VENEZUELA, NEPAL SEEK MEMBERSHIP
COUNCIL ADOPTS FOUR PANEL REPORTS

The Council tackled one of the busiest-ever agendas at its 21-22 June meeting with two accession requests, nine dispute-settlement panel reports, three requests for the establishment of panels, and several other important items for consideration.

One panel report on a long-standing agricultural measure – the United States' sugar quota system – was both introduced and adopted. Three other reports – two on apple restrictions by the European Communities and one on Norwegian import restrictions on apples and pears – were also adopted. Working parties were established to examine the requests of Venezuela and Nepal for accession to the GATT.

A total of five panel reports were introduced in the Council. One new panel was established – that on the EC complaint against the US GATT waiver as it affects sugar and sugar products. The first panel request falling under the streamlined GATT dispute-settlement procedure, which was adopted at the previous meeting of the Council, was made by the United States on EC measures restricting copper-scrap exports. On previously adopted panel reports, the United States reported that bills to implement panel recommendations on the Superfund and the customs user fee were ready for decision in the US Congress.

The Council also took up complaints by Brazil and India against their recent naming by the United States under its so-called “Super Section 301” of the 1988 US Omnibus Trade and Competitiveness Act. The debate on this issue is treated in a further report on the special meeting which preceded the regular Council session.

The Council welcomed a trade liberalization package, covering some US$10 billion of trade, notified by Austria. The country will be provisionally reducing duties on some 1,800 products on a tariff-line basis.
COUNCIL

Council adopts four panel reports

US accepts ruling on sugar quotas

The panel was established by the Council in September 1988 at the request of Australia. Its report noted that US tariff concessions on raw and refined sugars, negotiated in the early GATT trade rounds, were made subject to the Sugar Act of 1948, which required the Secretary of Agriculture to establish import and production quotas based upon US sugar requirements. The US tariff schedule later included a "headnote" provision reflecting the requirement that authorized the US President to proclaim sugar duties and quotas once the Sugar Act expired.

When the Sugar Act expired in 1974, import quotas and duties were established on the basis of the headnote. Since May 1982, a restrictive programme has been in place which regularly determines the size of the global import quotas and grants allocations between different sugar-exporting countries according to their past performance.

Australia claimed that import restrictions on sugar by the United States were contrary to Article XI:1 (General Elimination of Quantitative Restrictions) and qualified neither for the exceptions provided for under that Article, nor for those provided under any other relevant provision of the General Agreement, including Article II:1(b) (Schedule of Concessions).

The United States claimed that the import restrictions on raw and refined sugar were administered pursuant to a provision which was part of a tariff concession first negotiated in the Annecy Round of 1949. This provision, claimed the US, was consistent with Article II:1(b) which permitted contracting parties to subject tariff concessions to "the terms, conditions or qualifications set forth" in their Schedule of Concessions. The US said these terms, conditions or qualifications were an integral part of the General Agreement and could, therefore, neither be challenged nor overruled by another part or provision of the General Agreement.

Argentina, Brazil, Canada, Colombia, the European Communities, Nicaragua and Thailand made submissions to the panel which essentially shared the Australian view.

In its examination of Article II, the panel noted that contracting parties are permitted to incorporate into their Schedules acts yielding rights under the General Agreement but not acts which diminish obligations under the Agreement. The panel therefore concluded that Article II:1(b) does not permit contracting parties to qualify their obligations under other provisions of the General Agreement and that consequently the provisions in the United States GATT Schedule of Concessions cannot justify the maintenance of quantitative restrictions on the importation of sugar inconsistent with the application of Article XI:1.

The panel recommended that the Contracting Parties request the United States either to terminate these restrictions or to bring them into conformity with the General Agreement.

After the introduction of the panel report, Australia said the panel presented clear findings and urged the adoption of the report.

The United States warned that the panel's conclusions might have implications for other GATT members. However, in the light of the panel's clear ruling, it would agree to the adoption of the report. The panel report would have significant implications for the US sugar industry and that would have to be reviewed with the US Congress and private industry.

Reports on Chile's and US complaints against EC apple restrictions adopted

For the second time, the Council considered the panel report on Chile's complaint against restrictions maintained by the European Communities on dessert apples from April to August 1988 (See Focus No. 62).

The Community expressed concern at some aspects of the panel's interpretation of Article XI. However, on the understanding that this interpretation would not be held against it in the Uruguay Round negotiations, the Community would not stand in the way of the report's adoption.

The Council adopted the panel report.

Chile welcomed the decision and indicated it would request consultations with the Community regarding compensation for the adverse economic effects of the measure on Chile. The Community noted that the measure in question had lapsed in August 1988 and that there was no justification for Chile's request.

The Council also adopted the report of the panel established in September 1988 at the request of the United States to examine, as in the complaint by Chile, regulations by the European Communities which restricted imports of apples from April to August 1988.

The essential arguments in this case, as well as the panel's conclusions, were similar to those in the case brought by Chile.
Report on Norwegian apple-pear restrictions adopted

The Council considered for the second time the panel report which examined the complaint by the United States against Norway's restrictions on imports of apples and pears. The panel concluded that the Norwegian measures were not covered by the existing legislation cause of the Protocol of Provisional Application of the General Agreement. It recommended that the Contracting Parties request Norway to bring the measures in question into conformity with GATT obligations (see Focus No. 62).

In its statement, Norway emphasized that it attached great importance to a well-functioning GATT dispute-settlement system and would not object to the adoption of the panel report. While ready to bring the measures in question into conformity with the panel's recommendations, Norway pointed out that the task, both technically and politically, would be difficult. The case had raised considerable concerns among its farmers.

The United States expressed appreciation for Norway's attitude in this case. It understood the implications of the panel recommendation and noted implementation would not be a simple matter.

The Council adopted the panel report.

Nepal and the Himalayas: 12 countries now seek accession to the GATT.

New requests for accession

The two new requests for accession increased the number of countries in the process of negotiating entry to GATT to twelve. Venezuela joins the six Latin-American countries in various stages of the accession process: Bolivia, Costa Rica, Paraguay, El Salvador, Guatemala and Honduras. Working parties have also been established on requests of Tunisia, Bulgaria and Algeria. Another working party is considering China's status as a contracting party.

Venezuela tabled its request for accession to the GATT and at the same time indicated its strong interest in joining the Uruguay Round negotiations. Many countries welcomed the country's application but some noted criteria for Uruguay Round participation agreed by Ministers in 1986.

The Ambassador of Venezuela - the last major economy from that continent to apply for GATT membership - pointed out that his country faces serious economic problems, including deteriorating terms of trade on oil products. It had decided to turn adversity into opportunity by modernizing its economy. Venezuela's new trade policy aimed at a tariff-based system, the gradual elimination of quantitative restrictions, more transparency in trade measures, and the simplification of customs procedures.

To diversify its export base, Venezuela said it must be able to rely on open and stable markets. It was in this context that it wished to join the GATT. It had been an original participant in the Havana Conference which drafted the charter of the International Trade Organization. It was ready to contribute, as a developing country, to the multilateral trading system. Since the Uruguay Round will have far-reaching effects on this system, Venezuela appealed to the traditional flexibility and pragmatism of the GATT in the consideration of its request to participate in the Uruguay Round.

Nepal also presented its request to join the GATT. It described its trade regime as liberal and transparent. However, its trade situation was far from satisfactory. Noting that GATT had had a successful role in expanding world trade, Nepal had decided to request for accession.

Many GATT members gave a warm welcome to the applications by both Venezuela and Nepal. The Council established working parties to consider the terms for their accession.
The Council will come back to six panel reports

The Council considered six other panel reports and decided to revert to them at future meetings. Three reports concerning Korean restrictions on beef were introduced to the Council. One report – on Japanese tariff on spruce-pine-fir (SPF) lumber – was first submitted at the previous Council meeting. The two other reports have been on the Council table for some time.

Korea asks for more time on panel report

The three reports on restrictions maintained by the Republic of Korea on imports of beef were presented. The Council established the first two panels in May 1988 at the request of the United States and Australia. The third panel was established in September 1988 at the request of New Zealand. The panels, which had the same composition, began their work in November 1988.

The reports noted that in October 1984, Korea ceased issuing tenders for commercial imports of beef to the general market and, in May 1985, imports of “high-quality” beef were also stopped. Between May 1985 and August 1988, no commercial beef was imported. In August 1988 there was a partial reopening of the market and, for 1989, a quota of 39,000 tonnes was announced.

Since its accession to GATT in 1967, Korea has maintained import restrictions to protect its balance of payments as is permitted for developing countries, in certain circumstances, under Article XVIII. Such measures are kept under review by the GATT Balance of Payments (BOP) Committee. By 1988, Korea still had restrictions on some 358 items, including beef. The prevailing view in the BOP Committee in December 1987 was that Korea’s economic situation and outlook could no longer justify the maintenance of import restrictions for BOP purposes and that a timetable should be established for phasing out such restrictions. For the first nine months of 1988 Korea’s current account balance was in surplus by US$14.1 billion.

During the late 1970s and early 1980s, Korea developed its domestic beef production with the total of beef cattle almost doubling between 1982 and 1986 to 2,553,000 head. The build-up led to falling prices and reduced profitability for Korean farmers.

The current Korean import system for beef is administered by the Livestock Products Marketing Organization (LPMO) under the Foreign Trade Act of 1986. The LPMO administers import quotas set by the Ministry of Agriculture, Forestry and Fisheries.

The United States, Australia and New Zealand argued before the panel that the ban on beef imports between end 1984 and August 1988 was contrary to Article XI:1 (which prohibits quantitative restrictions on imports and exports) and could not be justified under the exceptions in Article XI.

They also maintained that the current restrictions are contrary to Article XI and also to Article II because the LPMO applied a price mark-up on imports in excess of Korea’s 20 per cent bound import tariff on beef. The Korean measures could not be justified under Article XVIII because, among other things, they were being applied to protect the domestic industry and not for balance-of-payments reasons.

Korea argued before the panels that although the measures were contrary to Article XI, and even though the 1984/85 “intensification measures” were not introduced for balance-of-payments reasons but to protect the domestic beef industry, the overall structure of its import restrictions, including those on beef, was motivated by balance-of-payments concerns. Since they were
US urged to agree to adoption of Section 337 report

The panel on the EC complaint against Section 337 of the US Tariff Act of 1930 introduced its report to the Council in February 1988. The Council considered the report at its March, April and May meetings.

At the June meeting, the Community inquired about the US response to the report. The United States replied that the implementation of certain items in the report would be difficult, and that it was not in a position at the meeting to adopt the panel findings. However, the US underlined that its difficulties should not be interpreted to constitute the US attitude towards the GATT dispute-settlement system. It is willing to consult with other GATT members on mutual concerns regarding this subject. It asked that the panel report be derestricted to facilitate the US Administration's consultations with the US Congress and private industry.

Japan was apprehensive that delays in adopting panel reports were becoming a normal pattern in the GATT. It pointed out that the US bears a heavy responsibility in this area.

The EC said the issue would not go away, and that it was concerned about the effects of the delay on the credibility of the GATT dispute-settlement system. Switzerland, Mexico and Chile urged the adoption of the report.

The Council agreed to derestrict the panel report, and revert to this item at its next meeting.

deferring Council decision on the matter. Brazil expressed concerns about the report's effect on users of GATT Article XVIII:B. Mexico, Pakistan, Yugoslavia and Israel also asked for more time to study the report.

Canada questions lumber report

Canada submitted a paper setting out its concerns over the interpretation of certain GATT provisions in the panel report on Japan's tariff on spruce-pine-fir (SPF) dimension lumber. One of those concerns was that the panel's interpretation might preclude a GATT member from pursuing its rights under Article I:1 for equal treatment of like products if the products involved were not specifically identified in the tariff classification system of the importing contracting party.

The panel report was introduced to the Council at the previous meeting (see Focus No. 62). The panel concluded that reference by Canada to a product subcategory only, "dimension lumber", was not an appropriate basis for coming to a determination in regard to Canada's claim of violation of Article I:1 of the General Agreement by Japan.

Japan said it received the Canadian paper only very recently and noted this constituted a delay in the procedures. Canada was apparently trying to reopen debate which had been concluded in the panel proceedings. By obstructing the adoption of the report, Canada was undermining the GATT dispute-settlement procedures.

New Zealand shared the Canadian concerns. For itself, the commercial significance of the case was not high, but New Zealand questioned the finding that national Customs, in that case, were not subordinate to Article I of the General Agreement.

Australia felt the report avoided the issues. Argentina expressed reservations regarding the interpretation of "like products". Brazil, Chile and the Nordic countries said more time was needed to study the report.

The European Communities supported the adoption of the report and said Canada had not submitted new arguments. The United States also supported the adoption of the report.

The Council will again take up this matter at its next meeting.

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Secretariat:
"Uncertainties and tensions despite high trade growth"

At each special Council meeting, the GATT Secretariat presents a report on trade-policy developments in the preceding six months. Its June report, the last under the Special Council format, detected a further increase in uncertainties and tensions affecting trade policies in the period September 1988 to February 1989. This was despite positive developments such as the continued healthy growth in world trade, progress in the Uruguay Round, and some evidence of restraint in bilateral trade conflicts.

New trade restrictive measures, and the pressures generated by bilateral negotiations and by prospective future developments in the policies of GATT members had been behind the higher level of uncertainty. The report warned that international trade relations were entering a phase in which the priority that governments attach to the successful conclusion of the Uruguay Round and to the attainment of the objectives of the Punta del Este Declaration will face its sternest test.

The use of anti-dumping and countervailing measures over the period under review confirmed a trend towards a broader and more extended use of these measures. In the recent past, according to the report, the scope of anti-dumping regulations appeared to have been extended de facto to cover action against imported components of goods which are the subject of anti-dumping actions in their assembled form and to provide for greater flexibility in the construction of prices. There also appeared to be increasing evidence of anti-dumping actions in the sector of high-technology products.

There had been moves to tighten rules of origin and to enforce stricter local content requirements. This was an issue which seemed to have become particularly important in such key sectors as automobiles and semi-conductors.

The report observed that nearly all of the existing export restraint arrangements had been continued and a few new arrangements had been added. Bilateral negotiations during the period covered a broad range of sensitive issues. They included attempts at persuading a number of East-Asian countries to accelerate trade liberalisation for agricultural goods and to improve access in such service sectors as telecommunications. Bilateral issues between the United States and the European Communities focused on agriculture and high-technology products.

In at least two instances, the failure to resolve disputes bilaterally led to unilateral retaliatory measures by way of tariff increases, in one case against Brazil and in the other case against the Community.

The report noted:
- A growing tendency of some governments to apply or invoke restrictive trade measures to deal with trade practices which they consider to be unfair but which are not at present recognised as such in the GATT nor covered by multilateral trade disciplines.
- For the immediate future, the national trade policy measures which could have the biggest impact on the multilateral trading system and on the Uruguay Round might be those related to the implementation of Section 301 of the US Trade Act.
- There was a perception that the role of bilateral or regional arrangements in world trade was on the rise - as illustrated by the coming into force of the US/Canada free-trade agreement and the moves towards the creation of a single market in Europe. This had stimulated and intensified interest in the possibility of regional groupings providing an alternative to, or being used to complement, the process of multilateral trade liberalisation. On the other hand, it was precisely the need to define the relation of the single unified market with the rest of the world which had been bringing to a head concerns both inside Europe and in third countries on conditions of competition, market access, equality of opportunities for third countries. These concerns affected both the application of current trade policies and the evolution of new policies in areas where no global disciplines existed at the time.

GATT CALENDAR

* No formal meetings are scheduled for August.
* The Calendar in the previous issue indicated that the Working Party on China's status as a contracting party would meet on 11-13 July. This meeting was later postponed. A new date will be announced in due course.
Brazil: “Destructive potential of S. 301”

Brazil expressed fears that the United States, a founder and guarantor of the GATT, in its recent action on implementing the “Super 301” in effect had moved away from open trade. Quoting various international publications, Brazil said its concerns about the US action seemed to be universally shared.

The US measure, according to Brazil, contained a “destructive potential” for the GATT and for the Uruguay Round. Brazil accused the US of strengthening its negotiating position in the Round by dealing with subjects under multilateral negotiations.

At the regular Council meeting, Brazil noted that the United States had listed the following restrictions hindering the entry of US products into the Brazilian market: temporary suspension of import licenses, quantitative restrictions, and lack of transparency in the procedures for issuing import licenses. Moreover, the US had included Brazil in a list of countries which, on the understanding of the US government, do not offer adequate intellectual property protection.

Brazil expressed concern that the recent US action might lead the United States into future imposition of unilateral trade restrictions on Brazilian exports. It maintained that its trade regulations were based on international rules. Import control measures had been necessary in order to correct imbalances in the Brazilian external accounts, and were fully justified under the balance-of-payments provisions of the GATT. Indeed, the Balance-of-Payments Committee members, including the US, at its most recent full consultations with Brazil in November 1987, recognized the necessity for such measures. Furthermore, Brazil had been faithfully complying with existing international conventions on intellectual property rights.

Brazil pointed out it had increased imports of US goods by more than 60 per cent between 1983 and 1988, and had risen from 21st to 17th place in the list of leading importers of US products. It has also introduced important changes in its import regime, including reduction of the average tariff from 85 to 41 per cent and the halving of the number of products subject to suspension of import licenses.

By threatening its entire export sector, Brazil said the recent US decision had created a climate of uncertainty which would inhibit sales, lead to commercial losses, and thus had violated in practice the standstill commitment in the Uruguay Round. It reserved its GATT rights in defending its legitimate economic and commercial interests.

India: “We cannot accept dictation”

On the recent listing by the US of priority countries, India conceded that no action had yet been actually taken but pointed out that the threat existed. It was worried that a chief architect of the GATT – the United States – had not even provided a pretence of consistency with the GATT in respect to its recent action. The US bilateral approach had undermined the multilateral trading system. The “Super 301” implementation would emasculate this system and would bring efforts to strengthen it to a halt.

At the regular Council meeting, India noted that the United States had listed it under a priority list because of practices related to trade-related investment measures (barriers to investors) and to trade in services (insurance). India pointed out that these areas were not covered by existing international agreements.

Contracting parties, according to India, would find it difficult to negotiate under threat. Fears and apprehensions have not been allayed by the US reply (see below). It expressed grave concern that the threat of unilateral measures were aimed at changing India’s macroeconomic policies, and stressed that India cannot accept dictation. It encouraged other GATT members to join in discouraging the United States from taking further steps with regards to “Super 310”.

Japan: “The Round has the highest priority”

Japan expressed concerns about what it saw as an undercurrent of measures inconsistent with the GATT. It cited as examples the US listing of Japan as a priority country under its “Super 301”, and new anti-dumping regulations and
between a public announcement and promulgated "prohibitive" tariff discriminatory tariffs are against Article increases on certain products of Brazil commitment in the Punta del Este negotiating advantage over all GATT an atomic bomb, and therefore had the Section 301, the US in effect possessed I of the GATT. February Council meeting declared that and the EC. The Community recalled has been affected by previous US efforts, mainly in the Uruguay Round, to deal with new areas where GATT rules had been inadequate. On the other hand, Japan said it recognized US efforts to alleviate the effects of Section 301. Japan reminded the United States of its pivotal role in guarding an open trading system.

Delegations cite threat to the Uruguay Round

The European Communities noted that the United States had already promulgated "prohibitive" tariff increases on certain products of Brazil and the EC. The Community recalled that the GATT Director-General at the February Council meeting declared that discriminatory tariffs are against Article I of the GATT. The Community said that with Section 301, the US in effect possessed an atomic bomb, and therefore had the negotiating advantage over all GATT members. It recalled the standstill commitment in the Punta del Este Declaration, and while distinguishing between a public announcement and actual implementation, the Community said the process had started. The Republic of Korea said the US measure could have a most severe effect on the GATT and the Uruguay Round. Israel said trade complaints should not be pursued unilaterally but instead should be lodged in the GATT dispute-settlement system. Nicaragua noted it had been affected by previous US measures. Australia expressed concern about the increasing resort to unilateralism, and feared this would undermine the Uruguay Round. Several other delegations shared this concern.

US reaffirms GATT and Round commitments

The United States said there was a lot of confusion and misinformation with respect to both its present and future intentions regarding the implementation of "Super 301". It underlined the following points:

- The US had taken no action under the new Section 301 procedures other than to identify its trade liberalization priorities, in a transparent fashion. It had not taken any actions affecting trade which could in any way be interpreted as violating GATT provisions.
- It was asking in good faith for a process of consultations and rational dialogue with nations it considered to be its friends, and that it was seeking understanding which would help expand trade for all nations.
- The US efforts to seek reduction or removal of significant barriers to world trade were fully compatible with the very essence of the GATT system.
- Where the US complaints fell under GATT rules, the US would bring them to the GATT for formal consultations and, if necessary, dispute settlement. Where they do not fall under existing GATT disciplines, and are being negotiated in the Round, the US position in bilateral consultations on these subjects would be entirely consistent with, and in furtherance of, the US objectives in the Uruguay Round.
- Section 301 does not mandate or make automatic any form of retaliation. The US said it aimed to open markets and to facilitate trade expansion.
- The Administration of President Bush is committed to the multilateral trading system and the Uruguay Round.

The US said it was not appropriate for the Council to make judgments about hypothetical future US actions that could possibly be GATT-illegal. It felt strongly about avoiding any fundamental conflicts between US bilateral concerns and the Uruguay Round. It said it wanted the same thing that other countries want: a strengthened GATT system with clear and enforceable rules.

The US asserted that the US market remained remarkably open despite a large trade deficit and that it took 60 per cent of all manufactured exports of developing countries.

"Unilateralism has been tried and has failed"

Mr. Arthur Dunkel, the GATT Director-General, noted that the debate had mainly concerned trade relations between the United States and its trading partners. He asked: what would have been the reaction of the GATT founders to the matters under discussion? They would have remarked that the GATT was established after unilateralism and bilateralism in world trade had been tried and had failed. They would have, in turn, asked: can the present leaders learn from previous experience? The Director-General speculated that the GATT founders would have said that they recognized that bilateral conflicts may emerge but that they also knew from experience that there are no permanent bilateral solutions to trade problems. That is why there are GATT provisions, in particular Article XXIII, enabling members to seek multilateral solutions to bilateral conflicts. If a GATT member would claim that the dispute-settlement process offered little comfort to the aggrieved party where GATT rules are weak or non-existent, the GATT founders would have pointed out that GATT is also a negotiating forum.

The past GATT Rounds have established numerous multilateral rules and disciplines. The ongoing Uruguay Round aims to strengthen the existing rules of competition and also to establish multilateral rules in areas which lay outside the framework.

The drafters of the General Agreement, said the Director-General, would have concluded that GATT, in outlawing unilateralism, had also eliminated the need for it.
US requests panel on EC copper-scrap exports

Continued from page 5

The Council considered the first request for the establishment of a panel under the streamlined GATT dispute-settlement procedures. This involved the United States complaint against the Community’s quotas on the amount of copper scrap and copper alloy scrap that may be exported by each EC member. These quotas have been in effect and renewed annually since the early 1970s.

The US maintained that these restrictions contravene, among others, the prohibition in Article XI:1 of the General Agreement of “prohibitions or restrictions other than duties, taxes or other charges ... on the exportation or sale for export of any product destined for the territory of any other contracting party”. Consultations held in May with the EC had not resulted in a solution; the US therefore requested the establishment of a panel to examine its complaint.

The Community pointed out that it has no copper resources and therefore depended on outside sources. Considering the present situation in the world market, the lifting of export controls would lead to an immediate outflow of the metal from the Community. This situation was due partly to tariff and non-tariff measures maintained by certain GATT members.

The EC promised more information on this subject. If no solution is found, the Council will come back to this matter at its next meeting.

Panel on US waiver on sugar established

An agreement had been reached, the European Communities and the United States reported, on the terms for setting up a panel regarding the EC complaint about US restrictions on the importation of agricultural products applied under the 1955 Waiver and under the Headnote to the Schedule of tariff concessions (Schedule XX – United States).

A large number of GATT members reserved their rights to make a submission to the panel.

The Chairman noted that the panel on this case will not readdress the issues examined by the panel on the Australian complaint. The Council agreed on the terms of reference and the composition of the panel.

Panel on EC oilseed subsidies begins work

Earlier in June, Council members were informed that agreement had been reached on the terms of reference and composition of the panel on EC payments and subsidies paid to processors and producers of oilseeds and related animal-feed protein. The “soybean” panel was established by the Council at the request of the United States in June 1988. It began its work in June 1989.

Nicaragua urges lifting of US embargo

The panel report on Nicaragua’s complaint against US trade measures directed against it was first submitted to the Council in October 1986 and was last considered in July 1987. The panel concluded that it could not rule for or against the conformity of the US action in the light of its restricted terms of reference. Nicaragua has objected to the adoption of the report and has introduced proposals to alleviate the adverse effects of the US measure.

At the June meeting, Nicaragua stated that the US embargo had been renewed on 1 May 1989, and on this occasion without time limits. It maintained that the present conditions in the country no longer justified the continuing US sanctions. It said that the renewal of the embargo should have been notified to the GATT. Nicaragua pointed out that it faced serious economic problems and called on the contracting parties to assume their responsibilities.

The United States expressed surprise that Nicaragua would again raise this matter. It emphasized that it has always supported the adoption of the panel report, and was of the view that the solution to this matter does not lie under the GATT.

Follow-up of reports

With regard to the panel report on petroleum and certain imported substances, adopted by the Council in June 1987, the United States reported that the US Administration had forwarded a bill to the US Congress to amend the Superfund law. This proposed legislation will equalize treatment of local and imported goods.

The US House Committee on Ways and Means approved this bill on 21 June, and had sent it to the full House for decision. The United States noted the extreme difficulty and sensitivity of this issue, and requested for understanding.

It also announced that as regards the panel report on the US customs user fee, adopted in February 1988, the US administration had proposed an amendment to the US Congress. This had also been approved by the House Ways and Means Committee. The Administration’s proposal is an interim measure that would limit ad valorem fees to US$574 while permanent measures are being prepared.

Canada and Nigeria welcomed the information from the United States. Mexico, a co-complainant in the Superfund case, said it will closely follow the developments.

Austria announces new tariff cuts

Austria announced its Parliament had recently approved a comprehensive package of tariff reductions covering some 1,800 products on a tariff-line basis. The tariff cuts, covering about US$10 billion of trade and nearly 40 per cent of the total Austrian imports of manufactured goods, will provisionally take effect from 1 January 1990 to 31 December 1991. Austria emphasized the reductions will be implemented autonomously, without staging, and on a most-favoured-nation basis, and that it was prepared to negotiate in the Uruguay Round their consolidation in the country’s GATT tariff schedule.

Japan and New Zealand welcomed the Austrian action. Bangladesh expressed the hope that the margin of preferences which Austria gives to the least-developed countries will be maintained. Austria confirmed that the margins under its Generalized System of Preferences will be retained.
Major proposals tabled on safeguards while first sectoral discussions take place in services group

As envisaged in the mid-term review of the Trade Negotiations Committee decisions, the Chairman of the negotiating group on Safeguards presented a draft text of a comprehensive agreement, last week. In the negotiating group on Services, the potential implications of applying various trade concepts, principles and rules to the telecommunication and construction sectors were examined.

Retaliation might be imposed or compensation sought where a safeguard failed to conform to various aspects of the agreement or was extended past the initial deadline. Safeguard measures would not be applied to the products of least developed countries or to those of less-developed countries whose market shares in the product concerned are minimal. All safeguard measures inconsistent with the provisions of the agreement would be phased out or brought into conformity. Surveillance would take place through a Safeguards Committee.

The paper by the United States outlined the objective criteria to be used at a national level in determining whether or not safeguard measures were justified. Tariff increases could be up to 50 percentage points above the existing rate while any quantitative restrictions would have to reflect imports over the most recent representative period. With respect to coverage, the United States set out three options: one envisaging safeguard measures on an mfn basis only (though recognizing that countries might resort to “grey area” measures) and the other two envisaging different levels of selectivity. Measures could be in place for a maximum of eight years and should be degressive. Safeguards would be subject to compensation or retaliation and would be overseen by a safeguards committee.

The European Community’s paper also envisaged a safeguards committee for multilateral surveillance. Safeguard measures could consist of mfn tariffs or global quotas and would not normally be susceptible to countermeasures. The EC proposed a two-track approach to safeguards. Short-term safeguards would be imposed through border measures.

Tropical Products... 12-14 June

Under arrangements agreed in April for the continuation of negotiations, participants initiated a multilateral review of the tariff and non-tariff situation in this sector in the light of the Montreal results examining four of the seven agreed product groups: tropical beverages; spices, flowers and plants; certain oils and oilcakes; and tobacco, rice and tropical roots. The other categories will be reviewed at the next meeting of the group on 24-26 July. Several participants, including Colombia, Mexico and the ASEAN countries, noted that even after Montreal many tropical products still faced barriers in major markets, especially semi-processed and processed products. To them the priority accorded to this sector by the Punta del Este Declaration and the understanding reached in Montreal called for further liberalization efforts in those markets. Another view was that further progress in negotiations required participation and contributions by all participants.

Safeguards... 26, 27 and 29 June

The group took a significant step forward with the tabling of a draft text of a comprehensive agreement by the Chairman, George Maciel. The United States and the European Communities presented papers outlining their own ideas in more detail than previously.

In presenting his paper, the Chairman said that it was a synthesis of proposals already made by participants, formally and informally, and emphasized that he regarded it only as a basis for negotiation.

It envisaged an initial time limit for safeguard measures with any extension requiring justification and accompanying adjustment measures for the industry concerned. There would be a maximum period of application with a further period in which no safeguard measures could be applied. While the draft assumed that measures should be applied to products from all sources it considered that the Negotiating Group should examine the possibility of selective measures in special situations and subject to tighter disciplines and surveillance. The measures should be in the form of tariff increases but might also take the form of quantitative restrictions.

During the initial period that safeguard measures are imposed, the suspension of equivalent concessions (retaliation) would not apply and compensation need not be offered. Therefore, the United States stressed its intention to use the request-and-offer procedure in the negotiations. On the broadening of the data base for the negotiations, the Secretariat reported several recent submissions of trade data. It was agreed that at the next meeting on 19 July, the Group will review in detail the exchange of tariff and trade data as mandated by the Ministers in Montreal.

Tariffs... 15 June

It was widely agreed that the Group would have to accelerate its work to comply with the Montreal decision for the start of substantive negotiations in July 1989. In formal and informal discussions, many participants reiterated their support for a Tokyo Round-type formula as the common negotiating approach. The United States stressed its intention to use the request-and-offer procedure in the negotiations. On the broadening of the data base for the negotiations, the Secretariat reported.
alone and for a fairly short period, say three years. Longer term measures would be accompanied by an adjustment process. The Community also called for an examination of the circumstances under which selective safeguards might be applied – perhaps where a sudden increase in imports from a very limited number of suppliers was sufficient to cause serious injury – and the stricter disciplines which might apply.

The three papers were widely welcomed by participants although some were critical of the references to non-mfe safeguards. The US and EC papers were examined in some detail while the Chairman asked for comments on his own proposals at the next meeting of the Group in September.

- Non-Tariff Measures...
  27-28, 30 June

The Negotiating Group continued to hold an exchange of views on the possibility of drawing up rules of general application which would cover pre-shipment inspection. Concerns were expressed by a number of delegations about the trade restrictive effects of pre-shipment inspection while others considered that this practice did not constitute a barrier to trade. In a new submission, Japan stated that the arbitrary use of rules of origin was bound to have restricting effects on trade and investment. It proposed the drafting of rules on the subject, which would include, non-discriminatory treatment, predictability, and transparency of procedures. The United States, Canada, Hong Kong and Hungary encouraged further work in this area. The European Communities, on the other hand, suggested this technical subject properly belonged to the Customs Co-operation Council. For its part, the EC submitted a study which indicated certain problems for exporters, delays in particular, arising out of some customs formalities: one delegation raised the question of visa requirements for traders in this context. Participants held extensive informal consultations on the Chairman’s suggestions on the framework and procedures for the negotiations. A decision on this matter is expected at the next meeting which will be held on 26 July.

- Textiles and Clothing...
  29 June

In the Textiles and Clothing group participants gave preliminary consideration to a further submission by Indonesia on behalf of a group of developing countries and members of the International Textile and Clothing Bureau. The proposal offered a series of complementary approaches for phasing out restrictions under the Multi-fibre Arrangement (MFA) starting either by fibre type and degree of processing or by product groups and supplier countries. Restrictions on re-imports of outward processing traffic (OPT) would be abol-ished and the growth and flexibility provisions in existing quotas would be progressively increased. The proposal also states that no further restrictions should be imposed in the sector during the phasing out of the MFA. Participants also exchanged views on the scope of the negotiations in the group and the relationship of their work to other negotiating groups.

- Subsidies...
  29 June

Participants in the Subsidies and Countervailing Measures group examined a submission by Canada which called for improved, more effective and enforceable disciplines for prohibited subsidies and countervail action. Canada’s submission was the first in the group to address the framework for negotiations as adopted by the Trade Negotiations Committee at its meeting in April. Other delegations said they were planning to submit their own proposals in the near future. The Canadian proposal suggested that a multilateral body be established to advise governments on whether their prospective subsidization programmes are in fact prohibited or under which circumstances they could be allowed. Conditions in which governments might take counter action to offset subsidies are suggested, as are tighter disciplines for non-actionable subsidies, such as regional development programmes, research and development assistance and funds to support a country’s basic public infrastructure. The proposal also sought to establish a minimum level of subsidization below which countervailing duties would not be imposed. Specified rules and disciplines for dispute settlement and multilateral enforcement are addressed and include procedures for countries to request rulings on whether another government was using prohibited subsidies and safeguard procedures.

- Functioning of the GATT System...
  29 June

In the FOGS group, participants adopted the text of the format for country reports under the Trade Policy Review Mechanism, the regular reviews of GATT member countries’ trade policies, practices and objectives. The format will be submitted to the GATT Council for approval. A simplified reporting format for the least-developed countries will be discussed at the group’s next meeting.
The US expressed concern about the “Television Without Frontiers” directive recently approved by the EC Parliament. The US claimed that the EC Directive, by reserving broadcast programming for non-European nations and was therefore inconsistent with EC GATT obligations. The EC requested the US to submit more information on its concerns.

Participants took note of the Chairman’s summary of the current situation on the implementation of the standstill and rollback commitments. The report will be submitted to the Trade Negotiations Committee which will carry out an evaluation of the implementation of the two commitments on 28 July. There was an initial discussion of three new submissions related to the forthcoming TNC meeting. Canada and Australia reported certain trade liberalization measures of their own while New Zealand suggested ways of implementing the rollback commitment.

though there was a widely-held view that the concept would have little meaning where national monopolies existed.

Background material presented to the group indicated that the value of construction contracts awarded to the top 250 international contractors in 1987 was $74 billion with a further $4 billion in design contracts. As with telecommunications, there was often a close link between the supply of the service and associated goods. Importantly, the question of the movement of labour to supply the service is more relevant to construction than to most other services. Many developing countries stressed the need for any framework agreement to cover labour mobility, skilled and unskilled alike. Developed countries recognized the need to consider seriously the labour question though several pointed to the sensitivity of commitments which would imply major changes to immigration laws.

In a discussion of the applicability of the concept of transparency to the construction sector, many participants pointed to the voluminous regulations which exist not merely at a national or federal level but also at local levels of government. Potential suppliers would need to be aware of relevant regulations at all levels which meant, for some delegations, a comparatively sophisticated system of enquiry points. As in the discussion on telecommunications, a number of developing countries expressed reservations about their ability to find the necessary resources to establish such an elaborate system. National treatment conditions could be especially important in a sector open to subsidization, local content rules, local personnel recruitment and government procurement. One delegation stressed the need to tackle subsidization in the construction sector.

The GNS spent much of the remaining part of its meeting carrying forward the discussion on how to define trade in services for the purposes of the multilateral framework. Two concepts were also discussed in depth – transparency and progressive liberalization – with a view to ascertaining how they could be interpreted in a generic or cross sector sense to be included in the multilateral framework. It was decided that at the next meeting, where the implications of the application of the concepts identified in the mid-term review text to the transport and tourism services sectors will be addressed, there will also be an in depth discussion of three additional concepts - national treatment, market access and mfn/non-discrimination.