MONTREAL MID-TERM MINISTERIAL MEETING

Results obtained in eleven negotiating groups put “on hold” pending a global agreement in April 1989

Some 90 Ministers of trade, the economy, industry and agriculture, as well as about a thousand high-level representatives of countries participating in the Uruguay Round of multilateral trade negotiations, met from 5 to 9 December 1988 in Montreal, at the invitation of the Government of Canada, the Province of Quebec and the City of Montreal to take stock of the progress achieved after two years of negotiations, and to find areas of agreement and clear guidelines for the pursuit of the negotiations until their conclusion in 1990.

This is the first time that the Trade Negotiations Committee (TNC), which is responsible for the conduct of the negotiations, has met at ministerial level to give a political boost to the ongoing negotiations. In the view of many observers, the Meeting significantly stepped up the pace of the negotiations and encouraged the search for compromises at an advanced stage. It was highly productive in certain fields, and established a momentum which those attending the conference believed should be maintained.

SUBSTANTIAL PROGRESS

Agreements were reached on 11 of the 15 subjects covered by the negotiations-14 in the field of goods and one relating to trade in services. The nature and scope of these agreements varies according to the subject. In some cases, such as tropical products, tariffs and non-tariff measures, concessions worth some US$25 billion were agreed to.

In the field of services, a new area of multilateral trade negotiations, the framework of an agreement to govern trade in services in the broad sense was agreed on. The framework provides, in particular, for transparency concerning existing laws, regulations and

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agreements, the principle of national treatment for foreign suppliers as an element for market access and non-discrimination among them, progressive liberalization of trade in services, and provisions intended to ensure the growing participation of developing countries in trade in services.

Some of the agreements enhance GATT's possibilities of action and its impact on economic concerns. Trade-dispute settlement is to be accelerated and made more effective. A regular review of trade policies of GATT members and their impact on the trading system will also be conducted. Ministers also recognized the need to take a broader view of issues, taking account of the increasing interdependence between economic, trade, financial and monetary policies. Enhanced co-operation among international organizations with responsibilities in these areas, as well as greater participation by Ministers in GATT's work, will mean that international trade trends can be viewed in a broader economic and political context. The holding of Ministerial sessions of the Contracting Parties at least every two years will also provide the GATT with greater weight in national political circles and strengthen adherence by governments to the GATT system and its rules.

Finally, in other areas, such as tariffs or non-tariff measures, the negotiating objectives of Punta del Este have been spelled out; negotiators must endeavour to achieve a global 30 per cent cut in existing tariffs and the transformation of non-tariff barriers into tariffs, and their removal or reduction.

However, in four sectors—agriculture, textiles, protection of intellectual property rights and reform of the safeguards system—agreement could not be reached at Montreal. In particular, negotiations foundered on the scale of the reform to be undertaken in the agricultural sector and the objective of elimination of all subsidies having a trade-distorting effect within a specified time-frame. The view expressed by a number of countries that agreement on agriculture was an essential element for an overall agreement somewhat weakened the pace of negotiations on the other three subjects which had not yet been settled.

DEADLINE EXTENDED

Bearing in mind the global nature of the negotiations, Ministers decided that efforts should be made to reach agreement in all the areas covered by the negotiations. In order to achieve this, they extended the deadline for the Trade Negotiations Committee up to the beginning of April. Until then, the Director-General of GATT, Arthur Dunkel, as Chairman of the TNC at senior official level, will hold high-level consultations on the four subjects on which agreement was not reached.

Meanwhile, the results which were obtained at the Montreal meeting have been put "on hold". At its meeting at senior official level to be held in Geneva in the first week of April, the Trade Negotiations Committee will conduct a comprehensive review of all the negotiating subjects.

The Committee expressed its determination to press forward and complete the negotiations as foreseen in 1990.

HOPES FOR SUCCESS

The Chairman of the TNC at ministerial level, Mr. Ricardo Zerbino, Minister of the Economy and Finance of Uruguay, stressed at the closing meeting that participants had defended what they considered to be their legitimate interests, but that they also shared a desire to establish a strengthened multilateral trading system.

Mr. Willy de Clerq, EEC Commissioner for External Relations, considered that participants should display responsibility and imagination to resolve the differences and difficulties existing in the four areas on which it had been impossible to reach agreement. He announced that the European Community intended to implement, independently and immediately, the part of its offer on tropical products covered by the Generalized System of Preferences and the special programme for least-developed countries.

Australia's Minister for Trade Negotiations, Mr. Michael Duffy, also said that his country would implement its offer on tropical products. He expressed disappointment at the lack of an agreement on agriculture; the European Community and the United States would have to show real political will if agreement was to be reached in April. Mr. Duffy said the Cairns Group
United States unilateral restrictions against Brazil widely condemned

On 20 December, Brazil submitted a complaint to the Council concerning the imposition by the United States, as from 20 October 1988, of 100 per cent import duties on certain drugs, paper products and consumer electronics goods imported from Brazil. According to the United States, the duties concerned a trade volume of US$39 million but Brazilian estimates were much higher. Although the duties were bound at rates ranging from 0 to 5 per cent, the United States had not invoked any GATT provision to justify this action, which was a clear violation of Article II and also of Article I, by reason of its discriminatory nature. In November Brazil had unsuccessfully held bilateral consultations with the United States under Article XXIII. It therefore requested the Council to establish a panel to rule on the United States action.

The United States replied that the decision to raise tariffs had been taken after two years of fruitless discussion with Brazil, which had refused to take into consideration the damage suffered by the United States as a result of the lack of adequate intellectual property protection for pharmaceutical and chemical products. The United States said the tariff increase was designed to compensate for the damage suffered by the two industry sectors and that it was an action of last resort. The United States stated that it was prepared to lift these sanctions as soon as Brazil responded to its concerns. Furthermore, this situation argued forcefully for rapid progress in GATT concerning trade effects of intellectual property. The United States said it was studying Brazil's request for the establishment of a committee to review their decisions. Furthermore, the issue raised several questions of principle concerning the application of technical standards to the agricultural sector. However, Canada regretted that the United States should reply to one unilateral measure by another unilateral measure, and called on the United States and the EC to review their decisions.

Meat with hormones: EC complaint concerning increasing United States tariffs

The European Community drew the Council's attention to the unilateral increase in tariffs established by a United States Presidential Proclamation, in reply to the implementation by the EC, from 1 January 1989, of its Directive concerning the prohibition of the sale and importation of meat treated with hormones. The tariff increase, of up to as much as 100 per cent of the ad valorem duties, concerned nine tariff headings, including in particular boneless bovine meat, pork, pet food, tomato preserves, fruit juice and coffee extracts. The EC argued that decision was a clear violation of Articles II and II of the General Agreement, since the increase concerned bound tariffs, Article I, since it was applied discriminatorily to the EC, and Articles XXII and XXIII on conciliation and dispute settlement.

In addition, the European Community expressed its concern, which went well beyond the specific case under consideration, with regard to the automatic nature of the procedure followed by the United States, and the strengthening by that country of its internal legislation in a manner contrary to the General Agreement. It therefore requested the Council to make a ruling on the legal issues involved in the case and come forward with recommendations on appropriate action to remedy the situation.

The United States replied that the dispute resulted from the unilateral application by the EC of a directive that utterly lacked scientific justification and its repeated refusal to accept scientific arbitration under the aegis of the Committee on Technical Barriers to Trade. The EC itself had admitted that the ban on hormones for animal feedstuffs was based on political and not scientific grounds. The United States added that for eighteen months the EC had stalled consideration of the issue by the Committee on Technical Barriers to Trade. Its request for a legal ruling by the Council was wholly unjustified and the United States opposed it. It was ready to discuss the issue under dispute in an appropriate multilateral forum.

Canada considered that the EC ban on hormones had no scientific justification and was an unjustified barrier to trade. Canada had a trade interest too, and considered that the issue raised several questions of principle concerning the application of technical standards to the agricultural sector. However, Canada regretted that the United States should reply to one unilateral measure by another unilateral measure, and called on the United States and the EC to review their decisions.

The Council agreed to revert to the item at its next meeting.

North American ice cream and yoghurt

The United States drew the Council's attention to the fact that in 1988 Canada had introduced restrictions on ice-cream and yoghurt, by requiring import permits based in practice on importers' past performance. As a result United States exports of those products were reduced. The United States considered that the measures were inconsistent with Article XI and lacked transparency. Consultations under Article XXII with Canada had not been able to settle the matter satisfactorily.

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Canada considered that its action was fully in accordance with Article XI: 2(c)(i) of the General Agreement: controls on dairy imports were necessary for the enforcement of Canada's measures which operated to restrict quantities of industrial milk that could be produced in Canada. It remained willing to seek a negotiated bilateral solution, but would not stand in the way of the establishment of a panel.

The Council agreed to establish a panel.

For its part, Canada said that it had requested the United States to modify the administration of its quota for ice cream, allocated in 1970 to five countries, not including Canada, so as to make a single global quota. Canada argued that circumstances had changed, and very little use had been made of the quotas. Furthermore, the legal basis for that decision, the 1955 Waiver, did not exempt the United States from obligations under Article XIII on the non-discriminatory distribution of import quotas. Canada had requested consultations under Article XXIII:1, and if a satisfactory solution could not be reached rapidly, it reserved the right to request the establishment of a panel. The United States said that it was prepared to hold consultations with Canada, and that a review of the quotas was under way.

The Council agreed to revert to the matter at its next meeting.

United States restrictions on sugar imports under the Waiver and the Headnote to the Schedule of Tariff Concessions

The European Community recalled that this was the third time it was requesting the establishment of a panel to examine the restrictions applied by the United States on sugar and sugar-containing products under the 1955 Waiver and the Headnote to Chapter 10 of the United States Tariff Schedule. The United States continued to link progress on that matter with the settlement of procedural issues in another dispute. The EC said that in addition to the explanations submitted to the Council in September and October, it had sent a letter to the United States pointing out that the issue raised concerned the GATT consistency and implications of the application of measures taken under the Waiver and the Headnote. The sugar sector was the most evident example of the incompatibility of those measures with the General Agreement.

The United States considered that the EC had not satisfactorily explained the legal basis for its claim.

The Council agreed to revert to the issue at its next meeting.

United States taxes on petroleum: consultations on compensation

The European Community informed the Council that consultations were underway with the United States concerning compensation for the damage it had suffered as a result of the maintenance by the United States of GATT-inconsistent taxes.

Canada and Mexico, which were co-complainants with the EC in the dispute, as well as Nigeria, Kuwait, Malaysia and Indonesia, as third countries, stressed that removal of the illegal taxes was the only real solution. However, Canada and Mexico said that they were ready to hold consultations with the United States for the granting of compensation. Canada pointed out that it reserved its right to resort to Article XXIII:2 for authorization, if necessary, to withdraw concessions to compensate for the injury suffered.

Trade in semi-conductors

The EC drew the Council's attention to the fact that Japan had not yet taken any action to modify its trade practices in this sector, some of which had been found inconsistent with the General Agreement. Japan said that decisions would probably be taken early in 1989.

On another point, Japan informed the Council that the United States had only partially removed its unilateral measures against certain Japanese exports concerning trade in semi-conductors. This was a case of violation of Articles I and II, and Japan reserved its right to request the establishment of a panel.

The EC said that it shared the viewpoint of Japan.

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would continue to work towards that end by trying to promote compromises among the different positions.

Ambassador Clayton Yeutter, the United States Special Representative for Trade, said that beyond the visible results of the Meeting, which were by no means negligible, important background work had been carried out which would bear its fruit later in the negotiations. Participants were not far from agreement on textiles and safeguards, and the differences on trade-related intellectual property rights had been considerably reduced. Agriculture remained a serious challenge: the goal was an ambitious one, and he was optimistic about the chances of reaching agreement in April.

The representatives of the Nordic countries, New Zealand and Austria said that they intended to implement their offers on tropical products.

Mr. John Crosbie, Minister for External Trade of Canada, the host country for the Ministerial meeting, urged participants to press ahead with determination to finish off what had been begun in Montreal.

Adoption of reports

At its closing meeting, the Trade Negotiations Committee at ministerial level adopted the reports of the groups of negotiations on goods and on services, as well as the report of the Surveillance Body. The reports describe the progress made over the two years of negotiations. Ministers basically had to take a position on the results in each negotiating group and the guidelines for the pursuit of the negotiations.

At Montreal, Ministers endorsed the six texts on which the negotiators had been able to reach agreement in Geneva and extended the area of agreement to five new topics: services, tropical products, tariffs, dispute settlement, and the functioning of the GATT system. All these results will be the subject of a comprehensive review at a meeting of the Trade Negotiations Committee at the level of high officials in early April in Geneva.

1 See Focus Nos. 48 and 53.
2 See Focus No. 55.