclusion of all

various proposals aimed at broadening

The Group pursued its discussion of

of production sold across the border?

Another way of approaching the
question of trade in services would be to
seek agreement on a list of transactions
and sectors to which the definition of
trade in services would apply. Those
supporting this approach argue that it
would allow the measures or barriers
which are seen by participants as
impeding trade in services in specific
services sectors to be addressed in a
concrete way, without being constrained
by an a priori need to define the scope
of the trade. It would also allow great
flexibility, and make it possible to take
account both of the diversity of the
services sectors and the various forms of
production of services. In some sectors,
only the cross-border sales of services
would be dealt with, while in others,
services requiring the movement of
factors of production would be included.
Some countries have argued that this
approach would not be neutral and
would reflect the relative negotiating
strength of participants.
The discussions have indicated a linkage
between the definition of trade in
services and that of sectoral coverage: it
covers both definitions of common
terms as well as an identification of
national positions relating to those
terms, is seen as an instrument for
developing areas of convergence as the
negotiation proceeds. As an aid to the
discussions, the delegations of Australia
and New Zealand tabled the text of the
recently-concluded Protocol on Trade in
Services which forms part of the
Australia/New Zealand Closer
Economic Relations Trade Agreement.
The Protocol covers many issues under
discussion in the GNS including
definitions, market access, national
treatment, commercial presence and
trade liberalisation. In informal sessions,
the Group began to discuss the nature of
its report for the Trade Negotiations
Committee when it meets at Ministerial
level in Montreal at the beginning of

SERVICES

Cross-border sales of services: the service itself or factors of production sold across the border?

By analogy with the traditional understanding of trade in goods, which has concentrated on the notion of the product being sold across a national frontier, trade in services should be defined to include only cross-border sales of services where the service itself crosses the border, and only the direct sale of services by enterprises or individuals residing in one country to enterprises or individuals residing in another country would be included. Accordingly, services transactions between enterprises or individuals residing or established in the same country would be considered domestic transactions and not qualify for inclusion under the definition of trade in services.

Under another approach, a definition of trade in services could also include those services that do not necessarily cross the frontier and where often the cross-border movement of the factors of production (e.g. labour, capital, know-how) or of the consumer is required for a transaction to take place. This definition would provide the possibility of including the production and sale of services by non-residents in the country of the producer or consumer even if no cross-border transaction is involved.

Some form of presence (commercial presence or establishment) of the producer of a service in the country of the consumer would also have to be considered. This definition would expand the spectrum of international services transactions that might be included in the definition of trade in services.

These two approaches are currently being discussed in the Group of Negotiations on Services. In favour of the former, it is argued that the Punta del Este Declaration can only be interpreted as concerning international trade in services, and not internal trade, as would be the case if the second definition were adopted. The latter would confuse the notion of trade in services by introducing investment issues. Conversely, according to the advocates of the broader approach, only a definition including the transfer of factors of production would ensure that the objectives of the Punta del Este Declaration, namely expansion of trade, economic growth and the development of developing countries, would be fully met. It would enable the inclusion of services that require a transfer of resources that could contribute to economic growth, such as movements of capital, labour - skilled or not - and technology.

Defining trade in services by agreement on coverage

Another way of approaching the question of trade in services would be to seek agreement on a list of transactions and sectors to which the definition of trade in services would apply. Those supporting this approach argue that it would allow the measures or barriers which are seen by participants as impeding trade in services in specific services sectors to be addressed in a concrete way, without being constrained by an a priori need to define the scope of the trade. It would also allow great flexibility, and make it possible to take account both of the diversity of the services sectors and the various forms of production of services. In some sectors, only the cross-border sales of services would be dealt with, while in others, services requiring the movement of factors of production would be included. Some countries have argued that this approach would not be neutral and would reflect the relative negotiating strength of participants.
The discussions have indicated a linkage between the definition of trade in services and that of sectoral coverage: it is difficult to come to a clear agreement on the sectors to be covered without some understanding of the general characteristics of the transactions which participants have in mind. It is likewise difficult to arrive at a final understanding with respect to a definition without taking some account of the sectoral interests involved. For example, the implications of a foreign presence to produce services in a certain country may differ depending on the sector concerned.

(to be continued)
difficulties in attempting to apply pure economic theory to this sort of question. The United States Government recognized that the best solution was to remove the offending tax, but despite its diligent efforts this had not been possible. A solution by the Council would merely further politicize the discussion of the issue in the United States. As an interim solution, the United States was prepared to negotiate compensatory adjustments with affected countries, which would be presented to Congress for implementation. The Community said that it was precisely because of the United States failure to provide compensation that it had requested authorization for retaliatory measures. It continued to believe that this was the only realistic option at the present stage. In response to Mexico's comments, the Secretariat pointed out that it had been asked to give purely technical advice and not legal advice. It was for the Contracting Parties in their best judgement to decide if the taking of retaliatory measures was appropriate or not.

Nigeria, Kuwait and Nicaragua, while understanding the Community's position, stressed that developing countries had very limited practical possibilities of taking retaliatory action. They hoped that the matter raised by the Community could be settled by the Council at its next session, as did Brazil. Jamaica said that it was in favour of a Council decision authorizing those countries which had been affected to take action consistent with their rights under the General Agreement. The Council agreed to revert to this item at its next meeting.

**UNITED STATES “OMNIBUS” TRADE AND COMPETITIVENESS ACT**

**Hopes and Fears**

Following the European Community, which had requested that this item be placed on the Council agenda, many countries took the floor to welcome the fact that the adoption of the United States “Omnibus” Act gave the United States Administration negotiating authority for the Uruguay Round. They also recognized the Administration's efforts to weed out the ultra-protectionist measures which had been present in the initial bill. But they expressed concern at a number of provisions which could incite a recourse to unilateral actions inconsistent with the United States' GATT obligations, encourage lobbying activities and provide the United States with ample means to exert pressure and improve its negotiating position in the Uruguay Round. Sections 301 and 337, the provisions relating to the possibilities of triggering agricultural subsidies, and the possibilities of retaliation to obtain reciprocal market access in tele-communications were mentioned in particular. The European Community, Japan, Hong Kong, Korea, Switzerland, the Nordic countries, Uruguay, Canada, Brazil, Australia and India expressed concern on one ground or another, and hoped that the possibilities of protectionist action offered by the “Omnibus” Act would not be used by the Administration. The United States said that in its view the Act had been stripped of the earlier protectionist provisions. It was first and foremost a firm commitment to multilateralism, and the possibilities of protectionist action were intended to counter unfair trade practices. The United States gave an assurance that the Act would be applied responsibly. It would be circulated to GATT members in its final, expurgated version.

**REGIONAL AGREEMENTS**

The United States also requested the European Community to provide specific information on its association agreement with Turkey, in particular concerning the level of tariff preference granted in the Community's market, the portion of EEC/Turkey trade conducted under the provisions of the agreement, the approximate date for the full implementation of the agreement, and a description of the amendments undertaken as a result of the accession of Spain and Portugal to the Community. The Community said that it would do its best to provide this information at the next Council meeting.

The Council agreed to revert to this item at a future meeting.

The Council also took note of the report of the Working Party on the Third Lomé Convention between the European Community and African, Caribbean and Pacific countries. Improvements had been made on non-trade matters in comparison with the previous Convention.

1 See FOCUS No. 55.
2 See FOCUS No. 54.
3 See FOCUS Nos. 54 and 55.

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**“SCREWDRIVER” PLANTS**

**Unsatisfactory consultations**

Japan informed the Council that in September it had held Article XXIII:1 consultations with the Community concerning the latter's new Regulation governing manufactured products containing a high degree of imported parts and assembled in the Community. The consultations had proved unsatisfactory, and Japan reserved all its rights under the General Agreement, including that of recourse to a dispute settlement procedure.

Hong Kong said that it considered the Community regulation an extension of anti-dumping duties which did not accord with the General Agreement or the Anti-Dumping Code. It likewise reserved its rights.