Uruguay Round

Stage set for the final phase of market-access negotiations

The groups on Tariffs, Non-Tariff Measures and Tropical Products have set the stage for the final phase of market-access negotiations. Demonstrating a strong commitment to meet the December 1990 deadline for the completion of the Round, the participants in these groups have adopted procedures, including strict timetables, necessary for substantive negotiations to start in Spring.

The first breakthrough was achieved in the Tariffs Group. After two months of intensive consultations, the Group adopted on 30 January a timetable which would enable tariff-cutting negotiations to begin in April. Each participant is to provide the Secretariat by 15 March a proposal for the reduction, elimination and binding of its respective tariffs on a line-by-line basis. In April, these proposals would be examined on the basis of the Mid-Term Review target for tariff reductions (at least as deep as those achieved in the Tokyo Round or about one-third). After the adoption of the plan, the acting chairman noted that during the consultations many delegations indicated they intended to follow the formula approach, and that many developing countries emphasised their need for special and differential treatment in the tariff negotiations.

On 14 February, the Negotiating Group on Tropical Products agreed a procedure reflecting that in tariffs. Each participant should submit by 15 March a proposal for the reduction, elimination and binding of tariffs on tropical products. The proposals would be periodically reviewed in the light of the goals set out for this sector at Mid-Term Review.

The Non-Tariff Measures Group adopted on 15 February its framework and procedures for the negotiations. The

(Continued on page 4)

President Salinas of Mexico

'We are at an historic watershed'

President Carlos Salinas de Gortari of Mexico has called on GATT members to respond to "the great challenges that the trade system faces today". At a special Council session at the GATT headquarters on 1 February, President Salinas said that the Uruguay Round participants were at an "historic watershed", and that "political stability and international security depend upon the continued creation of wealth through equitable apportioned world trade".

He said that Mexico's recent accession to the GATT (it became a contracting party in August 1986) was the result of its intention to "become an increasingly active member of the international economic community". He said the GATT "is the best forum for eliminating obstacles and facilitating trade in goods and services on a world scale".

"Mexico has one of the most open economies in the world", Mr. Salinas said. He pointed out that Mexico has replaced the great majority of quantitative restrictions with tariffs – the maximum of which stood at 20 per cent while weighted tariffs averaged 6.2 per cent.

Mr. Salinas said the trading system faced clear dangers, including protectionism and the formation of closed trading blocs. He said "the Uruguay Round represents an active process

(Continued on page 9)
GATT Council resolves US-EC soyabean dispute

The dispute between the United States and the European Communities on EC subsidies to oilseed processors was resolved at the 25 January Council meeting when the panel report on the subject was adopted at its first hearing. At the same meeting, many GATT members welcomed Poland's announcement that it would seek renegotiation of the terms of its membership in the light of the recent substantial reform of its economic and trade policies.

The dispute-settlement panel which examined the US complaint against EC payments and subsidies to processors and producers of oilseeds and related animal-feed proteins presented its report to the Council. The US had claimed its soyabean producers were losing US$1.5-2 billion annually due to the EC measures. Finding the EC measures to be inconsistent with GATT provisions, the panel recommended they be brought into conformity with GATT within a reasonable period of time (see sidebar).

The United States urged the Council to adopt what it described as a "well-reasoned and clearly written" panel report. It said that while the subject matter examined by the panel was complex, the findings were not.

The Community said it would not stand in the way should a consensus emerge for the adoption of the report. It would comply with the panel's recommendations "in the context of the implementation of the results of the Uruguay Round". However, it maintained that the panel's findings have raised many fundamental problems concerning the interpretation of Articles II, III, XVI and XXIV and the inter-relationship among these Articles, "which are being reviewed in the context of the Uruguay Round". The EC stressed its understanding that the adoption of the report would preclude unilateral measures by the United States.

Reporting it had initiated consultations with the Community on its treatment of imported rapeseeds, Canada noted the broad product coverage of the panel report and supported its adoption. Australia urged the adoption of the report and questioned what it saw as an attempt by the EC to link implementation of the panel report with the Uruguay Round negotiations. Argentina and Hungary also supported the adoption of the report. Switzerland, Austria, the Nordic countries and Japan questioned certain aspects of the panel's argumentation but did not oppose the report's adoption.

The Council adopted the panel report.

Poland to request renegotiation of accession

Poland announced its intention to request at the next Council meeting a working party which would handle the renegotiation of the terms of its accession to the GATT.

Poland reported that a set of laws and regulations entered into force at the beginning of the year establishing an open market economy in the country. The changes included the removal of monopolies in the foreign trade sector, the privatization of state-owned enterprises and the introduction of convertible currency.

It said that its economic reform programme justified the renegotiation of the terms of its GATT membership. Poland noted that while other GATT members need only observe the most-favoured-nation principle, it also must also fulfill an obligation to expand trade. (Poland acceded to the GATT in 1967. The Protocol of Accession governing its membership provided that Poland's concessions, in exchange for the privileges of GATT membership, were to consist not of tariff reductions but of an undertaking to increase the value of its imports from other GATT members by seven per cent each year. GATT members may suspend GATT concessions applicable to Poland, as the US did in 1982, if the country fails to meet this annual target. These unique arrangements reflected the non-market nature of Poland's economy.)

Many countries welcomed and supported the economic changes in Poland and indicated they would consider favourably the Polish request to renegotiate. The Chairman said he would conduct consultations on the possible terms of reference of the working party for consideration by the Council at its next meeting scheduled for 20 February.

Hungary informed the Council of substantial changes in its trade laws which, as from the beginning of the year, had liberalized importation of a wide range of products. In particular, import licensing requirements had been lifted for 70 per cent of imports traded in convertible currencies.

Follow-up of panel reports

The United States, New Zealand and Australia expressed concern about the lack of progress in the implementation by Korea of three panel reports (adopted in November 1989) which ruled against its restrictions on beef imports (see Focus No. 66). The three complainants expressed the hope that in further consultations, Korea would be able to propose timetables for phasing out the restrictions, as recommended by the panels. Korea said that it was preparing for the next rounds of consultations on the subject. It reiterated that implementing the panel reports entailed political, social and economic problems especially in view of the fragile state of its livestock sector.

Australia asked the United States for a progress report on its implementation of the panel report which concluded that the US sugar quota system was inconsistent with the GATT (see Focus No. 63). It noted that the bilateral consultations held in October 1989 had been inconclusive. The United States reiterated its commitment to implement the recommendations of the panel report, and said it would continue consultations with Australia.

The Council Chairman announced the appointment of the following officers of standing GATT bodies: Mr. Jean-François Boitran (France), chairman of the Committee on Balance-of-Payments Restrictions; Mr. Keith Broadbridge (Hong Kong), chairman of the Committee on Safeguards; Mr. Robert McPherson (Australia), chairman of the Committee on Technical Barriers to Trade; Mr. Peter Vanacker (Hong Kong), chairman of the Committee onastes.

GATT CALENDAR

The tentative programme of meetings for March:

1-2 Group of Negotiations on Services
5-7 NG on GATT Articles
6 NG on Textiles and Clothing
6-7, 9 WG on Export of Domestically Prohibited Goods
12-13, 15 NG on Safeguards
21-22 Committee on Technical Barriers to Trade
21-23 International Dairy Council
26-28 NG on Tropical Products
26-28 Group of Negotiations on Services
26-30 NG on Subsidies
29-30 NG on Trade-Related Investment Measures
30 NG on GATT Articles
The products involved in the US-EC dispute were soyabeans, rapeseed, sunflowerseed and the meals derived from them. These products are extensively traded because of the high-quality, protein-rich oil produced after crushing. They are used in the manufacture of compound animal feeds.

All these products enter the EC market duty free because of a concession negotiated and bound by the Community in the Dillon Round, the GATT tariff conference held in 1960-61. The concession was extended as the Community was successively enlarged.

The Community’s common oilseeds regime was adopted as an EC regulation in September 1966 and superseded a diverse range of national support measures. Its overall aim was to ensure access to supplies – given the Community’s then low production – through opening up to the world market and, at the same time, to support domestic production through financial aids. Various systems of support were developed as part of this regime.

In essence, where prevailing world prices (as regularly assessed by the EC Commission) are below a pre-determined EC target price, a subsidy is payable to oilseed processors as compensation for purchasing domestically-produced oilseeds. The system for rapeseed and sunflower seed was introduced in 1966. The currently applicable system for soyabeans was introduced in 1979.

Information given to the panel indicated that EC production of oilseeds rose from around 259,000 tons (soya meal equivalent) in 1966 to 5.3 million tons in 1988. Over the same period, it was estimated that imports increased from 6.4 to 23 million tons.

During the 1980s, the EC introduced a system of “stabilizers” to control production. Under this system, prices and related aid payments are subject to adjustment if production exceeds a guaranteed maximum quantity or threshold.

The US position

The US claimed before the panel that, contrary to GATT Article III, the EC oilseeds regime accords oilseeds imported from the US and other exporting countries less favourable treatment than that given to like products of Community origin. Domestic products benefit from subsidies paid only to purchasers and processors of domestically grown oilseeds. The calculation of the level of subsidy was such as to provide an incentive to purchase domestic rather than imported oilseeds.

The US further claimed that the benefits of the original Dillon Round EC tariff concessions had been nullified and impaired by the oilseed producer and processor subsidies and that in 1962, when the concession was negotiated, it could not reasonably have anticipated such impairment. In recent years, the higher support levels had led to a large surge in domestic production and a consequent adverse effect on imports.

The EC position

The EC contended that the provisions of Article III:4 (on national treatment of imported products) did not, according to Article III:8b, prevent the payment of subsidies exclusively to domestic producers. This was in line with the Community’s views that disciplines on subsidies were entirely laid down in Article XVI and were not overridden by Article III.

In the absence of any violation of the General Agreement, there could be no presumption of nullification or impairment of a bound tariff concession. The expectation related to the original concession had been satisfied by the quadrupling of oilseed imports into the EC since 1966. In any case, the concessions now in force were not the 1962 concessions but those of 1988 related to the negotiations on the most recent extension of the Community.

The Community raised two general points: firstly, the extent to which GATT tariff concessions were protected in relation to the exercise of rights reserved by other GATT provisions, especially Article XVI on subsidies, and, secondly, whether there were limits on the right to subsidise domestic production in competition with imported products for which there was a tariff binding.

The views of the panel

The panel accepted that the calculation of the level of subsidy payments could over-compensate processors for purchasing the domestically-produced oilseeds and was, therefore, capable of giving rise to discrimination against imported products contrary to Article III:4. The panel also took the view that the risk of such discrimination must be regarded as discrimination in itself. The panel did not accept that the subsidy payments were covered by Article III:8(b) since that provision applied only to payments made exclusively to domestic producers and not, as in this case, to processors.

With respect to the US complaint that the 1962 tariff concessions had been nullified or impaired, the panel took the view that GATT members negotiate tariff concessions primarily as an assurance of better market access through improved price competition. They therefore had a legitimate expectation that the price effect of concessions would not be systematically offset. In this case the effects clearly had been offset. The panel did not accept the EC argument that the balance of the 1962 concessions had been altered by the subsequent negotiations in the GATT on the extension of the Community from six to twelve members.

Nor did the panel accept the EC contention that the increase in actual imports of oilseeds demonstrated that the value of the concession had been safeguarded. It took the view that it was competitive conditions rather than trade flows which were central to the exchange of tariff commitments – especially since governments could seldom predict the impact of their interventions on import volumes.

Conclusions

The panel concluded as follows:

- the payments to seed processors by the EC were inconsistent with Article III:4 and that the Community should bring its regulations into conformity with the General Agreement;
- the subsidy schemes in the EC had impaired the Community’s concessions of zero tariff on oilseeds and that the Community should consider ways of eliminating that impairment;
- the GATT contracting parties should take no further action under Article XXIII:2 until the Community has had reasonable time to adjust its regulations to conform to Article III:4, given that such action could also eliminate the impairment of the tariff concession.

The Council adopted the panel report on 29 January 1990.
Many new proposals tabled as year ends, TNC decides dates for Brussels Ministerial Meeting

Meetings of negotiating groups in the final weeks of 1989 were marked by many new proposals including those of the European Community and the Nordic

- Trade Negotiations Committee 20 December

It was announced that the Brussels Ministerial Meeting, concluding the final negotiating phase of the Uruguay Round, will be held between 3 and 7 December 1990 in the International Conference Centre, Brussels.

The meeting heard reports from the chairmen of the Surveillance Body, the Group of Negotiations on Goods and the Group of Negotiations on Services. Many participants took the opportunity of making an assessment of the current situation as well as looking ahead to the situation as well as looking ahead to the December 1990 in the International Round, will be held between 3 and 7 December 1990 in the International Conference Centre, Brussels.

The meeting heard reports from the chairmen of the Surveillance Body, the Group of Negotiations on Goods and the Group of Negotiations on Services. Many participants took the opportunity of making an assessment of the current situation as well as looking ahead to the final phase of the Round. While some felt that progress in the various negotiating groups lacked balance there was a general view that the scene was now set for the major effort necessary to secure a substantial result in every area in the next eleven months. Some concern was expressed at developments in the market access groups – particularly at the inconclusive attempt to secure agreement on negotiating procedures for the tariff reductions. Further consultations to reach consensus on tariffs were due to begin in mid-January. Some participants considered that insufficient attention had been given to development issues in many parts of the negotiation.

In his concluding remarks, the Chairman, said that while there was reason for some satisfaction that the objective of getting the majority of national positions on the negotiating table by the end of the year had been met – and, indeed, some of those proposals already represented movement away from initial stances – governments would now have to look less at their own positions and more at the interests of others in order for the necessary compromises to emerge in the short time available. By July 1990, participants would need to be able to see a clear picture of the package to be finalized in Brussels in December.

- Group of Negotiations on Goods 19 and 20 December

Opening the meeting, the Chairman said that a very large number of national positions had now been tabled and discussed, and many negotiating countries on agriculture, the ASEAN countries on tropical products, the United States on subsidies and Brazil and others on services.

groups were ready to enter the phase of negotiations proper, though in some the submission of further national positions was still necessary. It had been agreed in July that the December meeting of the GNG would pay special attention to the overall balance of the negotiations.

In assessing the progress made in the negotiations since July, a number of speakers expressed satisfaction that the objectives then agreed had in general been achieved, with the tabling and discussion of substantive proposals in nearly all areas. It was said that transparency and full involvement of all participants were essential for success. Due importance should therefore be given to the evaluation of results, well before the end of the Round, in order to establish whether the interests of all participants were fully taken into account.

A number of speakers said that since July progress in different areas of the negotiations had continued to be uneven, and that subjects of particular interest to developing countries had received inadequate attention and priority. It was suggested that the interests of developing countries, which were relevant
to the entire Round, should be seen both in terms of their development needs and in terms of their need for improved market access. The idea that these needs could be met simply by granting exemptions for a limited time from rules then to be universally applied was bound to create imbalance. Specific requests by developing countries, justified in terms of their development needs, should be considered with goodwill.

Improved access to markets was said by a number of speakers to be of fundamental importance and a key objective of the Round. For this reason many expressed concern at the continued failure to reach agreement on modalities for tariff negotiations, which was seen as a threat to success not merely in that Group but in the Round as a whole. It was suggested that the Group of Negotiations on Goods should pay special attention to this aspect of the negotiations in the coming months.

Several delegations singled out the need for progress in the negotiation on textiles and clothing while others saw effective progress towards reform in agricultural trade as the key to success. In general, it was recognized that substantial results were necessary in all groups in order to fully meet the objectives of the Uruguay Round.

The Group heard a statement by the

Stage set (continued from page 1)

following negotiating approaches would be used, depending on the nature of the non-tariff measures: multilateral rule-making, multilateral formula and the request-and-offer method. Under the procedures, participants should submit by 15 March request lists which would then be subject of consultations. Initial offers in response to these lists should then be tabled to enable negotiations to start in May.

Work in several groups gained impetus from the tabling of major proposals. In the Textiles and Clothing Group (5-7 February), the United States proposed a ten-year transition period (1 January 1992 to 31 December 2001) for the integration of the sector into the GATT which would be governed either by a global-type quota system or a tariff rate quota system. Japan proposed that the Multifibre Arrangement be terminated on 31 July 1991 upon the expiration of its current Protocol of Extension, followed by a transition period (until 1999) during which levels of restrictions would be liberalised each year. In the Safeguards Group (29 January-1 February), the European Community elaborated a previous proposal for allowing selective safeguard action in cases where a sudden increase in imports from a limited number of suppliers was causing injury. The GATT Anti-Dumping Code was focus of attention in the MTN Agreements and Arrangements Group (31 January-2 February); Korea, Hong Kong, Romania, the EC, the Nordic countries, Canada and Australia tabled proposals on possible revisions to the Code. The Trade-Related Investment Measures Group (29-30 January) received a US proposal on a possible GATT agreement in this area. In the Non-Tariffs Group (14-15 February), the United States tabled a draft agreement on preshipment inspection while the EC and Japan presented their respective proposals on the issue of rules of origin.

A more detailed account of the first cycle of meetings in 1990 will appear in the next issue of Focus.
representative of Bangladesh outlining the particular problems of the least developed countries and setting out a variety of proposals, covering most negotiating groups, aimed at ensuring their interests are adequately reflected in the results of the Round.

The Chairman observed that the tone of the discussion indicated that a crucial stage had been reached in the Round. In the future, it would be increasingly necessary to look at the negotiations of their totality rather than individually - to this end, the Group might have to meet more frequently, perhaps on an informal basis. Transparency and a proper balance between subjects must be maintained. He concluded that while there was no reason for pessimism there were also no grounds for complacency.

○ MTN Agreements and Arrangements 20-22 November

Two new proposals highlighted the different views in the Group with respect to the Anti-Dumping Code. Korea elaborated a previous submission aimed at strengthening Code disciplines on importing countries while the United States emphasized the need to extend the Code coverage to practices used in evading anti-dumping duties. One amendment proposed by Korea would require administering authorities to take into account benefits of low-priced imports to domestic industries. Japan, Mexico and Hong Kong welcomed the Korean proposal while the Community felt it only looked at the interests of exporting countries.

The US said recent advances in manufacturing methods and strategies now permit firms to take advantage of the modern commercial system to evade anti-dumping duties. It submitted comprehensive amendments which would give importing countries wider leeway in dealing with circumvention (such as establishing assembly operations in a third country), input dumping (such as shipping in parts for assembly in the importing country) and repeated dumping. The European Community supported the US proposal, noting that it had experienced similar problems in regard to evasion of anti-dumping duties. Singapore, Korea and Hong Kong expressed their concern that normal business practices might be subjected to anti-dumping action.

New Zealand and the United States proposed changes in Agreement on Technical Barriers to Trade.

○ Tariffs 23 November

The Group pursued its discussion on the negotiating methods and approaches it has to adopt, in order to find a common basis. References were made to the informal ministerial meeting held in Tokyo a week earlier, and to the United States proposal that all Uruguay Round participants should submit by 15 January their initial plans for cutting and eliminating tariffs, each participant remaining free to choose the method by which it intends to reach the goal of an average 33 per cent cut in tariffs as decided at Montreal.

The Group unanimously agreed that there was a pressing need to reach a consensus. To this end, informal consultations started at the beginning of the year (see page 1).

○ Trade-Related Investment Measures 27-28 November

The European Community and the Nordic countries (Finland, Iceland, Norway and Sweden) presented comprehensive proposals. The EC emphasized that negotiations should not call into question national investment policies as such, and that any new disciplines should build on existing GATT provisions and principles. It said that some GATT Articles already apply certain discipline to the following eight investment measures which, in its view, directly affect trade: local content requirements, manufacturing requirements, domestic sales requirements, trade balancing requirements, exchange restrictions, product mandating requirements, manufacturing limitations with regard to components and export performance requirements. The Community said further provisions might be necessary in cases where the General Agreement does not adequately deal with trade distortions or restrictions caused by these trade-related investment measures (TRIMs). As for TRIMs which are not directly trade-related, the EC suggested that participants undertake a general commitment to avoid causing trade distortions in the implementation of these measures. Disputes, according to the EC, should go through the regular GATT procedures.

The Nordic countries also emphasized the sovereign right of countries to formulate investment policies. They proposed a measured response to the negative trade effects of TRIMs. Two main types of TRIMs - local content requirements and export performance requirements - were proposed for gradual elimination. A case-by-case approach should be used for other TRIMs, utilizing the normal GATT dispute-settlement procedures. They proposed the establishment of a TRIMs Committee to conduct regular reviews of regulations and practices by GATT members in this area.

Several participants, including the EC and the Nordic countries themselves, noted that the new proposals shared many ideas. Some other delegations, while welcoming the recognition in the new proposals of national sovereignty in the area of investment measures, reiterated their disagreement with the notion of prohibiting certain TRIMs and underlined the importance of these measures to developing countries.

○ Agriculture 27-28 November

The Group received and discussed five new negotiating proposals submitted by the Cairns Group, Japan, Korea, Brazil and Colombia jointly, and Bangladesh.

The Cairns Group proposal set out the overall position of the 13 member countries with a view to the long-term reform of agricultural trade. The reform process would stretch over a period of ten years or less and comprise liberalization obligations to which contracting parties would be irreversibly committed, applying to all measures affecting agricultural trade, directly or indirectly, to all contracting parties and to all agricultural products. The primary vehicle for reform would be commitments to change trade-distorting policies - in particular market price support measures and direct payment to farmers; the use of an aggregate measurement of support (AMS), both to establish points of departure and to monitor annual reductions in support as agreed, would facilitate the implementation of this commitment.

Initial support measures would be classified in three categories: prohibited, permitted but subject to discipline, and permitted, according to tightly circumscribed criteria. Permitted measures could include those taken for humanitarian purposes, direct income support decoupled from production and marketing, and resource redepotment assistance. Nevertheless, the fundamental goal of the Cairns Group proposal was to prohibit new, and phase out existing, export subsidies, initially by freezing them and then by reducing them in accordance with an agreed time-table.

As far as rules are concerned, the reform process should include a prohibition on the application of non-tariff measures not explicitly provided for in the General Agreement (including variable levies and minimum import prices), elimination of all provisions for exceptional treatment and waivers in agriculture, as well as of voluntary restraint arrangements, and binding of all tariffs on agricultural products at low levels or zero. The Cairns Group favoured the conversion to tariffs of non-tariff (Continued on page 6)
measures, and their progressive reduction.

The Cairns Group noted that a competitive, efficient and market-responsive world agricultural system would serve the long-term interests of developed and developing countries alike. The latter could be granted a longer time-frame for implementing their reform commitments, together with smaller commitments on market access and reduction of internal support, and faster reduction of obstacles for products of priority export interest for them. Possible negative effects of the reform process should also be taken into account for net food-importing developing countries: the criteria such countries have to meet must be clearly defined.

The joint communication from Brazil and Colombia flesht out the ideas outlined by the Cairns Group with regard to developing countries. It considers in particular that developing countries should be allowed to maintain certain quantitative restrictions which meet their economic and social development needs. All support measures to develop general infrastructures and human resource capabilities so that the long-term objective of a market-responsive agriculture can be developed should be excluded from the negotiations. Broadly speaking, more favourable treatment should centre on longer time-frames and greater flexibility in the scope of the commitments such countries might undertake.

The communication from Bangladesh, on behalf of the least-developed countries, called for the grant of short-term food aid and of direct financial and technical assistance for their agricultural sector.

Japan’s proposal further developed the views it expressed at the September meeting concerning the implications of the idea of food security. The paper specified the conditions under which a country should be allowed to maintain border adjustment measures. It also saw a need to clarify the conditions of application of Article XI:2(c)(i), under which it is possible to restrict imports of any agricultural or fisheries products when this is necessary for the enforcement of governmental supply management measures. Japan also advocated a review of Article XI:2(a) which allows export restrictions in the event of food shortages.

With regard to subsidies, Japan recognized that export subsidies constitute a major source of distortion and should be progressively reduced, and eventually eliminated. On the other hand, the positive role of domestic support policies which do not have a trade-distorting effect should be taken into account.

In its communication, Korea stressed the low stage of development of its agricultural sector, and the need to take account of non-economic factors. It considered that the most appropriate means of responding to these considerations would be to accept the maintenance of potential agricultural production capabilities and the concept of minimum market access or minimum rates of self-sufficiency.

19 and 20 December

The three final proposals of the year were presented by the Nordic countries, Austria and the European Community. The Nordic countries (Finland, Iceland, Norway and Sweden) argued for an approach which would achieve the objectives of the negotiation while allowing for flexibility in the choice of national policy instruments. Nevertheless, there should be a movement towards policies which are less trade-distorting than those currently employed while making it possible to observe clearly-defined national policy objectives such as food security, regional, social and environmental.

With respect to farm supports priority would be given to the most trade-distorting policies and there should be incentives to move towards more decoupled forms of support related to the national policy objectives mentioned above. The Nordic countries were prepared to work towards the elimination of most of their export subsidies. They proposed a gradual change in the levels and forms of border protection, facilitated by appropriate safeguard mechanisms. If tariffication were employed as an alternative it would involve, at least initially, rather high tariff equivalents. At the same time, variable levies, under strengthened disciplines, should also remain an alternative or concurrent option under GATT. The proposal covered steel/tariffication - proposed by a number of participants as a means of tackling border protection in a uniform manner - the EC remained doubtful. Nevertheless, the Community was prepared to consider such an approach given that the problem of re-balancing could be resolved in the same context. The list of products subject to commitments covered by the SMU would be assured by a fixed tariff component but subject to a corrective factor reflecting exchange rate and market fluctuations beyond certain limits. The fixed component would be expressed as an absolute value and would be reduced at a similar rate as the Support Measurement Unit. Deficiency payments would have to be treated in the same way and converted into tariffs. The same arrangement would apply to exports, with the amount granted to exports not exceeding that levied on imports.

The EC proposal also outlined ideas on special and differential treatment for developing countries as well as on sanitary and phytosanitary measures.

The presentation of the Community’s ideas was widely welcomed as an important contribution to the work of the Group. Many participants were encouraged by the EC’s apparent willingness to negotiate seriously and many found aspects of the proposal which they could support or, at least, discuss further. Some, however, were unhappy with the government intervention on prices. The Community reaffirmed its attachment to a system of dual pricing in agriculture. The aim of the negotiation should be progressively to reduce support to the extent necessary to re-establish balanced markets and a more market-oriented agricultural trading system. There should be a global commitment which would ensure that all support having an impact on agricultural trade is the subject of a steady and balanced reductions – this would include frontier measures, market intervention, deficiency payments and other aids.

In the view of the Community, commitments to reduce support and protection must be made in terms of an aggregate measure of support. The proposal outlined the characteristics of a Support Measurement Unit (SMU) which could handle priority products in structural surplus and those where serious disruptions are most likely to occur: cereals, rice, sugar, oilseeds, milk, beef, veal, pigmeat eggs and poultry-meat. Commitments to reduce support could be made for a first stage of five years with further commitments the subject of study in the fourth year. Reductions would be measured against the reference of 1986.

With respect to tariffication – proposed by a number of participants as a means of tackling border protection in a uniform manner – the EC remained doubtful. Nevertheless, the Community was prepared to consider such an approach given that the problem of re-balancing could be resolved in the same context. The list of products subject to commitments covered by the SMU would be assured by a fixed tariff component but subject to a corrective factor reflecting exchange rate and market fluctuations beyond certain limits. The fixed component would be expressed as an absolute value and would be reduced at a similar rate as the Support Measurement Unit. Deficiency payments would have to be treated in the same way and converted into tariffs. The same arrangement would apply to exports, with the amount granted to exports not exceeding that levied on imports.

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undertook to: eliminate all duties on unprocessed tropical products; apply a formula of their choice to eliminate or reduce protection rather than reshuffle it. Some felt the paper did not adequately cover non-trade concerns in agriculture. More generally, it was suggested that a plan based upon a perception that supply/demand imbalances were the problem was ill-founded. Such imbalances were the symptom of the real problem which was, essentially, the involvement of government in the management of agricultural markets.

**Tropical Products**

29 November, 1 December

Expressing concern about the lack of progress in the Group since the Montreal ministerial meeting, the ASEAN contracting parties (Indonesia, Malaysia, Philippines, Singapore and Thailand) tabled a proposal which they said would give effect to the Mid-Term Review decision on this sector. They proposed that developed countries undertake to: eliminate all duties on unprocessed tropical products; apply a formula of their choice to eliminate or substantially reduce by at least 75 percent duties on semi-processed and processed items; eliminate all nuisance duties; further reduce or eliminate duties through the request-offer approach; and reduce or eliminate non-tariff measures through negotiations. Developing countries would make contributions consistent with their individual development, financial and trade needs: these contributions could also take the form of market-opening measures in other product sectors. The ASEAN countries proposed that implementation of concessions by developed countries should start by 1 January 1991.

A number of participants expressed support for the general thrust of the ASEAN proposal or certain of its elements and considered it a useful basis for further work in this group. Other participants had difficulties with certain elements of the proposal, in particular with the different levels of commitments envisaged for developed and developing countries. These participants reiterated that successful negotiations in this area would require participation from all members of the Group.

Bangladesh tabled a proposal calling for the immediate implementation of any contribution made in this Group in favour of the least-developed countries. Switzerland announced that the duty reduction on non-roasted non-decaffeinated coffee offered in the Montreal package on a GSP basis would be applied on an mfn basis as from 1 December 1990.

**Subsidies and Countervailing Measures**

30 November – 1 December

Six new proposals were put before the Group, respectively by the United States, the European Community, the Nordic countries, India, Australia, and Bangladesh on behalf of the least-developed countries.

The United States proposal, like some others before it, envisaged three categories of subsidies and aimed generally at extending the export subsidy prohibition to all practices having similar trade distorting effects. Whereas only export subsidies on industrial products are at present prohibited by GATT, the United States proposed that this category be extended to other subsidies: by eliminating the “artificial distinction” between primary and non-primary products; by extending the prohibition to “trade-related” subsidies, which for example encourage the use of domestic inputs in preference to imported inputs or are granted to firms predominantly engaged in export trade; by recognizing that other domestic subsidies can have distorting effects where they exceed a certain percentage of total costs.

Imported products benefiting from prohibited subsidies would be subject to a duty and to additional countermeasures if the subsidy were not eliminated within a reasonable period.

As regards the second category of subsidies – actionable subsidies – the criterion would be the benefit to the recipient. Countervailing duties could be imposed where imports cause or threaten material injury to the domestic industry. The adverse effects of the first two types of subsidy on third-country markets could justify countermeasures. A third category of subsidies, for example unemployment benefits, adjustment assistance, etc., would in principle be non-actionable but could become actionable in certain circumstances.

The EEC proposed strengthening and reformulating the export subsidy prohibition so as to cover all government interventions which, through a charge on the public account, confer a benefit on a firm or an industry contingent upon export performance, whether de iure or de facto. The EEC considered that this element of finality of the subsidy is decisive. In its view, the illustrative list of export subsidies in the Subsidies Agreement should be clarified and improved, and a technical group might be established for that purpose. Any subsidy shown to be export oriented would be presumed to have a negative trade impact. It would have to be removed, and in the case of refusal to do so, might justify compensation or authorized retaliatory action.

As regards domestic subsidies which are per se legitimate instruments of economic and social policy, the Community considered that the principle that they are actionable once their negative effect on the interests of other countries has been demonstrated remained valid. The conditions for such action and the remedies to be applied would nevertheless need to be defined more clearly. The subsidy would have to meet three criteria: it must confer a quantifiable benefit to the recipient, it must imply expenditure of public funds, and it must be specific to a firm or an industry.

A third category of government interventions having no identifiable effects on international trade, should in principle not be actionable.

The proposal by the Nordic countries emphasized the difficulty of making a clear distinction between the three identified subsidy categories, even if the existing criteria were strengthened. It therefore attached great importance to achieving effective transparency regarding subsidy programmes and practices, strengthening the disciplines in regard to investigations leading to countervailing measures, and the development of more effective dispute settlement mechanisms. For the Nordic countries, there were two areas in which the existing disciplines are not sufficient: subsidies affecting third-country markets and import displacement. One possible approach would be to consider that subsidies above an agreed maximum level would trigger a multilateral examination; another might be to provide for the award of compensation to countries whose exports have been displaced through a subsidy.

The Australian proposal called for a significant increase and expansion of present disciplines on subsidies. In addition to the existing list of subsidy practices that are most trade-distorting, Australia proposed another class of prohibited subsidies related to criteria that are objective and verifiable, in particular through quantitative criteria. One approach would be to envisage an overall subsidy ceiling for individual products, beyond which collective measures examined by the contracting parties would be applied. Furthermore, coun-
The new institutional arrangements agreed at the Mid-Term Review of the Uruguay Round mandate the GATT Council to conduct an overview of developments in the trading system at the end of each year. The Council held its first special meeting for this purpose on 11 December. The following are excerpts from the GATT Director-General's annual report presented at that meeting:

Developments in 1989 have continued the trend of recent years, which have seen GATT's contracting parties actively invoking their GATT rights and obligations in the conduct of their trade policies, while at the same time vigorously pursuing the negotiations in the Uruguay Round. The year has also seen the implementation of the first results of the Uruguay Round; the introduction of the Trade Policy Review Mechanism, improvements in the dispute settlement procedures, and the early implementation of offers on tropical products by the developed and a number of developing countries. Furthermore, notifications concerning the fulfilment of commitments by the developed countries in the area of agriculture - including both a "freeze" on current support and protection levels until the completion of the negotiations in December 1990 and reductions in support and protection levels for 1990 - are now being received. Mention should also be made of the autonomous measures of rollback on liberalization notified to the Surveillance Body by the European Communities, Australia and Canada.

The Uruguay Round negotiations have contributed to a favourable environment in which several measures of liberalization and reform in trade policy regimes have been introduced. The positive conclusion in 1989 of the negotiations for Bolivia's and Costa Rica's accessions to the GATT is tangible proof of the major liberalization reforms that these countries have committed themselves to carry out in respect of their trade policy regimes. Nine other countries are also seeking GATT membership. The Working Party on China's Status as a Contracting Party was reconstituted in December 1989. These membership developments are welcome as an indication of the growing interest of countries in participating in the multilateral trading system as a means of promoting economic development.

Factors behind recent trade policy developments

Current account imbalances

Most economists and many policymakers accept the view that a current account imbalance is the result of an imbalance between national expenditure and national output (or, what is the same thing, an imbalance between savings and investment). But this has not prevented a wide cross-section of the public and politicians in the deficit countries from believing that trade policies are, if not the only factor at work, at least one of the important causes of the persistent imbalances. The result has been a variety of pressures on trading partners to change their trade policies. The problem is not just that such an approach could involve policy actions which would be inconsistent with the spirit - if not the letter - of the General Agreement, but that these policies by themselves will be inefficient in bringing about a lasting reduction in the imbalances.

The ongoing integration of national economies into the global economy

This decade has seen a renewed interest in economic relations among members of certain geographic regions. The circumstances and objectives vary enormously. In Western Europe, the European Communities continues an integration process, begun more than three decades ago, through the decisions taken to achieve a single internal market by 1992. In this context, efforts are also being made to intensify cooperation between the EFTA countries and the European Communities. The Free Trade Agreement between Canada and the United States which came into force at the beginning of the year brings closer together two countries which are already one another's most important trading partners. Other initiatives for closer economic cooperation are being pursued in Latin America, within the ASEAN region, in Africa, and among countries of the Pacific Rim.

These various developments and discussions have nourished a debate on the possible implications of greater regional cooperation for the multilateral trading system. Two points are worth noting:

• A brief examination of regional trade patterns in the 1980s makes it clear that trade between regions has been as dynamic a force in world trade as trade within regions. In these circumstances, any attempt to develop regional markets as inward-looking trading blocs are likely to be both a source of economic conflicts and of welfare losses.

• The increased interest in regional markets is just one part of a broader interest in foreign markets stimulated by the progressive integration of national markets into the global economy. The desire of enterprises to have uninhibited access to the entire world market to fully capture economies of scale is likely to be both a source of economic conflicts and of welfare losses.

It is thus easy to understand the importance which those participating in regional trading initiatives attach to the broader tasks of multilateral trade liberalization, and to the strengthening and extension of multilateral trade disciplines.

The emergence of new traders

In the last decade or so, ongoing diversification and industrialization in a number of developing economies has brought them into the top ranks of the world's traders. The increase in the relative importance of this group of developing economies in world merchandise trade has been primarily the result of increased exports (and imports) of manufactured products. More generally, the share of developing countries as a whole in world exports of manufactures has continued to rise significantly in this decade. The sharp rise in exports of manufactures, together with the decline in earnings from petroleum and other primary commodities, has produced a dramatic change in their export structure. Although definite data are not
yet available, it seems likely that in 1988, for the first time, manufactures accounted for one-half of developing countries' exports.

This explains the growing awareness on the part of these countries of the contribution that export growth can make to improved economic performance, as well as their active involvement in all aspects of the Uruguay Round negotiations – including the "traditional" market access issues, rules of competition and the new areas.

Other countries start down the same road

The desire to rely more on market forces to promote growth and raise living standards, and a corresponding desire to participate much more actively in world markets for goods and services, has spread beyond the developing countries to include a number of East European economies. In turn, these policy shifts can be expected to increase their interest in participating more actively in the multilateral trading system.

Among the significant developments in 1989, Poland and Hungary have introduced reforms designed to greatly enhance the role of the market, including a broad unilateral liberalization of their trade regimes. In measures designed to facilitate trade with these countries, the European Communities have undertaken to reduce specific barriers to their imports, the United States has granted MFN status to Hungary, and a number of countries have extended trade concessions. Although changes in the East European countries' economic policies are still in progress, it is clear that they will add up to greater trade with countries outside the region. In particular, the anticipated structuring of their economies will require substantial inflows of capital goods which, for many reasons, are expected to be supplied primarily by countries outside the region.

The importance of the Uruguay Round

The issues dealt with above bring out the importance of the Uruguay Round in efforts to deal with the adjustment problems which inevitably accompany the ongoing integration of national economies at the global and regional levels, the entry of new players in world markets, and the process of adjustment of current account imbalances. Each of the three main issues being treated in the Round – increasing market access, improving existing rules (as well as the observance of those rules), and writing multilateral rules and disciplines for policies in new areas – has important implications for the adjustment process.

President Salinas

(Continued from page 1)

that will make it possible to modernize the structures of the GATT system so that it can effectively resolve the problems that threaten to retard the processes of globalization and interdependence.

He proposed that to enable the Round to meet its objectives, the negotiations in its final year must be based on five principles:

First: Compliance with the basic dispositions of the General Agreement must be re-established. We view with concern the fact that access of our exports is often blocked by "voluntary" restrictions, which violate the principle of non-discrimination and make it difficult to use our advantages in production to best advantage. The strengthening of GATT will necessarily entail the inclusion of sectors like textiles and agriculture in the general provisions of the Agreement. In agriculture we support a reform with the long-term objective of establishing an equitable system oriented to trade. As regards textiles and clothing, it is urgent to proceed in an orderly and predictable manner towards their inclusion in the disposition of the General Agreement.

Second: The quality and content of the rules and procedures of the General Agreement must be improved. The lack of precision of the provisions allows for unilateral interpretations that do not correspond to the original spirit of the system. The anti-dumping provisions and the procedures for applying countervailing duties, which were conceived as ways to counter unfair practices, have been distorted, and at times, used as mechanisms to harass exporters. The mechanism for resolving differences, a necessary instrument for interpreting and enforcing the provisions of the system, has lost effectiveness because of its slowness and lack of respect for the decisions that are adopted. This has a greater impact on small economies, where the absence of a prompt response in a few cases can place a large percentage of their trade and production at risk.

Third: A structural equilibrium should be established within the system that will permit countries that have made major efforts to open their economies to obtain reciprocal treatment for their exports. It is paradoxical that in an agency orientated towards multilateral trade, as GATT is, countries that delay opening their economies have the greatest negotiating power.

Fourth: Constructive and innovative mechanisms should be designed to ensure that the rules of the system contribute to the process of the countries' economic development. Special and differential treatment is an exception to the rule that has not always been effective in achieving its objectives. The degree of development should be incorporated as an integral part of the norms of the system.

Fifth: Trends towards regionalism should be channelled in such a way as to strengthen world exchanges. Trade blocs, instead of becoming impenetrable fortresses, should be constituted as poles of trade development. This will make it possible to move towards a more solid and equitable multilateral trading system. The trade blocs should take advantage of their potential as the promoters most committed to economic globalization.
Subsidies
(Continued from page 7)

tervailing duties could be applied with­
out any requirement for an injury test
and should be available in third-country
markets.

One of the main ideas in the Indian
proposal was that the major test for
classifying a subsidy as actionable or not
should be whether the measure is one
which causes distortions or on the con­
trary eliminates existing distortions.
There are a series of imperfections in
developing country markets – under­
developed infrastructure, fragmented
markets, poor marketing, high cost of
inputs, for instance – which can make
offsetting subsidies necessary. Such sub­
sidies should be considered lawful, even
if they are limited to exports and are
specific to certain sectors.

Under the proposal presented by
Bangladesh, subsidies form an integral
part of the economic development pro­
grammes of the least-developed coun­
ctries, whose right to grant or maintain
subsidies, including export subsidies,
should continue to be recognized.

○ Surveillance Body

29 November

A

lthough no new notifications on
possible contraventions of the
standstill were received by the Surveil­
lance Body, delegations raised a number
of points under the “early warning” sys­
tem:
• the delegates of Brazil and India both
protested that their countries had been
retained on the so-called priority
watch list under the “Special 301”
provision of the US Trade and Com­
petitiveness Act dealing with intellec­
tual property rights, following a review
of the list announced on 1 November.
• Chile warned that the extension of re­
strictive “quality control” measures to
a number of fruits (kiwis, peaches,
pears, nectarines and plums), as envi­saged in draft legislation recently tab­
lled in the US Senate, would constitute
a violation of the standstill by the
United States.
• Australia raised four developments in
the European Communities as poten­
tial breaches: increases in processing
aids for dried grapes; the recent 1 per
cent increase in dairy production quo­
tas eligible for price support; consid­
eration of import securities af­
fecting peas and beans; and a proposal
that subsidies be paid to encourage
conversion from areas of surplus pro­
duction to previously unsubsidised
products.
• the delegation of Argentina considered
that the European Community’s in­
creases in price support for certain
corn production were a violation.
• the European Community raised the
issue of increased Brazilian export
taxes on the vegetable fibre sisal.
The European Community announced
a revised offer on rollback. It presented
the package as an autonomous and sub­
stantial contribution involving the abol­
tion of a large number of quantitative
restrictions maintained by individual
member States. The offer was uncondi­
tional although the Community in­
sisted on the need for similar political
will to be demonstrated by other partici­
pants to ensure implementation of the
rollback commitment generally.

In a general discussion on proposals
for procedures to ensure overall im­
plementation of rollback the chairman
noted that no consensus existed on the
basis of which he could report to the
Trade Negotiations Committee in De­
cember.

○ Non-Tariff Measures

30 November

Zaire tabled a draft agreement on
preshipment inspection (PSI). It
proposed establishing a Code of Practice
for PSI companies while at the same
time recognizing as legitimate the
reasons behind the use of PSI. The Code
would be based on the principles of non­
discrimination, avoidance of delays and
the protection of confidential business
information. Many participants
welcomed the new proposal as construc­
tive. The US and the Community indi­
cated they would soon submit their re­
spective proposals on PSI, and reiterated
their willingness to provide technical
assistance to customs administrations
of PSI-user countries.

○ GATT Articles 6-8 December

The Group continued its three stage
examination of specific articles: on
Articles XII, XIV, XV and XVIII it ini­
tiated a period of intensive work; for
Article XVII and XXVIII, it examined in
greater detail the various proposals
put by participants; and, on Article II: 1(b)
it reached the stage of drawing con­
clusions on the proposal suggesting the
recording of “other duties or charges” in
the schedules of concessions.

The Group accepted on a provisional
basis subject to confirmation by partici­
pants, a draft decision to record in tariff
schedules “other duties or charges” main­
tained on bound tariff items under
Article II:1(b); the decision is aimed at
ensuring transparency of the legal rights
and obligations deriving from this pro­
vision. Once adopted, the draft decision
will be transmitted to the Group of
Negotiations on Goods. Nevertheless,
the decision will remain provisional
pending the outcome of the Uruguay
Round negotiations as a whole. The
eventual legal form of this decision will
be decided at a later stage, in the context
of the conclusion of the Round.

Argentina. Canada. Colombia,
Czechoslovakia. Hong Kong. Hungary.
Korea. Mexico. New Zealand and
Singapore put before the Group a joint
communication aiming at making
Article XXVIII more responsive to
present needs and to changes in the
trading environment. The proposal sets
out new criteria for determination of
suppliers’ rights which are intended to
secure a wider distribution of such rights
among smaller trading countries. It also
provides for the payment of compensa­
tion in the absence of past trade flows,
the granting of rights for compensa­
tory concessions, and treat­
ment of tariff rate quotas and preferen­
tial trade. The Group continued its dis­
cussion of Article XVII, concerning the
obligation of contracting parties in re­
spect of state trading enterprises, against
the background of the submissions tab­
l ed at the last meeting by the United
States and the EC.

On Articles XII. XIV, XV. and XVIII
which deal with matters relating to bal­
ce-of-payments problems, the United
States and Canada tabled a joint
proposal aimed at providing more effec­
tive policies to improve the operation of
these provisions. While recognizing
the right of countries to impose temporary
trade restrictions to assist in address­
ing serious difficulties in their balance-of­
payments position, the proposal aims to:
clarify the criteria for assessing trade
restrictions applied for balance-of­
payments purposes;
provide guidelines for the kinds of ac­
ions countries facing serious balance-of­
payments problems are entitled to take
without a decision by the Bal­
ce-of-Payments Committee;
• strengthen disciplines and Balance-of­
Payments Committee procedures
which apply to countries wishing to
take measures in excess of those speci­
fi ed in the guidelines.

Peru presented a communication in
which it proposes to maintain and ex­
pand the legitimate recourse to Article
XVIII:B by developing countries facing
balance-of-payments difficulties.

○ Dispute Settlement

7 December

Bangladesh proposed several
measures in favour of the least-de­
veloped countries – including the estab­
lishment of a separate conciliation body to help settle disputes involving this group of countries. Several participants expressed general support. Some other delegations stressed that dispute settlement rules should apply equally to all GATT members but that some flexibility might be allowed for less-developed countries. The United States put forward some tentative ideas on improving the panel process.

● Trade-Related Aspects of Intellectual Property Rights
11, 12 and 14 December

The Group’s 1989 work programme was completed with 12 new proposals tabled and substantial discussion on several aspects of its mandate. The wide range of views already put forward is reflected in the 14 proposals (from 28 countries) on the question of standards and norms alone or the nine proposals (23 countries) covering the question of enforcement of intellectual property rights. A large number of other proposals deal with further important aspects of the negotiating brief.

Settlement of disputes in the intellectual property area was one focus of discussion during the meeting. Among the new proposals tabled, those of the European Communities and Austria dealt with this question, but many of the position papers submitted earlier had also stressed the importance of an efficient dispute settlement mechanism. Many countries believed that basic GATT procedures provide an adequate basis though some favoured an autonomous dispute settlement system, detached from the GATT system. There was also much support for the view that there should be no legal interlocking between an agreement on TRIPs and the procedures provided for in other international organizations dealing with intellectual property. However, it was generally recognized that dispute panels should be able to seek, where appropriate, the expertise of institutions such as the World Intellectual Property Organization (WIPO).

The importance of settling disputes through a multilateral process was widely stressed. Some participants considered that the corollary would be an undertaking not to engage in unilateral action, provided that the multilateral system was efficient. Some participants argued with the view expressed in the paper of the European Community was of the view that, without sanctions, such as the possibility of the suspension by a contracting party of a concession or another obligation under the GATT, the dispute settlement process would not be effective. Some other participants opposed the availability of sanctions considering that a dispute settlement system could work without them.

Another item discussed was transitional arrangements aiming at the fullest participation in the results of the negotiations. There was wide support for the view that, whereas all countries may need some transitional period to make the necessary changes to their legislation, longer transitional periods may be needed by developing countries. This position was reflected for example in the new communications by Austria and the EC. Hungary suggested a transitional period lasting until the year 2000 with each country able to determine its transition schedule within this time frame. Many developing countries said that a time-limited transitional period would not provide them sufficient flexibility and that there was a need, in addition, to build flexibility into the standards themselves.

Hong Kong submitted two papers to the Group, one which proposed specific standards to be covered by an agreement, including trade secrets, and another on the enforcement of intellectual property rights, providing for internal as well as border measures.

A communication from Brazil spelled out Brazil’s views on the application of basic GATT and WIPO principles emphasizing the distinction between the circumstances when they would need to operate. It also suggested detailed standards on patents, trade marks and copyright, including the need for governments to have freedom in some key areas to determine standards in the light of national circumstances and the need to elaborate the obligations as well as the rights of intellectual property owners. The Brazilian paper provided that internal enforcement of intellectual property rights is strictly a matter of competence of domestic legislation, and that the difficulties of developing countries in this area should be recognized. Border measures should be made available under certain conditions.

Australia and the Nordic countries put forward proposals on enforcement, covering civil, administrative and criminal procedures as well as provisional measures which would allow prompt action to be taken, whether judicial or administrative, both internally and at the border. The additional communication tabled by Switzerland detailed its views on appropriate international standards for the protection of proprietary information, including trade secrets. An additional proposal by Japan revised its previous communication on non-voluntary licences for patents.

On behalf of the least developed countries, the Bangladesh proposal sought special treatment, in particular to ensure the effective transfer of technologies for those countries.

● Natural Resource-Based Products 12 December

Australia said that for many countries, natural resource-based products constitute the single most important element of their exports. It stated that the extent of its contribution, and perhaps those of many other countries, in the Uruguay Round would be determined by the results achieved in this Group. Citing the Mid-Term decision on tariffs, Australia proposed at least a one-third overall reduction in trade barriers to natural resource products and suggested a negotiating timetable aimed at accelerating work in the Group. While expressing general support, a number of participants said the new proposal might be premature in the absence of agreement on negotiating approaches in the Tariffs and Non-Tariff Measures Groups. Bangladesh, on behalf of the least-developed countries, proposed special treatment for natural resource-based exports of this group of countries. Senegal presented a detailed submission on trade barriers affecting its exports of phosphates and fisheries products. The United States submitted a background paper on the aluminium industry which concluded that all participants in the trade of this metal would benefit from the elimination of trade restrictions.

● Textiles and Clothing 14-15 December

Five new proposals were tabled. The United States proposed that all participants agree that in this sector: (a) any integration process should encompass all measures affecting trade; and (b) at the end of the integration process, no GATT member would undertake or maintain any GATT-inconsistent measure. On the transition arrangement, it asked the Group to examine two alternatives to an MFA-based approach: a system of glo-

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Textiles
(Continued from page 1)

bal-type quotas, or a system of global-type tariff rate quotas, perhaps allocated by country. Several participants cited the practical difficulties in implementing these two alternatives while some other participants said they could not agree to the transformation of existing MFA measures into another set of restrictions. The Nordic countries (Iceland, Finland, Norway and Sweden) submitted a proposal which they said was aimed at striking a balance between the interests of exporting and importing countries. The members of the International Textiles and Clothing Bureau (ITCB) elaborated the broad approach that they have proposed at previous meetings. The ASEAN participants (Indonesia, Malaysia, Philippines, Singapore, and Thailand) presented a proposal which called for the complete phasing out of MFA restrictions by the year 2000. A number of developing-country exporters welcomed the convergence of views in the Nordic, ITCB, and ASEAN proposals on several issues, in particular the focus on the Multifibre Arrangement (MFA) restrictions, the phasing out of these restrictions upon the expiry of the MFA in July 1990, the immediate elimination of restrictions on several textiles and clothing products at the start of the phaseout process, and that issues related to strengthened GATT rules and disciplines be dealt mainly in other relevant groups. Bangladesh, on behalf of the least-developed countries, requested special treatment for the textiles and clothing exports of this group of countries.

○ Functioning of the GATT System 15 December

The Group resumed its discussion of the report by the GATT Director-General on his talks with the Managing Director of the International Monetary Fund and the President of the World Bank regarding the possibilities of closer cooperation with these organizations. It agreed to continue the exchange of views at the next meeting. The Chairman invited participants to submit concrete proposals on how to increase the contribution of the GATT to achieving greater coherence in global economic policymaking through strengthening its relationship with other international organizations responsible for monetary and financial matters. Australia, Canada, Hong Kong and New Zealand jointly proposed that GATT members encourage and promote national awareness of the government policy-making process related to trade. They said this would lead to a wider domestic understanding of the economic effects of government assistance to industries and thus foster greater public support for open trade policies.

○ Trade in Services 20-24 November

The group considered several new proposals and had detailed discussions on a Secretariat compilation aimed at focusing and giving structure to the work necessary to assemble, by the end of 1989, the elements for the negotiation of a draft framework on services. A submission by Brazil defined trade in services as the cross-border movement of services, consumers and factors of production in the latter case only where it is essential to suppliers and subject to certain criteria. The definition would not cover permanent foreign direct investment and international immigration. The agreement would cover all services so defined and should be drafted in a way to avoid a priori exclusions. It would set out a commitment to progressive liberalization in which four basic principles would always apply, namely:
- respect for national policy objectives;
- consistency with development objectives;
- balance of benefits among participants; and
- exceptions.

The Brazilian proposal also detailed ideas on the increasing participation of developing countries in world trade in services. The agreement would include commitments concerning the strengthening of domestic services capacity, the transfer of technology and preferential financial mechanisms to achieve them.

Further statements and communications from Peru, Indonesia and Malaysia also emphasized the developmental imperatives of a services framework as well as spelling out individual positions on specific principles and elements.

Japan explained its views on a number of principles in a new submission. It saw the realization of a substantial level of market access - through specific negotiations and through the application of principles and rules - as a major objective of the negotiation. It opposed the application of a reciprocal market access approach. Progressive liberalization would be achieved through a standstill and rollback of existing regulations and through periodic reviews. Japan also laid particular emphasis on the concept of national treatment as a means of securing market access and, with respect to non-discrimination, proposed that the framework agreement adopt the unconditional mfn principle while allowing for reservations.

All the contributions of GNS participants on every aspect of a framework agreement so far covered were included in a 50-page paper prepared by the Secretariat as a means of moving the group towards its end-of-year goal of agreeing the necessary elements for the final negotiation. The paper provided the basis for a detailed discussion.

18 December

The GNS met briefly on 18 December and adopted a draft document aimed at fulfilling the mandate of the Mid-Term Review which called upon the Group to "assemble the necessary elements for a draft which would permit negotiations to take place for the completion of all parts of the multilateral framework and its entry into force by the end of the Uruguay Round."

The draft is divided into three sections with a fourth envisaged on institutional aspects of the future framework. The first covers the scope of the agreement and involves the definition of trade in services. The second lays out the concepts, principles and rules to be embodied in it, namely: transparency, progressive liberalization, market access, national treatment, mfn/non-discrimination, increasing participation of developing countries, safeguards, exceptions, regulatory situation and other provisions. The third section considers approaches to the coverage of the agreement, the modalities of progressive liberalization (initial commitments and the mechanics of liberalization) and sectoral annotations for interpreting or clarifying the framework.

The draft was presented after prolonged consultations by the Chairman over the previous two weeks. He pointed out that while it reflected many alternative approaches to specific issues those differences did not reflect a high level of disagreement overall; rather, they indicated the work still remaining to be done in the GNS negotiations next year. The first meeting of the GNS in 1990 would be from 16 to 19 January.

Delegations generally welcomed the draft though some were disappointed that a higher level of agreement had not been reached on its contents. Several participants felt that development interests had not been sufficiently reflected. A number of participants reflected the view that early agreement on the structure of the framework would be the priority for the Group's work in 1990.
Country reviews launched

The Council successfully launched the new GATT Trade Policy Review Mechanism (TPRM) in December with the comprehensive examination of the trade regimes of Australia, Morocco and the United States. Many delegations lauded the initial round of reviews as auguring a new phase of greater transparency in the conduct of trade policy by individual contracting parties.

The GATT Director-General, in his opening remarks, said the most fundamental value of TPRM would be "the possibility to trace and compare the evolution of trade policies from review to review". He said the exercise presented "an excellent opportunity to bring the collective responsibility of all trading partners for the health of the multilateral trading system".

The trade policies of Australia, Morocco and the United States were reviewed, respectively, on 12, 13 and 14 December 1989. Each review was based on two reports: one prepared by the country concerned and the other produced by the Secretariat. The discussions were introduced by Ambassador Hassan AUSTRALIA.

The Chairman's summaries of the Council discussions

AUSTRALIA

The Council reviewed Australia's trade policies in their dynamic context. Many members emphasized that the reports presented by the Government of Australia and by the Secretariat showed that Australia is making a major effort to restructure its trade policies by making them more liberal, predictable and transparent in order to contribute to a general opening up of the economy. A number of members emphasized the importance of the macro-economic context of the changes in Australia's trade policies. It was pointed out that these policy changes are taking place at a time of major structural adjustment problems reflected in high indebtedness and substantial, and recently increasing, current account deficits. The political difficulties of making major trade policy reforms within a parliamentary system were also noted.

Many members commented on the general tariff reduction programme, the progressive dismantling of import licences and quantitative import restrictions, the reduction and rationalization of production subsidies (bounties), and the regulatory reforms regarding certain agricultural sectors such as wheat. Some members commended the declining use of, and reforms in, ad hoc import relief measures, particularly in areas such as anti-dumping and countervailing measures. The work of the Industries Assistance Commission in promoting transparency and pioneering techniques of measuring public assistance was appreciated; it was noted that the regular evaluation of Australia's protective system contributed to greater public understanding of, and support for, the liberalization process. The hope was expressed that its successor, the new Industries Commission, will build on this experience.

Whilst acknowledging these features, several members referred to a number of areas where concerns still exist. The points frequently mentioned in this context included:

- a relatively uneven pattern of assistance across industries, both in the manufacturing and agricultural sectors;
- a relatively low level of bindings in Australia's tariff structure;
- relatively frequent recourse to anti-dumping measures;

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### MOROCCO

The Council noted with appreciation that the Kingdom of Morocco was the first developing country to volunteer to submit its trade policies for review under the Trade Policy Review Mechanism. This indication of a strong commitment to the GATT system was all the more welcome in view of the fact that Morocco had only recently acceded to the GATT.

Several members emphasized that Morocco's trade policies had, since 1983, developed in a direction progressively based on the principles of the multilateral trading system. It was also noted that the structural adjustment programme undertaken by Morocco comprised not only trade liberalization but also major reforms in fiscal, monetary and exchange rate policies which had contributed to the greater integration of Morocco into the world economy.

While Morocco is a small trading country in global terms, trade is an important and growing element in its economy. In view of its high debt and debt service burden, the link between trade, money, finance and development was particularly important for Morocco. Several members pointed to the importance for Morocco of improved access to export markets together with increased availability of external financing. In this connection, members of the Council noted the vulnerability of Morocco's economy to changes in the external trading environment, given its limited export base and the fact that it is a small supplier in most of its export markets.

Reference was made to the existence of trade barriers and other trade-distortive measures in Morocco's export markets for such products as textiles, clothing and agricultural goods. The importance of the Uruguay Round negotiations in these areas was emphasized.

Council members welcomed Morocco's extensive liberalization efforts taken in spite of substantial financial difficulties and obstacles to trade in external markets. It was noted that, with the implementation of its structural adjustment programme, Morocco's trade policies and practices had become more transparent; that import prohibitions had been abolished, licensing requirements were being phased out in favour of tariff-based protection; and that the binding of tariff lines and the introduction of sunset clauses. He gave the following as an example of the expected reduction in the levels of tariff protection. The representative of Australia said that current reforms of anti-dumping procedures should result in fewer anti-dumping measures in the future. Comprehensive reforms were also under way in subsidies and bounties, including the introduction of sunset clauses. He gave additional detail with respect to local content requirements, in particular with respect to new broadcasting regulations. Finally, he drew attention to the fact that Australia's quantitative restrictions had been largely phased out. In the area of non-tariff measures, progress was hoped for in the negotiations in the Uruguay Round.

In general, many members of the Council considered that the discussion had made an important contribution to the transparency of Australia's trade policies. There was general appreciation of Australia's current programme of trade liberalization and the ongoing evolution of Australia's trade policies, which were seen as going a long way towards reversing the earlier approach of promoting the development of import-substituting industries through high protection. However, it was noted that, in a number of areas, high levels of assistance would persist even after the end of the present programme of liberalization. Members therefore considered it important that the process of liberalization was sustained and continued beyond the completion of the current programme.
in place. A number of members expressed their concerns on the incidence and effects of such non-tariff measures, including possible discriminatory aspects, as well as the lack of transparency involved. Questions were also raised about the fiscal levy on imports introduced in 1987, certain tax exemptions as well as export guarantees and the export insurance scheme, which it was suggested could be seen as export subsidies, and the move being considered by Morocco to use variable levies on imports of "sensitive" agricultural products. Some concerns were also expressed about a possible slowing down of Morocco's trade policy reform programme since 1987.

Some members stressed the importance of ensuring that Morocco's participation in regional trade agreements did not lead to discrimination and diversion of trade. In this context, Morocco's efforts to diversify its export markets and import sources were appreciated.

Replying, the representative of Morocco pointed out the difficulties encountered by a developing country that had been implementing a major programme of trade liberalization at a time of severe structural adjustment problems. He mentioned the linkages between trade and finance, including Morocco's fiscal problems which would constrain the extent and speed of tariff reductions. However, the course of trade liberalization would be sustained.

He gave several examples of further steps towards a more liberal trade and investment régime in Morocco. In the area of import licensing, changes since 1983 had been exclusively in the direction of phasing out the measures in place and this trend would continue, in consultation with the domestic industries concerned. Morocco was also continuing its reform of the tariff system, including a further reduction and harmonization of tariff levels as a longer-term goal. The aim was to provide a neutral structure of protection across the board. Increasing the scope of tariff bindings was under consideration. Reform in this area would depend on the results in the Uruguay Round, as would the question of whether Morocco would consider acceding to Tokyo Round Codes.

As far as reference prices are concerned, Morocco viewed these as an administratively simple substitute for anti-dumping procedures, given the limited administrative capacities of a developing country and the substantial demands on administration a fully fledged system of anti-dumping procedures requires. With inflation and devaluation of the Moroccan dirham, the reference prices would in practice run down with the passage of time.

In the area of agriculture, Morocco was currently dismantling its levels of support to provide support equivalent to a maximum tariff of 45 per cent. Variable levies were necessary because of the vagaries of international markets for agricultural products. Morocco's agricultural sector continued to be in a fragile condition.

The representative of Morocco mentioned that a new foreign trade law was in preparation.

Morocco was a participant in a number of preferential agreements. The arrangement with the European Communities was not limited in time and non-reciprocal. All other bilateral agreements concluded by Morocco were fully consistent with the GATT.

The fiscal levy had a purely revenue purpose and, in part, was introduced to honour international commitments by Morocco. Negotiations on bound items were underway under Article XXVIII with affected parties. No direct or indirect export subsidies were in place, if only for lack of funds. Preferential credits, which Morocco granted, to a limited extent, for export were higher than the preferential credits Morocco's importers of capital goods were offered.

With respect to government procurement practices, the existing national preference margin of 10 per cent was largely theoretical. For lack of financial resources, Morocco's public agencies were dependent on the cheapest sources of supply. Purchasing was therefore made on the basis of multilateral bidding procedures.

On the whole, members of the Council commended Morocco for the progress in trade liberalization brought about since the early 1980s. While recognizing the difficult processes of structural adjustment that might be involved, and the contribution that an improved trading environment could make to the success of Morocco's efforts, they encouraged Morocco to proceed with the liberalization of its trade régime, with due consideration to the possibilities of further improving transparency of its policies, reducing tariffs and expanding the scope of tariff bindings.

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**UNITED STATES**

Members of the Council emphasized that the trade policies of the United States, as the world's largest single economy and largest single importer and exporter, had a major influence on the trading system. The discussion showed that there were many facets to United States trade policy.

Members recognized that the United States' market was, in many respects, open and that it was the largest market for exports from many areas, including developing countries. Tariffs were generally low and almost completely bound.

Outside agriculture, textiles and clothing, there were relatively few quantitative import restrictions, and outside agriculture relatively few subsidies, or other sectoral domestic support policies. The United States was a signatory to virtually all the Tokyo Round Codes. The active rôle of the United States in the Uruguay Round was welcomed.

Members appreciated the recognition by the representative of the United States that the current account deficit must be largely dealt with through a reduction in the budget deficit and increased private savings. This should help to increase United States' competitiveness and reduce protectionist pressures. It was recognized that the absolute deficit was still high, but that its share in GNP had fallen considerably.

While appreciating these features, members of the Council voiced concerns in a number of areas:

- Several participants noted that the United States' trade system was based on a structure of laws, agencies and public hearings which permitted open discussion of all elements of concern to trading partners. However, its very complexity reduced the transparency of trade policy formulation and administration.

- Some members referred to the "non-self-executing" nature of the General

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Agreement under United States law. It was noted that this increased ambiguity and uncertainty as to the conduct of United States trade policies within the multilateral trading system. Some participants also considered that the transparency and "legal process" nature of United States trade policy formulation had been weakened by recent trends.

- A number of members noted that tariff peaks and import restrictions were in existence in several sectors, in particular some areas of export interest to developing countries.
- In relation to agriculture, some members stated that import restrictions under the GATT waiver, which had lasted for over thirty years, should be phased out. In addition, it was stated that subsidies under United States' farm legislation were both costly for the United States' economy and affected third countries' export markets.
- Questions were raised as to whether recent regional arrangements could be taken as indicating a new direction of United States trade policies, departing from strict adherence to the most-favoured-nation (m.f.n.) principle.
- Members expressed strong concerns about the use of unilateral measures under Section 301 of the United States' Trade Act, as amended. It was pointed out that there was no justification for unilateral interpretation of the rights and obligations of contracting parties under the General Agreement nor for unilateral action aimed at inducing another contracting party to bring its trade policies into conformity with the General Agreement.
- Several members observed that the use of specific legal escape clause provisions such as Section 201 of the United States' Trade Act had declined, but that the use of anti-dumping and countervailing actions had grown. In this context, concerns were raised on unilateral interpretation by the United States of anti-dumping and countervailing provisions.
- Reference was also made to recourse to multiple remedies under United States' trade law.
- A number of members referred to the increase over time in the use of non-tariff measures, and in particular in the use of export restraint arrangements such as VRAs. Some participants questioned whether the recent announcement of the termination in 1992 of VRAs on steel could be seen as a measure of liberalization.
- Several members called attention to preferential government procurement policies which led to discrimination against foreign suppliers, including the policies of State and local governments.
- The point was made that, in some areas, criteria not related to trade have been used in making decisions related to trade policies, for example, in granting GSP or even m.f.n. treatment. Reference was also made to discriminatory trade measures taken against certain countries.

In reply, the representative of the United States thanked participants for the attention and spirit of cooperation shown during the review. He saw the review as a useful exercise in clarifying trading partners' priorities in respect of United States trade policies and practices.

He said that the complexity of United States trade laws derived from the size of the economy on the one hand, and from the democratic system of separation of powers on the other. To some extent, increasing complexity had gone together with greater transparency.

The United States stood by its statement on action under Section 301 made in the June Special Council meeting. Cooperative solutions to problems would be sought in a multilateral framework. The United States administration placed great importance on bringing questions to the GATT for solution and on using Section 301 within the multilateral system. Panel findings were being acted on by the Administration, which also recognized the importance of negotiations in the Uruguay Round.

The "non-self-executing" nature of the General Agreement in United States law was not a source of instability. Overall, the United States willingly implemented all its GATT obligations, as well as those of the Tokyo Round Codes. On agriculture, the United States was prepared to negotiate substantively on all products including those covered by its GATT waiver.

The United States representative said that he would be interested in exploring ways in which the potential costs of domestic policies could be better communicated to consumers, and how GATT procedures and provisions could be used in this connection. While he did not accept that the United States took a "vigilante" approach to trade policies, he appreciated the difficulty of achieving a balance between the interests of the larger and smaller trading nations in any process of negotiations.

The United States representative recognized that concerns had been expressed by participants about the directions of United States trade policies. The United States remained fully committed to the multilateral trading system. To seek greater liberalization of trade through a multilateral process was the United States' dominant objective. In sectors which were still sensitive to import competition there was no doubt that the best way of ensuring trade liberalization was through the multilateral process, which should also contribute to strengthening the rule of international law in all areas of trade.

The Council appreciated the readiness of the United States to be one of the first contracting parties reviewed under the TPRM. Members recognized the historical outward orientation of the United States, the particular role played by the United States in promoting the evolution of the multilateral trading system, and the expression of its continuing strong commitment to the system.

However, members expressed their concerns regarding certain recent trends in United States trade policies as seen by them, in particular the growth of bilateral or unilateral measures, or of unilateral interpretations of multilateral rules, as well as the use of trade remedies not provided for in the General Agreement. Many participants emphasized that such policies should not undermine the multilateral trading system and, in this connection, stressed the need for all contracting parties to abide by multilateral rules and procedures in their trade policies, and to seek solutions for current problems through existing GATT procedures and the multilateral process of negotiations in the Uruguay Round.