Chairman of the Contracting Parties:

"The international standing of the GATT has grown"

The session of the GATT CONTRACTING PARTIES held on 7 and 8 November, during the closing stages of preparations for the Montreal Ministerial Meeting, partly reflected the climate of the Uruguay Round negotiations at mid-point and overall developments in trade in 1988.

"The mood is more optimistic than it has been for years", said Ambassador Alan Oxley (Australia), Chairman of the Contracting Parties for 1988, at the opening of the session. Annual rates of growth in international trade have risen, liberalization of international trade is now one of the major priorities on the agenda, and there has been intense work in the Uruguay Round on many of the major problems in international trade. He concluded that "As a result, the international standing of the GATT has grown", and that the Uruguay Round has already enhanced its international authority. As a result, it has increased its credibility among governments of the concept of liberal, multilateral trading arrangements.

Renewed vigour of dispute settlement

There has been an extraordinary increase in resort to the dispute settlement procedures of the GATT. In 1987, seven panels were established. In 1988 there have been 14. Prior to the launching of the Uruguay Round in 1986, the average was 2.5 per year. This was an important development, noted Ambassador Oxley: "The GATT procedures have been shown as capable of handling serious disputes; panels have been brought on agricultural trade questions, matters which for many years had effectively been taboo; recommendations from panels have been accepted which require significant restructuring of industry to implement".

Nevertheless, Ambassador Oxley added that it was important not to underestimate the brittleness of the foundations upon which this recent reinvigoration of the dispute settlement process rested.

Another positive development stressed by the Chairman of the Contracting Parties was the considerable number of new requests for accession to the General Agreement, and the fact that "an impressive number of countries have begun moving unilaterally to open up their economies and reduce trade barriers". On the other hand, "there remain serious flaws", such as "the existing network of discriminatory export restraint arrangements in key areas, unacceptably high levels of support for agriculture, and the possibility to resort to unilateral or bilateral protection".

"The next two years will be even more critical for the international trading system and the GATT. The opportunity to capitalize on the general mood of optimism is there", and must be seized, concluded Ambassador Oxley.

(Continued on page 2)
TRADE DISPUTES

● EEC Hormone Directive

The United States drew the Contracting Parties' attention to the fact that the European Community was continuing to oppose the settlement of its dispute with the United States concerning the Community's Directive prohibiting the use of hormones in fattening animals for slaughter under the dispute-settlement procedures of the Code on Technical Barriers to Trade. The United States considered the Directive to be without scientific foundations and an unjustified trade barrier which had caused it a loss of exports of $115 million.

Canada recalled that it had repeatedly expressed concern both at the Directive and at the Community's attitude.

The Community said it was not seeking to block the search for a solution, but considered the United States' approach inappropriate. A similar dispute had proved impossible to settle because the parties to the Code had been unable to agree on the Code's applicability to production processes and methods. The Community had repeatedly stated that it was ready to follow a legal approach that did not prejudge this question. It also stressed that the Community Directive reflected a political commitment to the protection of consumer health. Acceptance of a risk for human health was a matter touching upon its sovereignty and came under Article XX:1(b) of the General Agreement.

● United States/Sweden: amicable settlement under study for apples and pears

Sweden informed the Contracting Parties that after holding intensive consultations with the United States and other main suppliers of apples and pears to Sweden, a draft agreement had been prepared which modified the system of Swedish border protection for these fruits. Sweden hoped that this system would be satisfactory for all parties concerned. As an interim measure, the opening dates for imports had been brought forward: new bound tariffs would be applied, with duty-free periods. The Government had just tabled a bill in the Swedish Parliament authorizing it to implement this new regime.

The United States said that it was studying Sweden's proposals and suspended its request, presented in April, for the establishment of a panel.

Consultations on exports of domestically prohibited goods

Mr. Carlisle, Deputy Director-General of GATT, informed the Contracting Parties that two rounds of consultations had been held in GATT in 1988 on the question of exports of domestically prohibited goods, pursuant to the Contracting Parties' decisions in 1987. The consultations had dealt with the nature and type of action which could be taken within GATT, taking into account the work being done by other international organizations.

In the course of the consultations, some developing countries had explained that in most cases they were unable to ban imports of such products simply because they did not know that the products were prohibited or their sale was restricted on the domestic market. Their customs services often did not have sufficient control facilities to check the validity of the certificates of exporting firms. Lack of consumer protection regulations also played a role.

Most developed countries consulted had considered that this was an important problem; they had referred to measures requiring firms to notify all exports of such products to other countries. Some had stated that they were studying the possibility of taking further measures to make the exchange of information more efficient.

Both developed and developing countries had considered that other international or regional organizations had prepared valuable guidelines and procedures for notification and exchange of information. However, certain developing countries stressed that these arrangements were voluntary and did not impose any obligations. They therefore considered that the GATT could draw up rules to strengthen implementation of these arrangements.

The Contracting Parties discussed this question and agreed that the consultations should be pursued so as to identify more accurately the rôle GATT could play and the work it could undertake, if necessary.

OFFICERS OF THE CONTRACTING PARTIES FOR 1989

At the close of the forty-fourth session, the following Officers of the Contracting Parties were elected:

Chairman of the Contracting Parties
Ambassador Amir Habib Jamal (Tanzania)

Vice-Chairmen of the Contracting Parties
Ambassador Janusz Kaczurba (Poland)
Ambassador Marco Kosin (Yugoslavia)
Ambassador Olli Mannander (Finland)

Chairman of the Council of Representatives
Ambassador John Weekes (Canada)

Chairman of the Committee on Trade and Development
Ambassador Rubens Ricupero (Brazil)

Arthur Dunkel at the helm for two more years

The CONTRACTING PARTIES unanimously reappointed Arthur Dunkel for a two-year period up to 30 September 1991. Arthur Dunkel has headed GATT since 1980, and his appointment has already been renewed three times. As his present term of office would have expired on 30 September 1989, he preferred to bring forward the CONTRACTING PARTIES' decision in view of the implications which the election of a Director-General might have for the smooth progress of the Uruguay Round negotiations, which are supposed to be concluded in December 1990.
REGIONAL AGREEMENTS IN THE DOCK

Accession of Portugal and Spain to the European Communities: no overall conclusions

On 19 and 20 October the GATT Council adopted the report of the Working Party on the accession of Portugal and Spain to the European Communities. The Working Party had been unable to reach agreed conclusions as to the consistency of the Treaty of Accession with the General Agreement, because of the diverging views expressed by Working Party members. The report therefore summarized the discussions, and noted that many Working Party members had reserved their rights under the General Agreement. The Working Party had recommended that, consistent with normal GATT practice, the Contracting Parties invite the parties to the Treaty of Accession to furnish reports on the progress towards the completion of the customs union, including the trade effects on third parties, every two years until such time as the provisions of the Treaty had been fully implemented.

The United States said that it was disappointed with the report's conclusions. It considered that the inconsistency of the terms of the Community's latest enlargement with Article XXIV:5 had been clearly demonstrated: the trade restrictions, both tariff and non-tariff, imposed at the time of enlargement were on the whole higher and more restrictive than the general incidence of such barriers prior to Spain's and Portugal's accession to the Community. The United States also said that it did not share the interpretation given by the Community of its other obligations under Article XXIV.

Australia said that the Community was at odds with most members of the Working Party on all of the issues, from the method for assessing the incidence of tariffs to whether new and GATT-illegal measures had been adopted by Spain and Portugal on accession to the Community. Australia attached great importance to the biennial reports to be submitted by the members, in particular with regard to the assessment of trade effects on third countries.

Japan considered that it was natural that the disciplines of Article XXIV should be strictly applied. It reserved all its rights. It was particularly concerned that Spain and Portugal were maintaining or introducing a number of quantitative restrictions which contravened the General Agreement. Japan rejected the view that a customs union might claim "counter-compensation" in the event of improved access, as being without legal foundation.

Canada stated that it reserved its full rights pending the completion of its negotiations with the Community under Article XXIV: 6.

The Nordic countries and Austria said that the accession of Portugal and Spain was a significant step towards European economic integration. It had resulted in improved access to the markets of those two countries, which should be enhanced in the future, as well as greater transparency. These positive effects were likely to have a beneficial spillover effect on trading partners outside the European Community; thus it would be positive for the trading system as a whole and in line with the free-trade objective of the GATT.

Turkey said that in its view the accession had resulted in a liberalization of tariff barriers and other restrictions on trade by Portugal and Spain, as the large increase in their imports confirmed. The concerns expressed by certain delegations with regard to the effects on third countries could be examined when reports on the implementation of the Treaty were submitted.

New Zealand expressed concern over the lack of consistency of the enlargement with the General Agreement. It reserved all its rights and attached great importance to the biennial reports to be submitted by parties to the Treaty.

Hungary, Poland and Romania expressed serious concern at the introduction of new discriminatory quantitative restrictions by Spain and Portugal which affected their exports.

The European Community said that it was extremely disappointed by the harsh and unjustified scrutiny to which its latest enlargement had given rise. The rigid positions adopted on this occasion were without political sense and objectivity. The Working Party had not even acknowledged the significant downward revisions and new bindings in Spain's and Portugal's tariffs, which should lead to significant improvement in their market and thus in the Community market for third countries. Another element that had been passed over was the integration of developing countries in the world market and the sacrifices made by Spain and Portugal in the hope that their economies would benefit. The Community would pursue its process of European integration in a responsible manner, despite this niggling approach.

Agreements among Argentina, Brazil and Uruguay

The United States said that at the latest meeting of the Committee of Trade and Development it had received replies to the questions it had raised concerning the economic integration agreements among Brazil, Argentina and Uruguay. It intended to hold talks with those countries to clarify the nature and effects of the agreements. However, it could not at the present time withdraw its objections to the establishment of a working party. The United States also said that all contracting parties should have an equal opportunity to be informed about and review the possible impact of these agreements on their trade; the agreements should therefore be notified to GATT.

Brazil, also speaking on behalf of Argentina, said that it hoped the information furnished would dispel the concerns and doubts of certain countries. Further information could be provided, if necessary, to the Committee on Trade and Development, which was the appropriate GATT body.

Canada and the European Communities expressed an interest in receiving fuller information.

EEC – Hungary: bilateral agreement on trade, commercial and economic co-operation

The Community announced that on 26 September the EEC and Hungary had signed a bilateral agreement on trade, commercial and economic co-operation. At the trade level, quantitative restrictions maintained by the Community against Hungary on more than 2,000 tariff positions would be abolished in three phases, by 1989, 1992 and 1995. The Agreement would increase the possibilities of two-way trade, joint ventures, licensing agreements and other bilateral economic activity. The text of the agreement would be made available to the secretariat for the information of contracting parties.

Hungary added that the agreement was based on full respect for GATT provisions and was aimed at developing trade on the basis of equality, non-discrimination, mutual benefit and reciprocity.

(Continued on page 9)
Technology is globalizing markets

By adding to the potential for responding flexibly to changes in demand at home and abroad and by promoting product innovation and differentiation, the new technologies substantially broaden the scope for specialization and product diversification in international trade. In the process, they are also enlarging the services component of trade in goods.

Major advances in transportation and telecommunications are playing an even bigger role in shortening the economic distance between countries and stimulating world trade.

Coupled with the competitive search for profitable investment projects, the new technologies are promoting the globalization of markets and greatly increasing the scope for international trade. According to GATT economists, economic costs of non-tariff barriers to trade, in particular quantitative restrictions, will be rising in tandem with the ongoing globalization of markets, even if the level of non-tariff barriers remains constant.

Population trends and market dynamics

The loss of economic efficiency resulting from the maintenance of trade barriers is all the more damaging when set against population trends.

The latest population projections by the United Nations indicate that the industrial countries will account for only fifty out of each thousand births during the period 1990–2010, which amounts to zero population growth, a gradually aging population and a steady increase in the ratio of retired people to active workers.

The same population statistics point to an increase in the population in developing areas of nearly 50 per cent between 1990 and 2010, for a net increase of 1.4 billion people and 600 million new workers.

These developments have far-reaching implications for demand, production and world trade. The population figures suggest that for many goods and services the greatest potential for dynamic market growth in the coming decades will be in the developing areas. The combination of high labour-force growth in the developing areas and little or no growth in industrial countries is likely to effect the relative competitiveness of a broad range of industries.

The exact outcome of these various developments is impossible to predict, but there is little doubt that the coming years will see continuing, perhaps even stronger, pressures for adjustment in the patterns of output and trade, GATT economists conclude.

CHALLENGES FOR TRADE POLICY

The pressures for change in the world economy pose challenges for trade policy – in particular how to assist early and continuous adjustment – at a time when growing interconnections between markets are changing the way trade policies are defined. With international trade accounting for a steadily larger share of national income in most countries, and with the dramatic evidence in recent years of the extent to which trade flows can be influenced by a country's exchange rate policy, monetary policy, and fiscal policy (through the impact on the current account balance), the traditional distinctions between different policy areas are becoming more and more complex.

In many countries trade policy is becoming the single most important resource allocation policy, and as such is rapidly joining monetary and fiscal policies in the front rank of national economic policies. Business and market confidence, therefore, is increasingly influenced by perceived trends in trade policies and by commercial policy relations between countries.

With the growing linkages among economies, the costs of ill-conceived trade policies in developed and developing countries will continue to rise. In particular, distorted patterns of output and employment will reduce opportunities for profitable investment and job creation.

The ability of the developing areas to create 600 million new jobs in the next two decades will require more success in mobilizing domestic savings and in creating conditions that will attract new net inflows of capital for productive investment. Successful trade policy reforms in developing areas, realistic exchange rates and an improved global trade policy environment, would contribute to this goal by promoting structural adjustment, which in turn would make these economies more attractive to domestic and foreign investors.

For the developing areas to realize the full potential of such major reforms, it is essential that the industrial countries actively promote an improved trade policy environment. By responding positively to the pressures for change in the patterns of production and trade, the industrial countries would also benefit.

Sectors where policy changes would increase national productivity in industrial countries while simultaneously increasing growth opportunities for developing areas are agriculture, textiles, clothing and steel.

(Continued on page 5)
CLIMATE MAY BE FAVOURABLE FOR PROGRESS IN TRADE POLICIES

Favourable developments and sources of concern form the back-drop for the GATT secretariat's report on developments in the trading system from April 1988 to August 1988, as well as for the Council's discussions at its special meeting on 19 October. These developments must be viewed in the context of the macro-economic environment. The average growth rate of exports has accelerated, exports have picked up in a number of heavily indebted countries, and exchange rates have been more stable. If these trends continue and are supported by appropriate monetary and financial policies, including those relating to the reduction of the debt burden, a particularly favourable climate will exist for progress in the trade policy fields, notes the GATT report.

During the six-month period under review, attention in the trade policy field focused in particular on three developments: in the United States, the passage of the Omnibus Trade and Competitiveness Act – which has aroused concern in many countries – and the President's vetoing of the Textile and Apparel Act; the move towards the unification of the European market, to be completed by 1992; and the progress of the Uruguay Round negotiations.

The concerns included the application by the United States of measures aimed at strengthening protection of intellectual property rights in such areas as patents and copyrights, as well as anti-dumping measures by the EEC to counter the spread of so-called "screwdriver assembly" operations. On the other hand, several countries adopted trade liberalization measures, in particular Japan in the sector of agriculture; and some slackening of tensions in agricultural markets continued, although underlying problems remain, indicates the Secretariat's report.

Several agricultural disputes referred to GATT have been resolved or have moved forward, but new cases have been raised. There have been a number of favourable changes in agricultural trade policies.

The trend towards the adoption of autonomous trade liberalization measures has continued. A number of countries, both developing (Brazil, Colombia, India, Korea, Mexico and Pakistan) and developed (Australia, New Zealand and Poland), made significant moves to liberalize tariffs.

Among the physical controls implemented by certain industrialized countries to regulate access to their markets, export restraint arrangements negotiated with each supplying country have continued more and more to replace quantitative restrictions governed by GATT rules. The European Communities and the United States account for a large proportion of these measures, which concern trade between them as well as with Japan, Korea and Taiwan.

Regional groupings have continued to develop in Europe, the Pacific, Latin America and North America. This trend has aroused fears about the creation of economic and trading blocs.

Council members on the whole considered that the main problems and developments had been identified and analysed realistically. Nevertheless, some of them, in particular Brazil, thought that the secretariat's appraisal of the world economic and financial situation was over-optimistic; even the modest recovery in the industrialized countries was endangered by the persistence of some pervasive trends negatively affecting the world economy as a whole. As for developing countries, the rise in their debt (40 per cent of their GNP), the fall in the terms of trade (20 per cent from 1982 to 1987) and the plummeting of commercial bank financing were major negative factors. The increasing resort to unilateralism and bilateralism by the major trading partners threatened to erode the multilateral system.

The United States, on the other hand, considered that the document accurately identified the economic developments and main issues of particular importance to international trade. It stated that the final version of the United States Omnibus Trade and Competitiveness Act focused more on opening markets than on protecting domestic industry.

The European Community considered that the creation of a single market would have positive effects not only for itself but also for other countries, by creating a sort of dynamics that would benefit businesses throughout the world (if they knew how to take advantage of the opportunities). The common external policy would be pursued with total respect for the Community's existing obligations at the bilateral and multilateral levels. In the case of obligations that did not yet exist, the Community would pursue its course as long as the Uruguay Round had not reached a stage where it could allow, multilaterally, the definition and implementation of new disciplines.

Japan stressed that some points of concern remained, in particular the current trend in world trade towards a strengthening of bilateralism. It was concerned about the impact of regional groupings on the future of the international trading system. The developing countries' debts were also a matter of concern, and access for their exports to the markets of industrialized countries should be improved in the Uruguay Round negotiations. Furthermore, the establishment of rules in the "new areas" would provide developing countries with new trade opportunities, or should enhance the structural adjustment of their economies in the long run.

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Trade Policy (continued)

The multilateral trading system supports structural change and economic growth in the world economy in two ways: one is by promoting trade liberalization; the other is through the establishment of a framework of rules and disciplines for the conduct of national trade policies. By guarding against increases in tariffs (through the use of "bindings"), banning the use of quantitative restrictions except in exceptional circumstances, and laying down provisions for minimizing distortions in competition, these rules and disciplines would help increase the stability and predictability of future trade policies and promote trade-related investment which, in turn, is central to the process of structural adjustment.

The current multilateral trade negotiations can facilitate structural adjustment by coupling reductions in the levels of protection with increased market access abroad, and by reducing business uncertainty through improvements in the functioning of the trading system. The stimulus this would give to flexibility, investment and growth is precisely what is needed to deal with the challenges posed by technological innovation and world-wide demographic trends.
**Dispute settlement and agricultural reform proposals among new negotiating submissions**

A comprehensive proposal covering many elements which might serve to improve the working of the GATT dispute settlement procedure was tabled in October - among other things it would speed up the selection of panelists, place time limits on various stages of the procedure and rule out the blocking of panel reports in the Council. New proposals in the agriculture negotiating group included those from Korea and Japan, laying emphasis on food security, and from the United States, developing ideas on both long- and short-term reform.

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**Safeguards**

**26 and 28 September**

A large part of the meeting was concerned with the long-standing question of selectivity in the geographical application of safeguard measures. In a general statement the European Communities stressed that a solution to the safeguards problem would involve difficult political decisions. The Communities considered that while selectivity could be harmful, so could a too rigid position on the application of the MFN (non-discrimination) clause. A solution, which would have to include transparency and surveillance, might be found somewhere between the two.

The United States took the view that an inflexible application of the MFN principle ignored reality and might drive countries more and more towards other restrictive mechanisms to solve safeguards problems. While MFN might be the general rule, a limited use of selectivity could be accompanied by tougher disciplines, for instance with respect to the duration of such measures and faster degressivity during their currency. A number of developing countries reiterated their view that selective actions against imports had no place in Article XIX. They considered that such actions should either be brought into conformity with GATT or be phased out. Brazil considered that since the problem of selectivity tended to block negotiations it might be better to look upon safeguard actions not as import relief measures but domestic adjustment assistance measures.

The meeting also considered other aspects of a possible safeguards agreement including compensation and retaliation, and special and differential treatment for developing countries.

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**Functioning of the GATT System – 26-30 September**

In its discussion of how GATT could contribute to achieving greater coherence in global economic policy-making by strengthening its relationship with other monetary and financial organizations, the Group examined proposals by Mexico, Canada, the European Communities (EC) and Jamaica. Mexico saw a need for a system of cooperation and coordination to be established in GATT, the IMF and the World Bank to monitor and avert the imposition by creditor countries of measures detrimental to the export earnings of debtor countries. Such a strategy should ensure that macro-economic policies followed by developed countries were compatible and consistent with developing countries' structural adjustment programs.

Also discussed was a proposal by Canada that the Chairman of the Trade Negotiations Committee at Ministerial level request the GATT Director-General, along with the heads of the IMF and World Bank, to study cooperation among the three institutions. Several participants said the Director-General could undertake consultations with the two institutions on his own responsibility. Others focused on the need for the institutions to operate in their areas of competence, and to work in a coordinated fashion towards consistent ends. The EC said the GATT should support the overall adjustment process at both domestic and worldwide levels while simultaneously discouraging the introduction of restrictive trade measures resulting from budgetary, monetary or financial pressures.

The need for greater involvement of Ministers in GATT and regular meetings of the Contracting Parties at Ministerial level at least once every two years was generally accepted in the Group. Views differed, however, on whether a smaller Ministerial group should also be established. Supporters stressed the value of more frequent meetings of a consultative and advisory group of Ministers, restricted in numbers but representative of all GATT members. Others feared that existence of such a group would change GATT's character adversely. The discussion covered the role of a smaller group, the need for transparency in its work, its size and composition, and its relation to GATT as a whole.

In their discussion of enhanced surveillance in the GATT, participants generally agreed that all Contracting Parties should be subject to review, with a core group of countries being reviewed on a regular basis. A statement by the Nordic countries seeking more efficient and meaningful trade policy surveillance called for a team of "discussants" to present the reviews in a committee of all contracting parties. Participants widely agreed that enhanced surveillance through the trade policy review mechanism, while contributing to closer observances of GATT principles through greater transparency and understanding of individual contracting parties' trade policies, should not be a basis for the enforcement of specific obligations under GATT or for the institution of dispute settlement procedures.

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**Subsidies and Countervailing Measures**

**3 and 4 October**

Participants discussed a submission by Canada that outlined a possible framework for the Group's negotiations. The Canadian proposal attempted to tackle, in a comprehensive manner, disciplines on the use of subsidies and the clarification of countervailing rules.

Suggesting that countries submit proposals on the elements of an eventual framework by June 1989, Canada stressed the need to define the scope and form of subsidy disciplines, such as prohibition, freeze or reduction, and said that questions related to the distorting or non-distorting effects of subsidies should be considered as well as compensation and retaliation remedies in regard to countervailing duties. Canada also suggested possible additional remedies in regard to those subsidies which create third-country export or import replacement problems such as: types of remedies that could be envisaged, including the right to compensation/retaliation; whether or not to allow unilateral action or to subject countervailing remedies to a multilateral process; and the precise form, scope and nature of such a multilateral process, with respect to remedial actions, including involvement of third countries.

In regard to improving and clarifying countervailing duty rules, Canada proposed that parameters for the application of counterervail be more clearly defined and that they be consistent with the form and scope of agreed subsidy disciplines. Canada said other criteria used in countervail investigations such as...
initiation procedures, standard of evidence, quantitative indicators and level of duty need to be clarified and that more precise rules on subsidy disciplines, countervailing duties and other remedies must be examined. The functioning of the current dispute settlement mechanism in the area of subsidies and countervailing measures should also be addressed.

The Canadian proposal was generally well-received although some participants sought a more detailed approach for special and differential treatment for developing countries. The Group agreed that the Chairman would draw on the Canadian and other submissions to arrive at a possible framework for the negotiations. A Chairman’s report is to be drafted and circulated in time for the Group’s next meeting.

Trade-Related Investment Measures — 5-7 October

Participants continued examining the operation of GATT Articles related to the trade restrictive and distorting effects of investment measures. One topic which figured prominently in the discussions was what kinds of GATT disciplines would be adequate to avoid the adverse effects of investment measures. In this regard, some participants stated that no possibilities should be ruled out a priori, and a number of them felt that there could be many cases in which the prohibition of trade-restrictive and distorting measures might be necessary. Some others, however, considered that the principle of prohibition was wholly unnecessary in this context. It would, furthermore, seriously compromise national sovereignty over investment policies and undermine their objectives which were not, generally, trade-related. In that view, the mandate did not provide for such a far reaching approach and the Group should confine itself to examining existing GATT provisions.

Some participants proposed that certain measures and practices of private enterprises, such as price fixing, tied sales and purchasing, and transfer pricing, should be examined in the Group alongside government-mandated measures. These measures could lead in themselves to trade restriction and distortion, and furthermore they frequently were the cause of the imposition of government-mandated measures, which aimed to counter their trade effects. To ignore such measures would be to create an unbalanced approach to the negotiations. Some other participants stated that these were restrictive business practices that should not be addressed since there was no agreement on negotiating this subject in the Uruguay Round.

Trade in Agricultural Products — 11-14 October

A proposal by Korea outlined its overall position on the agricultural negotiations. It highlighted the specific nature of the agricultural sector and the variety of situations from country to country, as well as the need for Korea and other developing countries to develop their agricultural infrastructure and preserve security of supply of basic food products by maintaining a certain degree of self-sufficiency. In particular, Korea advocated a strengthening of Article XI:2(c) on quantitative restrictions in the event of over-production, the progressive reduction of trade-distorting subsidies, the harmonization of sanitary and phytosanitary regulations, and the development of a suitable method for the measurement of agricultural support. In the case of developing countries, a longer time-frame for liberalization and for the application of subsidies should be authorized during the period of adjustment of their agricultural sectors.

In elaborating a previous statement, Japan defined the term “basic foodstuffs” as foodstuffs which are produced in countries that have which have traditionally been the main source of nutrition and which would be produced and supplied on a priority basis at a time of general food shortage. Japan also developed its position on short-term measures; these must be a part of long-term measures and expressions of political will. Japan stated that it was in favour of the use of a measurement of support on an experimental basis, in order to see whether, in the context of short-term measures, it brought balanced results.

The United States presented the general outline of an approach for the Montreal Mid-Term Review. It proposed that Ministers should reach an agreement by which all support measures affecting, directly or indirectly, agricultural trade would be subject to strengthened and more operationally effective GATT rules and disciplines. Ministers should make three commitments: (1) to undertake specific reforms that would bring all agricultural trade into compliance with new GATT rules and disciplines, subject to the dispute settlement mechanisms; (2) to develop detailed implementation plans that would outline an overall schedule of specific policy changes necessary for the implementation of reforms, taking into account the needs of developing countries; (3) to harmonize health and sanitary measures by relying on the relevant international standards established by appropriate world-wide organizations. These commitments would concern both the short term and the long term. The United States said that it believed Ministers should agree to eliminate direct and indirect subsidies having an impact on trade by a date to be negotiated; in some areas, that date might be very soon, in others more remote. If at Montreal, Ministers reached agreement on reforms and on the process for them, the United States would then propose that Ministers should agree to a freeze on support and protection during 1989 and 1990.

With regard to the implementation of reforms with regard to access, the United States proposed that Ministers decide to convert all non-tariff barriers, including variable levies and barriers maintained under waivers or other exceptions, into tariffs. Specific proposals for the rollback of non-tariff barriers and subsidies affecting trade would be submitted by participants by January 1990.

The European Community submitted a document describing the approach that could be adopted for a concerted reduction in support in the long term. It said that this first document dealt only with technical aspects and not with the extent of the reduction itself, which would be covered by another submission in due course. The Community’s proposal was based on the use of a measure of support and the identification by each participant of the national policy instruments it intended to adjust, following a period of binding of support levels.

The Community considered that all policies should be taken into account for the measurement of support. The reduction of support should apply to the main agricultural commodity sectors, in particular cereals, rice, sugar, oils and oleaginous fruit, dairy products and beef and veal. Compensation or the withdrawal of equivalent concessions should be envisaged in the event of failure to comply with support undertakings. It might prove appropriate to establish specific dispute settlement procedures.

The Chairman of the Working Group on Sanitary and Phytosanitary Regulations and Barriers presented a report on the Group’s first meeting on 12 October. Three main negotiating themes were identified: (1) strengthening of the relevant GATT rules and disciplines, which lack clarity; (2) greater transparency through an improvement and simplification of notification procedures; (3) a search for greater harmonization of sanitary and phytosanitary regulations, and a study of a principle of equivalence when harmonization proves too difficult.

The Chairman of the Technical Group on Aggregated Measurement of Support, which met on 11 October, said that many differences remained concerning the various technical options for the development of an agricultural support measurement instrument suitable for the short term as well as for the long term. Participants were invited to submit detailed proposals on support measurement so as to enable the Technical Group to submit a report on the possible use of an aggregate measurement and the commitment which might be adopted in that connection at the Montreal Ministerial Meeting.

(Continued on page 8)
Dispute Settlement 10-12 October
Participants continued their examination of proposals for improving the dispute settlement mechanism, including special and differential treatment on behalf of developing countries. A joint proposal which addressed such elements as notification, consultations, conciliation and mediation, arbitration, panel procedures, technical assistance, adoption of panel reports and GATT surveillance of their implementation was submitted on behalf of fourteen participants. Another proposal submitted by Mexico was also discussed in detail.

Improvements, as outlined in the two proposals call for: notification to the Council of mutually agreed solutions, where any GATT member could raise matters relating to such solutions; request and response procedures for consultations, including provisions for going directly to the Council and requesting a panel should the other party fail to respond to a request for consultations within an established time period; and arbitration proceedings, whereby the two parties would agree to accept the outcome of arbitration proceedings in advance. It was stated that arbitration must not affect the rights of third parties.

Several participants agreed that panels should complete their work in six months after the composition of a panel had been agreed to and that three months could be a maximum period for cases considered as "urgent", including those involving perishable goods en route. Views still diverged on questions relating to adoption of panel reports by consensus and the idea, as put forth in the joint proposal, that parties to a dispute shall not block a consensus to adopt a panel report, but may either join or abstain from the consensus. Also addressed were selection procedures of panel members and the proposal that the GATT Director-General complete a panel, 10 days after having been notified by the disputing parties of their failure to reach agreement on panel composition. This procedure would be implemented 20 days after the decision was taken to create a panel. Surveillance procedures for overseeing the implementation of panel reports were also discussed.

The Group agreed that the Chairman would draw on the submissions and the related, detailed discussions on them in preparing a draft Chairman's paper for circulation to the Group prior to its next meeting. It was further agreed that the Chairman would focus on the nature of a comprehensive proposal for improvements to existing GATT dispute settlement rules and procedures, to be accompanied by a recommendation that the proposal be adopted by the Ministers at the Mid-Term Review and implemented on a trial basis as of 1 January 1989.

Tariffs — 13-14 October
The United States, noting a lack of consensus on a common tariff-cutting method, urged the Group to focus instead on the desired final results of the negotiations. For the Mid-Term Review, it proposed that all participants make two commitments: first, on achieving a certain percentage reduction of average tariff levels over a given period of time and leaving the method of method to individual members; and second, on the full binding of all tariff schedules. According to the United States, this approach would allow all participants to target their specific priorities and seek liberalization in the areas of greatest interest to them.

Many participants reiterated that only an agreed systematic negotiating method can ensure a higher degree of predictability and participation, and balanced results. A group of countries warned that the US approach might end up as an arithmetic exercise without any substantive liberalization of tariffs. On the other hand, some members noted that a statement of final results in Montreal would be valuable and that it might be possible to combine elements of the US suggestion and the negotiating framework previously proposed by seven participants. On the full binding of entire tariff schedules, several members thought this goal was too ambitious, especially for developing countries.

Trade-Related Aspects of Intellectual Property Rights — 17-18 and 21 October
Much of the meeting was devoted to a discussion of the report which the Chairman is to submit to the Group of Negotiations on Goods, prior to the Montreal meeting of the TNC.

The United States submitted a new proposal, elaborating that first presented in October 1987. It advocated a GATT intellectual property agreement to reduce distortions of and impediments to legitimate trade in goods and services caused by inadequate standards of protection and inadequate enforcement of intellectual property rights (IPRs). The agreement would include, in particular, the obligation to adopt and implement (i) adequate substantive standards for the protection of intellectual property (drawing on international conventions or, if necessary, national laws), (ii) both internal and border enforcement measures, (iii) a dispute settlement mechanism adapted from the GATT machinery, and (iv) general provisions derived from the GATT, such as national treatment and transparency, adapted to intellectual property. The agreement would cover patents, trademarks, copyright, trade secrets and integrated circuits.

The Nordic countries also submitted a proposal developing the ideas they had recently outlined. Their starting point was that any GATT commitments in this area must originate from infringements of IPRs. To identify these, it was necessary to have reference points to substantive standards which would require a certain level of specification and which would need to be negotiated. Negotiations on such reference points should be based on generally internationally-accepted and applied standards for the protection of intellectual property, provided for in international conventions as well as in commonly applied national provisions and practices. Although GATT negotiations should aim at an overall harmonization of the intellectual property laws of participating countries, a certain amount of convergence would be inevitable and desirable.

Non-Tariff Measures 17 and 21 October
Poland, Australia, New Zealand and Japan tabled proposals in line with procedures adopted early this year. The new submissions listed a wide range of specific non-tariff measures maintained by various participants. The Australian and New Zealand delegations explained ways of adapting a formula approach to various non-tariff measures, and underlined the importance of this method in securing a meaningful and multilateral result to the negotiations. Several delegations indicated that they will soon be tabling their respective proposals. The Group was also presented with a secretariat paper which sorted specific non-tariff measures submitted by participants, using the classification system of the GATT Inventory of Non-Tariff Measures.

On preshipment inspection (PSI), some delegations made clear that they were not questioning legitimate concerns (such as reducing capital flight and customs fraud) behind its use but rather were concerned at the trade-distorting and unilateral results to the inspection agencies. Several countries using the system maintained that PSI was not a non-tariff measure; they were amenable, however, to a discussion in the Group on examples of PSI practices which might act as barriers to trade.

Brazil submitted a proposal stressing that the Negotiating Group had received a mandate to discuss the trade-related aspects of intellectual property rights in the context of growth and development. Brazil considered that a number of specific questions should receive priority attention: the extent to which the exclusive protection of intellectual property rights impedes access to the latest technological developments, thereby restricting the participation of developing countries in international trade; the extent to which abusive use of such rights gives rise to restrictions and distortions in trade; and the risks that a rigid system of protection of intellectual property rights implies for international trade.

(Continued on page 9)
India and United States spell out latest Ideas on Agriculture

Meetings of negotiating groups were concerned above all the reports to be sent to the Group of Negotiations on Goods (GNG) in the context of the Mid-Term Review Ministerial Meeting in Montreal. However, the Negotiating Group on Agriculture had before it two new proposals and discussed a number of other issues.

**Agriculture**
14 and 15 November

Several communications were submitted to the Group. The United States proposal fleshes out the general outline presented at the previous meeting, as regards the framework which could be adopted at Montreal for agricultural trade. It provides inter alia that all agricultural products, including forestry and fishery products, should be covered by free-trade principles. Ministers should agree in particular to bring 11 policies, programmes and practices under new GATT rules and disciplines, to be drafted as from January 1989, and to eliminate all exceptions granted under waivers, protocols of accession or other clauses.

At the same time, Ministers would commit themselves to a process of fundamental reform. The Negotiating Group would agree on guidelines in early 1989 to direct countries in the preparation of individual Country Plans which would identify specific adjustments in national agricultural policies. These Plans would concern improved market access, phased reduction and elimination of agricultural subsidies, and health and sanitary measures; in this connection, Ministers would agree to establish, by January 1991, an effective, enforceable, multilateral GATT dispute settlement process that relies on appropriate international scientific expertise.

Certain types of policies that are related to production and trade neutral or have such a small effect as to be inconsequential would be exempted from these disciplines: direct income payments to farmers (in particular in the case of natural disaster), and bona fide food aid.

In the development of Country Plans, countries would be given credit for measures adopted which have contributed to reduction in support and protection, and conversely charged debits for measures that have had the opposite effect.

Ministers would agree to establish a surveillance mechanism to monitor and evaluate compliance with the Country Plans.

Once Ministers have agreed to these reforms and their implementation, they would then agree to implement a freeze on support, subsidies and protection in 1989 and 1990. A surveillance mechanism would be established for this purpose.

India submitted a negotiating proposal dealing with the developmental role of agriculture in developing countries. It

**Council (continued)**

**EEC ANTI-DUMPING MEASURES: PANEL ESTABLISHED**

Japan requested the Council to establish a panel to examine its complaint concerning the EEC's anti-dumping Regulation of June 1987, which aims at ensuring that imports of parts and components do not result in circumvention of anti-dumping duties on finished products. It said the consultations held with the EEC since the last Council had not produced satisfactory results. Japan argued that the anti-dumping measures taken by the EEC on the basis of this Regulation contravened the General Agreement: they had been applied without fulfilling the requirements stipulated in Article VI; and furthermore they were aimed at obliging firms to use parts originating in the EEC.

The Community said that the authors of its legislation had taken great pains to define precisely the conditions where the evasion of anti-dumping duties was obvious. It considered that the measures were fully justified by Article XX(d) of the General Agreement, which allowed a contracting party to adopt measures necessary to secure compliance with laws or regulations which were not inconsistent with the provisions of the General Agreement. The Community would not, however, oppose the establishment of a panel.

Brazil pointed out that the general exceptions provided for in Article XX(d) could not justify discrimination or a disguised restriction on international trade. Korea, Hong Kong, Singapore, the United States, Canada, Australia, Mexico and Thailand reserved their right to make a submission to the Panel.

Jamaica asked for clarification as to the exact scope of the measures in question.

The Community said that there had been an extensive discussion in the Anti-Dumping Committee. It would explain in detail in the panel the modalities of application of the measures taken under its anti-dumping Regulation.

The Council agreed to establish a panel.

**Trade disputes pending**

The Council briefly discussed several disputes or the follow-up to be given to disputes that had been settled, which it had already examined at its September meeting; the EEC's request for the establishment of a panel to examine restrictions on the United States importation of agricultural products applied under the Waiver; and the implementation of the conclusions of the reports on United States taxes on imported petroleum products and trade in semiconductors. The countries concerned recalled their arguments on these various cases, and the process of reflection and work is continuing.

The second part of the article on international trade in services, in the "Uruguay Round File" series, will be published in the January-February issue of FOCUS.
emphasizes the distinctive features of the agricultural situation in developing countries, and the fact that current problems in agricultural trade originate in the policies and measures implemented by developed countries.

The Indian proposal provides among other things that direct governmental action should be considered legitimate in developing countries, in particular when it takes to form of production or consumption subsidies or price support and stabilization measures. With regard to tariffs and quantitative restrictions, developing countries should only take on voluntary obligations. In the case of export subsidies, if the developed countries agreed to prohibit them, developing countries should be willing to examine the feasibility of undertaking obligations, consistent with their development and competitive needs.

Several developing countries supported India’s proposal.

In addition, the members of the Cairns Group communicated to the Negotiating Group on Agriculture the text of the

REPORTS FINALIZED FOR MONTREAL TNC MEETING

The Group of Negotiations on Goods (GNG), the Group of Negotiations on Services (GNS) and the Surveillance Body met during the week of 21 November to adopt their respective reports to the Ministerial meeting of the Trade Negotiations Committee in Montreal, beginning 5 December.

Negotiations on Goods

The work of the GNG was focused on the proposals for action by the TNC which had been submitted by the 14 negotiating groups in the goods area. Some of those proposals were already fully agreed while others were the subject of consultations conducted by the chairman of the GNG, Mr. Arthur Dunkel.

The document adopted by the GNG has three parts: a brief report on the work of the GNG itself over the past two years; an overview of progress in each of the 14 areas of negotiation and a series of points for action and decision by Ministers in Montreal.

Whilst in a number of areas the TNC will be presented with agreed proposals, in others, negotiations will go on at Ministerial level in Montreal; in most of the cases on the basis of clearly-defined options which have emerged from activity in Geneva.

Negotiations on Services

Following intensive consultations by its chairman, Ambassador Felipe Jaramillo, the group adopted a detailed report at its meeting on 24 November. The report covers all the areas of discussion in the group over the past two years and spells out the areas of convergence and divergence so far identified in the work aimed at creating a framework of multilateral rules and disciplines for trade in services.

The report covers alternative approaches to the question of definition of trade in services and the related question of the sectoral coverage of the framework agreement. The largest section concerns the concepts, principles and rules which might underlie the framework and a further section looks at approaches to progressive trade liberalization in the context of the framework.

The Surveillance Body

A report by the Surveillance Body was adopted on 21 November. It gives Ministers an assessment of the implementation of the standstill and rollback commitments together with a number of recommendations aimed, in particular, at giving greater momentum to the rollback process in the second half of the round.