Uruguay Round

Council Chairman Lars E.R. Anell: "A growing convergence of views"

Trade-environment debate narrows down differences

After a comprehensive debate on 29-30 May, Council Chairman Lars E.R. Anell said there was a "growing convergence of views and a much better understanding" of the trade-environment issue among GATT members. He added that the discussion might have modified or even dispelled some apprehensions about starting work in the GATT on the environment.

The Council agreed that the Chairman of the Contracting Parties, Ambassador Rubens Ricupero, would hold further consultations on two outstanding issues:

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New efforts to press forward with negotiations

The Trade Negotiations Committee (TNC) adopted, on 7 June, an intensive negotiating programme for June and July. "Depending upon the progress we achieve in these weeks, we will be better able to judge our capacity to conclude the Round successfully by the end of this year - a target which more and more participants are beginning to see as feasible and desirable," Mr. Arthur Dunkel, TNC chairman at official-level, said.

Recent developments, according to Mr. Dunkel, could "only further strengthen the resolve of participating governments to accelerate the negotiating process and conclude the Round expeditiously ... we must, therefore, move forward as quickly and as constructively as possible."

Among the important political developments after the TNC’s adoption, on 25 April, of a new negotiating structure for the Uruguay Round, were the following:

• The extension by the US Congress (23 and 24 May) of the US Administration’s fast-track authority for the Uruguay Round negotiations for another two years. Under the fast-track, the US Administration may negotiate trade agreements and submit them to Congress for a vote without amendments.

• The European Community’s agriculture ministers agreed on 24 May a farm price package for 1991/92, which included cuts in price support for some products.

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Ambassador Narcisa Escaler (Philippines), chairperson of the Committee on Trade and Development Committee. The CTD, on 4 June, reviewed recent trade and policy developments of significance to developing countries. (Photos by T. Tang/GATT)
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- The request by the EFTA countries for the activation of the 1971 Working Group on Environmental Measures and International Trade; and
- The possible contribution of GATT to the 1992 UN Conference on Environment and Development.

The Council also asked the GATT Secretariat to prepare background papers to assist the trade-environment consultations.

EFTA members press convening of working party

Austria said GATT members belonging to the European Free Trade Association (EFTA) stood firm on the convening of the 1971 Working Party on Environmental Measures and International Trade not later than the second half of September 1991, as they have communicated to the the GATT Director-General in February (see Focus No. 78).

"The existence of the working group is not contested, it has a designated chairman, it has a mandate, the EFTA countries have requested its convening, therefore the airgram just has to be set out in time by the GATT Secretariat," they said. The EFTA countries (Austria, Finland, Iceland, Norway, Sweden and Switzerland) supported the continuation of consultations on the trade-environment issue as well as preparation of background papers by the GATT Secretariat so long as they would not delay the process.

A number of delegations urged that the Council use a gradual, step-by-step approach in examining the trade-environment issue. "GATT should avoid hasty conclusions and proceed in an incremental way," the Sweden said on behalf of the Nordic countries. It urged that the 1971 Group be convened immediately.

Members of the Association of Southeast Asian Nations (Indonesia, Malaysia, Philippines, Singapore and Thailand) said that environment could, and had been used as a convenient cover for protectionist motives. "GATT provisions that would in fact facilitate or provide easy justification to countries to apply environmental measures for political and other coercive reasons would be undesirable," the ASEAN members said. "All countries should be able to come on-board to examine the relationship between trade and the environment as it relates to them and to the global community," they said. They proposed that the GATT Secretariat prepare a factual paper on the subject of "Trade and Environment" which would contain the following elements: historical background on the 1971 Working Party; background information on any other GATT environmental work in the past; how existing international arrangements on environmental protection, such as the Vienna Convention, Basel Convention, etc., affect GATT principles; and a listing of trade measures taken by countries for environmental protection, and other environmental measures with trade implications.

The African countries urged the early adoption of the Draft Decision on Products Banned or Severely Restricted in the Domestic Market, which was under discussion in a GATT working group. They said this would help bring under control export of hazardous products and waste to African countries.

The United States supported EFTA’s proposal for the convening of the 1971 Working Party. It said that trade and environment policies are intersecting with greater frequency, and that the GATT should ensure that they do not work at cross purposes. GATT members needed at national level to devise solutions to urgent environmental problems, and this would have implications for the interests of other contracting parties. It was therefore critical that members have a clear understanding of how GATT rights and obligations related to the options that governments face. Among the points raised in the Council discussion were the following:

- **GATT is not insensitive to environment**

Many delegations said that although "environment" was not mentioned in the General Agreement, certain provisions like Article XX (General Exceptions) did recognize the legitimacy of trade measures aimed at protecting the environment. GATT principles like m.f.n., national treatment, transparency and the application of the least trade restrictive measure were also applicable to environmental measures related to trade. Some delegations argued that there was no need for additional provi-
sions since the present GATT could adequately deal with trade problems arising out of environmental measures.

**GATT should not set environmental standards**

In the discussion, it was made clear that no party had considered that GATT should begin to set or harmonize environmental standards. "The GATT neither could nor should be turned into a forum for the harmonization or development of global environmental policies," the European Community stressed.

A number of delegations raised the possibility of national environmental standards coming into conflict with each other. The Nordic countries stressed that the GATT principle of "national treatment" did not mean that countries were free under Article XX to require that imported products are produced as cleanly abroad as at home.

**Development aspects**

The environment-trade issue should be seen in the context of development, according to a number of delegations. "For us, developmental concerns are the most pressing environmental problem," said Tanzania on behalf of African delegations. It said that pressing needs for financial resources had reoriented the continent's agricultural pattern from food to export production. This in turn had led to soil loss, desertification and deforestation. Moreover, falling commodity prices have pushed African farmers to over-exploit the land with disastrous environmental consequences.

The African countries urged trade solutions involving stabilization of commodity prices, better terms of trade, and an end to tariff escalation that restricted higher-valued African exports. They maintained that unilateral measures, as proposed by environmental lobbies in many industrialized countries, to restrict or ban imports of tropical timber because the exporting countries were not pursuing sustainable forest conservation would be inconsistent with GATT principles and rules.

The Community said that in examining the issue, GATT should take fully into account the legitimate interests of developing countries. "There has to be a clear recognition that protectionist abuses have to be avoided and sanctioned, and that multilateral efforts to tackle global environmental challenges have to incorporate specific measures to facilitate compliance by developing countries," it said.

**Panel to examine US measures on wine, beer and cider**

Canada again urged that the Council establish a panel to examine what it said were US measures that discriminated against imported wine, beer and cider (see previous Focus).

The United States said that while it agreed with the principle that the Council should establish a panel at the second consideration of a request, it considered that Canada's complaint was imprecise and vague and thus failed to comply with the requirement that a panel request should "provide a brief summary of the factual and legal basis of the complaint sufficient to present the problem clearly." Should the Council fail to sustain this objection, the United States said it should be given ample time to construct its defence, and that the panel should limit its examination only to those measures specifically raised by Canada in their bilateral consultations.

Australia, New Zealand, the Community and Venezuela said they had a trade interest in the matter and supported Canada's request for a panel. Canada said the US request for an ample period of time was unreasonable.

The Council established a panel to examine Canada's complaint and authorized the Chairman to designate the chairman and members of the panel in consultation with the parties concerned.

**EC set to implement soyabean report**

The European Community announced that with a view to reforming its oilseed regime, it would bring measures into conformity with the conclusions of the soyabean panel report. It said the EC Commission would present proposals before 31 July, and the EC Council of Ministers would take a decision on these before 31 October.

The United States welcomed the EC decision and said it accepted the idea, as contained in the Commission's 1991 price package, that the EC would implement a definitive solution to the panel recommendations on oilseeds by 31 October. It said the Community had given the assurance that it would put forward a proposal for the substance of the solution in July and that this proposal would apply to all oilseeds harvested in the calendar year 1992 or later, including the fall 1991 plantings. The United States reserved its GATT rights should it find the EC proposal unsatisfactory.

The soyabean report was one of the five adopted panel reports whose implementation had been tied to the conclusion of the Uruguay Round (see previous Focus). This report, adopted in January 1990, had concluded that EC measures concerning payments and subsidies paid to processors and producers of oilseeds and related animal-feed protections were inconsistent with GATT Article II:4 and had impaired EC's tariff concessions to the United States (see Focus No. 68).

**Canada urges adoption of pork panel report**

Canada urged the adoption of a panel report which found US countervailing duties on Canadian fresh and chilled pork inconsistent with GATT provisions (see Focus No. 75). It complained that the United States, for the past eight months, had failed to offer any substantive or procedural justification for not agreeing to the adoption of the report. Canada maintained that there could be no linkage between the adoption of the GATT panel report and a separate dispute under the Canada-US Free Trade Agreement.

The United States suggested that consideration of the report await a final decision regarding the measure in question, which was expected in mid-June from an appeals body under the Canada-US Free Trade Agreement. It stressed that no countervailing duty had been collected in this case.

The EC and Japan said they were concerned that bilateral procedures were hindering the effective functioning of the GATT system, and urged the United States to agree to the adoption of the report at the next meeting.
New efforts to press forward

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• Ministers of member countries of the Organization for Economic Cooperation and Development (OECD), at the end of their annual meeting in Paris on 4-5 June, urged that the Uruguay Round reach "a substantial and comprehensive conclusion as early as possible, preferable at the end of the year." They said the negotiations "have the highest priority on the international economic agenda" and their success was crucial to continued world economic growth.

In proposing an initial schedule of meetings, Mr. Dunkel stressed that June and July would be "important testing period." "Work will therefore have to proceed in a very focused manner con- centrating as far as possible on the questions where negotiating breakthroughs have to be achieved," he said. The TNC would reconvene towards the end of July "to review progress and devise a negotiating strategy for the second half of this year."

The first negotiating groups to meet under the new schedule were: Rule Making and Trade-Related Investment Measures (10 and 12 June), Agriculture (12 and 18 June) and Market Access (14 June). These were followed by the Group of Negotiations on Services (24-28 June), and Trade-Related Aspects of Intellectual Property Rights (27-28 June). The July schedule is listed in the GATT Calendar. Reports on these meet- ings will appear in the next Focus.

Canada urges adoption of pork panel report

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New Zealand, Australia, the United States, Argentina, Thailand, Uruguay, Chile and the EC said the absence of a concrete liberalization offer from Japan during the consultations was disappointing.

• Chile, speaking on behalf of the Latin American and Caribbean delegations, suggested broader consultations on the appointment of a successor to Deputy Director-General Madan G. Mathur who will retire at the end of July. It also expressed some concerns over the recent reor- ganization of the GATT Secretariat. Mr. Arthur Dunkel said he would continue consultations regarding the successor of Mr. Mathur. He also said that the reorganization of the Secretariat was in response to the new structure of the Uruguay Round and that it was also aimed at integrating development activities into the main- stream of GATT work.

• Japan expressed concern over a notification from the United States that the US Customs Service, under the Marine Mammals Protection Act, would be requiring importers from so-called intermediary nations to cer- tify that products do not include yel- lowfin tuna subjected to United States embargo. It urged the US not to im- pose the new requirement.

 Correction: Hungary (Accession story on p. 15 in previous Focus) has been a GATT member since 1973.