The Uruguay Round is the most comprehensive and far-reaching international trade negotiation ever undertaken. Launched in Uruguay in September 1986, its conclusion is the subject of the Brussels Ministerial Meeting. This briefing book attempts to set out the background to every element in the Round and to outline the current state of negotiations, including the major issues yet to be resolved.
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Uruguay Round - Facts and Figures</td>
<td>1</td>
</tr>
<tr>
<td>The Uruguay Round - How it is organized</td>
<td>3</td>
</tr>
<tr>
<td>Tariffs</td>
<td>5</td>
</tr>
<tr>
<td>Non-Tariff Measures</td>
<td>9</td>
</tr>
<tr>
<td>Natural Resource-Based Products</td>
<td>11</td>
</tr>
<tr>
<td>Textiles and Clothing</td>
<td>13</td>
</tr>
<tr>
<td>Trade in Agricultural Products</td>
<td>15</td>
</tr>
<tr>
<td>Tropical Products</td>
<td>25</td>
</tr>
<tr>
<td>Review of GATT Articles</td>
<td>27</td>
</tr>
<tr>
<td>MTN Agreements and Arrangements</td>
<td>31</td>
</tr>
<tr>
<td>Safeguards</td>
<td>35</td>
</tr>
<tr>
<td>Subsidies and Countervailing Measures</td>
<td>37</td>
</tr>
<tr>
<td>Trade-Related Aspects of Intellectual</td>
<td></td>
</tr>
<tr>
<td>Property Rights</td>
<td>39</td>
</tr>
<tr>
<td>Trade-Related Investment Measures</td>
<td>43</td>
</tr>
<tr>
<td>Dispute Settlement</td>
<td>45</td>
</tr>
<tr>
<td>Functioning of the GATT System</td>
<td>49</td>
</tr>
<tr>
<td>Trade in Services</td>
<td>51</td>
</tr>
<tr>
<td>Standstill and Rollback</td>
<td>55</td>
</tr>
<tr>
<td>What is the GATT?</td>
<td>57</td>
</tr>
<tr>
<td>GATT Trade Rounds</td>
<td>61</td>
</tr>
<tr>
<td>Countries participating in the Uruguay</td>
<td></td>
</tr>
<tr>
<td>Round</td>
<td>65</td>
</tr>
</tbody>
</table>
THE URUGUAY ROUND - FACTS AND FIGURES

- September 1986 - The Uruguay Round launched at a Ministerial meeting in Punta del Este, Uruguay.

- Punta del Este Declaration is the basis for the negotiations which were set to last four years to the end of 1990.

- Negotiations have taken place at GATT Headquarters, Geneva, Switzerland.

- 107 governments participate. Of these, 100 are GATT Contracting Parties; the rest are in the process of negotiating membership.

- December 1988 - Mid-term Review Ministerial Meeting held in Montreal.


- Principal negotiating bodies:
  - Trade Negotiations Committee (TNC)
  - Group of Negotiations on Goods (GNG)
  - Group of Negotiations on Services (GNS).

- TNC Chairman: Dr. Hector Gros Espejel, Minister of Foreign Affairs, Uruguay. Meetings at official level chaired by Mr. Arthur Dunkel.

- GNG Chairman: Mr. Arthur Dunkel, Director-General, GATT.

- GNS Chairman: Ambassador Felipe Jaramillo, Colombia's representative to the GATT in Geneva.

- GNG has 14 groups covering goods negotiations.

- Over 350 formal meetings of negotiating bodies and many more informal sessions held since the start of the Round.

- About 1,300 negotiating proposals and working papers tabled.

END
Negotiations in the Uruguay Round are based upon the mandate given by ministers in the Punta del Este Declaration in 1986. The declaration was a carefully-constructed and balanced package which required progress in all its elements through the four-year period of the round.

This need for negotiating balance is reflected in the organization of the Round. The Punta del Este Declaration established the three principle organs - the Trade Negotiations Committee (TNC), the Group of Negotiations on Goods (GNG) and the Group of Negotiations on Services (GNS) - reflecting the political and legal structure of the Declaration.

The GNG oversees the work of the 14 negotiating groups which were established in January 1987 to conduct the work outlined in Part I of the Declaration. Thus, for instance, the groups on agriculture, subsidies, tropical products, textiles and clothing, tariffs and intellectual property all report to the GNG which can take an overall view of their activities. The work of each of the 14 groups is based upon the relevant text in the Punta del Este Declaration together with the more detailed negotiating plans agreed at the Mid-term Review meetings in Montreal (December 1988) and Geneva (April 1989). The GNG has met on 16 occasions since September 1986. It has sought to ensure balanced progress and the smooth running of all negotiations in the goods area. It is chaired by Mr. Arthur Dunkel, Director-General of GATT.

The GNS is a single body covering the Punta del Este mandate on trade in services which formed Part II of the Declaration by Ministers. This negotiation has a separate basis from those in the goods area. The GNS is chaired by Ambassador Felipe Jaramillo, Colombia's representative to the GATT in Geneva. In early 1990, it was agreed to set up working parties under the GNS to examine issues related specifically to individual service sectors. These working parties were wound up in October 1990.
Both the GNG and the GNS report to the Trade Negotiations Committee (TNC), the senior body overseeing the Uruguay Round. The TNC at Ministerial level was originally chaired by Mr. Enrique Iglesias, then Uruguay's Foreign Minister. Mr. Iglesias gave up his chairmanship when he moved to become President of the Inter-American Development Bank. Mr. Ricardo Zerbino, Uruguay's Minister of Finance and Economy, chaired the Montreal Ministerial meeting. The Chairman of the TNC is now Dr. H. Gros Espiell, Minister of Foreign Affairs of Uruguay. When the TNC meets at official level, it is chaired by Mr. Arthur Dunkel.

A fourth body central to the Uruguay Round, is the Surveillance Body. This has responsibility for overseeing the "standstill and rollback" commitment (see Surveillance Body). The Surveillance Body, which is chaired by Mr. Madan G. Mathur, a Deputy Director-General of GATT, reports directly to the TNC.

All negotiating bodies in the Uruguay Round are serviced by the GATT Secretariat in Geneva. Representatives of other international organizations (for example, the United Nations, the IMF, and the World Bank) are able to attend meetings of certain negotiating groups.
TARIFFS

Tariffs, or customs duties on imports, are the oldest and probably the most familiar of all trade measures. While they raise revenues for the state, their usual underlying aim is to give a price advantage to locally-produced goods. Protectionism through tariffs reached its height in the 1930s when many nations erected high tariff walls - in the process, stifling world commerce and production, and deepening the worst economic depression of modern times. Nevertheless, tariffs are permitted under GATT, being regarded as more predictable and transparent than alternative trade policies like quotas - and they are also regarded as less damaging to economic activity.

The steep decline in tariff levels during the postwar period - from about 40 per cent to around 5 per cent on industrial goods in developed countries - is the result of the seven completed trade rounds sponsored by the GATT. Tariff liberalization has lowered prices for consumers, and encouraged the more efficient allocation of national resources to world-competitive industries.

Past successes and the recent interest in non-tariff measures and new negotiating subjects may have put tariffs in the background during the Uruguay Round. However, many countries consider the subject of central importance and have sought to ensure that the negotiations deal effectively with the remaining problems in this area, such as:

*Tariff escalation - when import duties are higher on semi-processed products than on raw materials, and higher still on finished products. This widespread practice protects domestic processing industries and discourages the development of processing activity in the, often poorer, countries where the raw materials originate.

*Tariff peaks - high tariffs continue to be used to shelter certain sensitive industries like textiles and footwear.

*"Nuisance" tariffs - usually duties below five per cent under which the revenues collected may not even cover the cost of customs processing.

*Tariff bindings - tariff cuts negotiated in GATT Rounds are fixed or "bound" against future increases. Many
industrialized countries have largely or fully bound their industrial tariffs; most developing countries have a much lower degree of bindings, although that is not the case with many countries which have recently negotiated entry to the GATT like Bolivia, Venezuela, Costa Rica and others. Greater levels of bindings by more GATT members would raise the level of predictability in the world trading environment.

The first five GATT Rounds used an item-by-item approach whereby major suppliers and importers negotiated respective requests and offers with the end results accruing to all GATT members under the most-favoured-nation principle of the General Agreement. The Kennedy Round in the 1960s innovated with the linear-cut approach, which meant cutting tariffs across-the-board by an agreed percentage. The Tokyo Round improved on this with the use of a harmonizing formula which reduced high rates more than low duty rates.

While many participants in the Uruguay Round favoured the use of a Tokyo-Round type formula, citing its predictability and its potential for achieving the widest and deepest cuts, the United States, in particular, preferred to revert to the request-and-offer system. In early 1990, it was agreed that participants would be able to use either approach but that the objective of the negotiation, agreed during the Mid-term Review in Montreal, would have to be observed nevertheless; that is, to reduce tariffs, on average, by no less than the reduction achieved during the Tokyo Round - about 30 per cent.

By mid-November 1990, some 49 participants had submitted indicative offers. Six review and assessment meetings had been held on these offers.

While there were some significant offers on the table - from both developed and developing countries - serious problems remain:

- Most offers have been made conditional on proponents obtaining satisfaction for their own request lists. Participants have been seeking improvement of offers mainly through several rounds of bilateral negotiations conducted by senior negotiators in Geneva since June.

- Many offers have not complied with the suggested Montreal target. Industrial countries have stressed that they expect to see a significant contribution from developing countries in the tariff negotiations, including a much higher level of bindings.
Differences remain on the appropriate level of recognition and credit to be accorded to autonomous liberalization measures taken since the start of the Round. A number of developing and Eastern European countries have taken such measures.

Participants have started discussion on the establishment of the Uruguay Round Tariff Protocol, including the issue of the time frame for the phasing in of tariff reductions.
NON-TARIFF MEASURES

Imports can face a daunting obstacle course. Payment of duties is the easy part. Foreign goods are often subjected to an array of formalities and added charges, meticulous sanitary inspection, and cumbersome verification of markings and packaging. They may also be turned back if the annual quota has been filled.

This is the world of "non-tariff measures" (NTMs). Some are perfectly legal under GATT, some not. The Uruguay Round aims to lower or eliminate these obstacles, the recent proliferation of which is partly an ironic side effect of GATT's success in tariff liberalization.

When the GATT was signed in 1947 the most prevalent form of non-tariff protection was quantitative restrictions on imports, such as annual quotas. For this reason, and to safeguard negotiated tariff cuts, the framers of GATT imposed a general prohibition on this type of trade barrier. Exceptions were granted, mainly to countries experiencing serious balance-of-payments difficulties. The return to financial strength of industrial countries in the 1950s enabled them to dispense with many of these restrictions but significant barriers remain, for example in agriculture and in textiles.

The GATT has therefore dealt with NTMs from the outset. The Tokyo Round in the 1970s renewed the attack, establishing agreements on subsidies and countervailing measures, customs valuation, technical barriers to trade and government procurement, and improving the anti-dumping code. There was, however, no agreement on how to deal with quantitative restrictions.

Governments in recent years have been turning more and more to non-tariff measures for trade protection. They have developed new approaches, in particular "voluntary" export-restraint arrangements. That this trend is unhealthy for trade relations is indicated by the fact that in most recent dispute cases pursued in the GATT, the common denominator is a non-tariff measure.

It was agreed at the beginning of 1990, that initial national request lists for the reduction of non-tariff measures would be submitted in March to involved participants, with initial offers being presented in May. Negotiations have proceeded on the basis of these requests and offers. Some 34 participants (the EC counting as one)
had submitted their request lists and six have tabled offers as of early November.

Additionally, negotiations have produced draft agreements on two categories of non-tariff measures: rules of origin and pre-shipment inspection.

Rules of origin can vary widely from country to country. Essentially, they determine from which country a product comes for customs and other entry purposes. Thus a decision by a customs authority on origin can determine whether a shipment falls within a quota limitation, qualifies for a tariff preference or is affected by an anti-dumping duty. Participants agree that rules of origin should be harmonized, and that some general disciplines and principles should be adopted which will, for instance, encourage transparency and prevent discrimination in their application.

Pre-shipment inspection (PSI) is the practice of employing specialised private companies to check shipment details - price, quantity, quality - of goods ordered overseas. Used by developing countries, the objective of the practice is to safeguard national financial interests (prevention of capital flight and commercial fraud as well as customs duty evasion, for instance) and to compensate for inadequacies in administrative infrastructure. Some developed countries claim that PSI leads to shipment delays and increased administrative costs for the exporters and shippers. They have proposed general disciplines - transparency, non-discrimination, protection of commercially-confidential information and a dispute settlement procedure - to prevent abuses of the system.

In early November, differences persisted on several provisions of the two draft agreements. Intensive negotiations at the TNC level started with the aim of presenting completely-agreed texts to Ministers in Brussels.

Discussions had also started on the shape of the final Uruguay Round accord in this area. One major objective is to ensure that concessions made on non-tariff measures, which are not as transparent as tariffs, not be subsequently diluted by the imposition of other measures. The United States, drawing from earlier proposals by Uruguay and Australia, have proposed the establishment of a Uruguay Round Protocol on non-tariff measures and the incorporation of the non-tariff concessions into the tariff schedules of each GATT member.

END
NATURAL RESOURCE-BASED PRODUCTS

Disparities in natural resource endowments have long been a major element in world trade - exports of minerals (including fuels and non-ferrous metals) alone reached US$370 billion in 1988. The trade shares of the mining and agricultural sectors are identical - 13½ per cent of total international merchandise trade.

Natural resource-based products (NRBPs) are a significant source of revenue for many producing countries. For some developing countries, particularly in Latin America and Africa, it is a crucial area: ores, minerals and non-ferrous metals account for more than half of the total exports of Chile, Jamaica, Togo, Zaïre, Niger and Zambia. But natural resource-based products are also important exports for developed countries like Canada and Australia.

Many resource producers wish to go beyond their role as raw-material suppliers to the world. They aspire to do more processing as well. Their demand for removing the widespread trade bias in this sector against semi-processed and finished goods forms one basis for the current Uruguay Round negotiations.

The Group has considered a number of issues in the course of the Round:

- **Tariff escalation.** The widespread policy of allowing easy entry for raw materials but progressively raising tariff levels with higher degree of processing. For example, duties are substantially higher on metal manufactures, paper pulp and canned fish than on ores, logs and raw fish. The intent is to assure low-cost materials for the domestic processing of manufacturing industries, while granting them protection against processed goods from abroad.

- **Double-pricing practices and export measures.** Raised by the EC and US. It means price differentials (lower prices) to the advantage of the domestic industry in order to encourage further processing. The measures used include, supply of raw materials to the local industry at lower prices than those on the world market, export restrictions, taxes and other charges applied on exports of raw materials.
- **Government support measures.** One example given is the heavy subsidization of coal and steel industries which results in limited export opportunities for the more efficient producers of these products.

- **Access to supplies.** Mainly access to fishery resources. Some participants, particularly coastal states, reject negotiations on this issue saying that it is outside GATT competence. In contrast, the EC considers that trade measures related to access to fisheries can be dealt with within the GATT. It proposes multilateral rules according to which the assessment of possible surpluses of fishery resources and their distribution takes place in a transparent and non-discriminatory way.

The procedures for the final phase of negotiations, adopted in March after lengthy consultations, envisaged participants submitting their proposals to the Group or notifying the secretariat of proposals, offers and requests made in other negotiating groups. The group met regularly to review the progress of negotiations affecting natural resource-based products. A majority of members of the group included natural resource-based products in their offers and/or requests in the Negotiating Group on Tariffs and Non-Tariff Measures.

The starting point of the negotiations had been comprehensive work done in the GATT in three areas: fish and fisheries products, forestry products and non-ferrous metals and minerals. In June the EC agreed to include energy and energy-related products in the negotiations on NRPBs. Concerns about government support in this area had been expressed by Australia (on coal) and the United States (on petrochemicals and uranium). The EC together with the US has also proposed negotiations on double-pricing (where domestic processors get a price advantage in procuring local resource materials) and on non-discriminatory access to surplus fishing grounds.

By early November, some 34 participants (the EC counting as one) had made submissions to the Group. A number of participants, particularly after the first assessment of the offers related to this sector, expressed concern at the lack of progress of negotiations on natural resource-based products. The Group started informal discussions on a Chairman's initiative which suggests, among other things, a tariff-cutting formula and the creation of a GATT committee on natural resource-based products.
TEXTILES AND CLOTHING

The task before the Negotiating Group on Textiles and Clothing has been to examine how this sector, which represented 9 per cent (US$182.5 billion) of world trade in manufactures in 1988, can be integrated into the GATT. International trade in textiles and clothing has been subject to restrictions under a series of negotiated exceptions to the GATT which date back to 1961.

The Multifibre Arrangement (MFA) under which industrial countries have negotiated quotas on imports of textiles and clothing principally from developing countries, went into effect in 1974. Trade currently subject to the provisions of the MFA - although not necessarily covered by quotas - represents slightly less than half of the total world exports in textiles and clothing.

The current extension of the MFA (which has some 40 members) is referred to as MFA IV and is set to expire on 31 July 1991 - about seven months after the scheduled conclusion of the Round - although in many cases the bilateral quota agreements negotiated under it will continue at least until 1992.

The mandate given to the Negotiating Group on Textiles and Clothing stated that "negotiations in the area of textiles and clothing shall aim to formulate modalities that would permit the eventual integration of this sector into GATT on the basis of strengthened GATT rules and disciplines, thereby also contributing to the objective of further liberalization of trade."

After lengthy discussions, the approach decided upon by the negotiators for achieving the integration of the textiles and clothing sector into the GATT is based on a progressive phasing-out of the current MFA restrictions, and other restrictions on this sector not consistent with GATT, over a set transitional period. This method has been supported from the outset by many developing country exporters (represented by the International Textiles and Clothing Bureau in Geneva) and some importers (the European Communities and the Nordic countries), and has now been accepted by the other major importing countries, the United States, Canada and Japan.

At the meeting of the TNC in July, the Chairman submitted a draft framework agreement containing the various approaches put forward in the Group. In October and
November, participants held almost daily informal consultations and frequent formal meetings in order to whittle down the points of divergence. In early November, the Chairman presented a revised text to the negotiating group using the MFA-based approach to the integration of the sector into the GATT. However, a number of fundamental issues remained unresolved. The Chairman continued to intensify the informal consultations in mid-November leading to substantial progress in the work and the presentation of further draft text of an agreement on 19 November. This text forms the basis of the final, high-level negotiations in Brussels.

The procedures set out provide for the integration into GATT at the outset and at each stage in the transitional period of a certain percentage of the total volume of trade in the products covered by this Agreement. In addition, the levels of the restrictions remaining in force, i.e. those not yet integrated into GATT, will be liberalized by the application of a progressively increasing growth factor. To provide relief if market disruption should occur in respect of other products during the transition period, a special safeguard mechanism has been developed. All aspects of the transitional process will be monitored by a surveillance body.

While the text presents a complete outline of an agreement, a number of differences remain to be resolved in each of the key areas under discussion. These include aspects of the programme for the implementation of an MFA-based phase-out of the existing quotas; the transitional safeguard mechanism; the provisions relating to the strengthening of GATT rules and disciplines and the operation of a verification mechanism.

END
TRADE IN AGRICULTURAL PRODUCTS

The agricultural negotiations have become a key element in the success or failure of the Uruguay Round. These negotiations have become the economic, political and emotional battleground between agricultural exporting and importing countries to an unprecedented extent. And yet, the share of agricultural products in world merchandise trade has shrunk considerably, from 46 per cent in 1950 to about 11 per cent in 1989. This decline is attributable in part to the strong growth of trade in manufactures and lower agricultural prices, but the many forms of government intervention, direct or indirect, have also played a large part.

The major trading powers pay out about US$15 billion a year in the export subsidy race, and total government spending on agriculture probably exceeds US$200 billion annually. Tax payers have had to provide these huge sums, and competitive exporters have lost out.

This situation has developed partly as a result of the special treatment provided for agriculture in GATT. First of all, the disciplines are more flexible than for industrial products, in particular for subsidies and quantitative restrictions, and the rules leave a great deal of leeway for interpretation. Secondly, some GATT members (notably the United States and Switzerland) have been granted various kinds of special treatment which permits them to offer a certain amount of protection to their farm sectors. Thirdly, in the course of the seven GATT Trade Rounds held so far, tariff cuts have been smaller for agricultural products than for industrial goods, and the degree of tariff binding is likewise more limited.

The Mid-term Review

The Mid-term Review Agreement, secured in Geneva in April 1989, laid down both long-term elements and guidelines for reform and short-term commitments. A key objective in the long term was to "provide for substantial reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets".

*In absolute terms, of course, the value of world agricultural trade has risen sharply: in 1989 it amounted to US$405 billion.
This objective would be met both through specific national commitments and through strengthened and more operationally-effective GATT rules.

The proposals subsequently tabled represented a wide range of approaches which were also reflected in the offers presented in the final phase of the negotiations.

Two new concepts have been developed: the aggregate measurement of support (AMS) and tariffication.

The AMS concept is an approach to winding down or phasing out internal government support for domestic agriculture and is based on a concept called the producer subsidy (PSE) developed by the OECD. It could allow a single figure or index to be calculated for the value of support programmes in each country. This figure could then be the basis for the implementation of reform commitments or, at least, could be a monitoring tool to evaluate progress. It would of course be necessary to determine the scope of policies as well as the products to be covered, the base year and the schedule for reductions.

Tariffication was originally proposed by the United States and, in establishing a rigorous and methodical approach to negotiating reductions in border protection for farm products, complements the AMS approach. In essence, the system results in the replacement of all non-tariff measures - quotas, voluntary restraint arrangements, minimum import prices and variable levies, for instance - by a single tariff which would then be progressively reduced. Initially, import quotas with low or zero tariff rates would be opened in order to ensure current levels of market access.

Proposals from the Chairman

In July 1990 the Chairman of the Negotiating Group on Agriculture, Mr. Aart de Zeeuw, presented proposals aimed at finding a common approach to the four principal areas of negotiation: internal support, border protection, export competition and sanitary and phytosanitary regulations.

The text's ideas on internal support rested on a commitment to reduce support largely on the basis of an AMS, with equivalent commitments where such a measure was not practicable. Some policies would be excluded from coverage of this commitment if they met certain criteria, particularly where support was "decoupled" from production. Reductions in border protection would be handled through a tariffication process which might also accommodate non-trade concerns (food security, for instance), and the special
needs of developing countries. On export subsidies, the Chairman suggested that this be effectively reduced more than other forms of support and protection.

The Chairman proposed that all participants should table "country lists" of their current policies on internal support, border protection and export competition before 1 October, and their negotiating offers for the same sectors by 15 October.

At the Economic Summit held in Houston (United States) on 12 July 1990, the Heads of State and the President of the Commission of the European Communities expressed their determination to take the difficult political decisions necessary to achieve substantive results in all areas of the Uruguay Round. They also agreed that the "de Zeeuw text" should be "a means to intensify the negotiations". At the meeting of the Trade Negotiations Committee on 23 July, participants confirmed this assessment of the Chairman's text and agreed that they should come as close to it as possible.

Basic positions and submission of offers

Participants first submitted communications setting out in detail their objectives in the agricultural negotiations, and then spelled these out in their offers.

According to the time-table for the negotiations, all agricultural offers were to be submitted by 15 October 1990; however, there were some delays; by as much as three weeks for the European Community, which managed to reach internal agreement only after the Council of Ministers had met eight times.

These delays and the great diversity of the offers seriously affected the course of the negotiations, and an effort had to be made at the highest political level to break the deadlock. Meanwhile, little or no headway was made in the search for an improvement of the multilateral rules on subsidies, quantitative restrictions under Article XI and the development of specific safeguards linked to tariffication; this also applied to the negotiations on more "technical" issues, such as, for example, the determination of the internal subsidies that could be authorized (the "green box"), the methodology to be used for tariffication, and so forth.

United States

In its communications of July and October 1989, in addition to tariffication (the principles of which have been
described above) the United States proposed that all tariffs, whether existing or resulting from tariffication, would be bound and reduced to zero or low levels over a period of ten years. All forms of derogation from the present GATT rules would be eliminated, and Article XI:2(c) authorizing quantitative restrictions in certain circumstances would be eliminated too. The United States proposed that over a five year period all export subsidies and export restrictions and prohibitions, including those authorized under Article XI:2(a) to relieve supply shortfalls, should be phased out. Only bona fide food aid would be allowed. In the case of sanitary and phytosanitary measures, mechanisms should be established to ensure that they were based on scientific evidence.

The offer submitted by the United States in October 1990 introduced some modifications and clarifications of this initial position, and covered a ten-year period running from 1991. The major features were as follows:

- A 90 per cent reduction in export subsidies for primary agricultural products;

- Conversion of all non-tariff barriers on imports to bound tariffs and reduction of all tariffs by 75 per cent. Minimum access commitments would be set for products subject to non-tariff barriers, and the quotas granted would be expanded by 75 per cent;

- Reduction of 75 per cent in the most trade-distorting internal support measures and of 30 per cent in the others. These undertakings would be implemented with the use of aggregate measures of support. Governments would nevertheless be able to employ a wide range of policies to attain their domestic agricultural objectives, such as income support, environmental protection, land conservation, domestic food aid, and general services, provided these programmes are implemented in a way that has a minimal impact on trade;

- Development of new rules to resolve trade disputes relating to sanitary and phytosanitary barriers.
Cairns Group

In its submission of December 1989 the Cairns Group, comprising thirteen countries providing few or no subsidies for their agriculture, emphasised the need for long-term reform of agriculture, including an irreversible commitment by all GATT members to modify trade-distorting policies - in particular market price support measures and direct payments to farmers - and to liberalize all measures directly or indirectly affecting agricultural trade. All new export subsidies should be prohibited and existing ones phased out, initially by freezing them and then by reducing them in accordance with an agreed time-table. Internal support measures should be classified in three categories: measures taken for humanitarian purposes, direct income support decoupled from production and marketing, and resource redeployment assistance. The application of non-tariff measures not explicitly provided for in the General Agreement should be prohibited, and all exceptional protocols and waivers should be eliminated.

The offer submitted by the Cairns Group, apart from Canada which submitted its own offer, called for greater harmonization of support and protection and a ten-year reform programme starting in 1991/1992. Its main features were as follows:

- Reduction of internal support by at least 75 per cent, using AMS, and including a harmonizing formula, i.e., a bigger reduction in support when levels are high than when they are low.

- Some support policies - for example environmental and conservation programmes, diversification, bona fide food aid, crop insurance, public stockholding, regional development programmes and so forth - would be excluded from these undertakings provided they met strict specific criteria. Developing countries would be granted special treatment.

- With regard to market access, tariffication of all non-tariff barriers and their reduction by an average of 75 per cent; maintenance of existing market access by quotas and establishment of minimal access for products where it does not currently exist. Non-trade concerns should be addressed through tariffication.

*Argentina, Australia, Brazil, Canada, Chile, Colombia, Hungary, Indonesia, Malaysia, New Zealand, Philippines, Thailand and Uruguay.
90 per cent reduction in direct budgetary support for exports and other forms of export support. This reduction should apply equally to per-unit export assistance and to quantities of subsidized exports of each product.

Bona fide food aid could be maintained, with monitoring. The use of authorized forms of export assistance should be subjected to strengthened rules.

Canada

Canada presented an agricultural offer separately from that of the Cairns Group. It advocates the following measures to be taken over a ten year period:

- Elimination of all existing government export subsidies and prohibition of any new ones.

- Reduction of existing tariffs under a harmonizing formula similar to that for industrial products, and binding of tariffs.

- Tarrification of all import restrictions, other than those explicitly authorized under the new or revised GATT rules, in particular those of Article XI, and reduction of the tariff equivalents using a harmonizing formula.

- Clarification of Article XI to allow justified invocation of its exceptions.

- 50 per cent reduction in government spending on internal support.

European Community

In its global proposal of December 1989, the Community, while reaffirming its attachment to dual pricing systems, stated that all support affecting agricultural trade - in particular border measures, market interventions, deficiency payments and so forth - should be progressively and steadily reduced over an initial period of five years; during the fourth year, a study would be carried out to determine other commitments. These commitments would be made in terms of an aggregate measurement of support, and reductions would be measured against the reference year of 1986, when the Uruguay Round was launched.

The Community said that it was prepared to consider tarrification as proposed by the United States provided a rebalancing of border protection was accepted. Border protection for the products covered by the AMS should include a fixed tariff component and a corrective factor in
order to take into account exchange rate variations and world market fluctuations which went beyond certain limits. The same arrangement would apply to exports.

The Community submitted its agriculture offer to GATT on 7 November 1990. This offer was based on the principles set out in December 1989, and specified that the EC was prepared to reduce domestic support by 30 per cent as from 1986, with concomitant reductions of the same scale for market protection and export support. These reductions would be subject to the following conditions:

- The 30 per cent reduction in internal support would cover price support, direct support and input subsidies; it would be expressed in terms of an AMS, together with the above-mentioned corrective factor;

- As regards market access, the EC accepted tariffication, together with the same corrective factor, and provided that "serious disequilibria which exist in support can be corrected". It proposed the introduction of tariffs of 6 and 12 per cent for a range of products derived from cereal substitutes, with zero tariff quotas calculated on the basis of imports in 1986-88;

- The EC was prepared to freeze the overall level of support on the basis of 1986, including support resulting from policies not covered by the reduction commitment;

- The Community considered that the reduction of support and protection would in itself lead to a significant reduction of export subsidies, in global expenditure as well as in unit terms. Furthermore, the level of an export subsidy should not exceed the import charge applied on the same product in the exporting country. The EC was in favour of an enforcement of the concept of "equitable" share of the world market in Article XVI, the extension to agricultural products of the OECD Consensus on export credits and the improved and strengthened rules and disciplines on food aid and concessional sales. It stated that it was ready to quantify the results stemming from these measures, for export subsidies, and to re-evaluate them in the course of the negotiations in the light of these results.

Positions based on non-economic factors

Japan and Korea have highlighted the need to ensure food security and stability, in particular for basic foodstuffs,
and consequently to maintain a certain level of domestic production. Japan outlined the conditions under which a country should be allowed to maintain border adjustment measures and requested that the provisions of Article XI:2 dealing with import and export restrictions in case of food shortage should be clarified. These countries have also asked that the positive rôle of domestic support policies in maintaining economic and socio-political stability should be recognized when it does not distort trade.

Japan was the first country to submit its offer, in advance of the established timetable. It widened the scope of its concerns to include the multiple functions of agriculture, in particular that of preservation of the environment, and stressed that it is the world's biggest importer of food and that it strictly controls production of products for which world surpluses exist.

Japan recalled that it is essential to establish a rule governing border measures on basic foodstuffs and to review and clarify the conditions for recourse to Article XI:2(c)(i).

The main features of the Japanese offer were as follows:

- Commitments on the reduction of support and protection should be implemented through an AMS, with the possibility of compensating for such factors as inflation. Countries should receive credit for reductions carried out since 1986;

- The reduction in the AMS should vary according to products; some products would not be covered by the commitment;

- As regards market access, Japan proposed the elimination of quantitative restrictions on certain products. It would be prepared to reduce its tariffs on the basis of request and offer lists.

Korea's offer highlighted the relatively undeveloped state of Korean agriculture. It stressed the need to ensure stable incomes for farmers and to respect the non-trade objectives of agriculture. The main features of the offer were as follows:

- Korea accepted tariffication, except in the case of products that meet the above-mentioned objectives and those covered by Article XI:2(c).
The process of converting non-tariff barriers into tariff equivalents should be carried out progressively, after a grace period, as should the subsequent reduction of the tariff equivalents;

- Credit should be given for liberalization measures carried out since 1986;
- A special safeguard mechanism should be established;
- Tariff reductions taking account of the need to maintain adequate levels of production for certain products could be negotiated;
- Domestic support could be reduced by 30 per cent over a ten-year period running from 1997, in order to allow the necessary adjustments. A number of policies would be excluded from this commitment for developing countries;
- Korea stated that it does not grant any export subsidies.

**EFTA countries**

The Nordic countries, together with Switzerland and Austria, argued during the negotiations that while greater discipline and less export subsidies were necessary, border protection should be allowed. They considered that every country should be free to draw up its agriculture policy independently, provided the instruments it selected had the smallest possible effect on trade in agricultural products. The importance of non-economic factors, such as maintenance of rural population, rural development and protection of the environment, should be recognized.

In its offer, Switzerland considered that account should be taken of the production limitation measures it had already applied for several years, and referred to a self-sufficiency rate of 65 per cent. Its measures had only a very marginal impact on world agricultural trade. Commitments on the reduction of support and protection should be weighted by the rate of self-sufficiency to determine the equivalence of offers. In substance it proposed the following commitments, to be carried out over ten years, starting in 1991:

- A 20 per cent reduction in real terms in internal support directly linked to production;
Tariffication of certain non-tariff measures, together with a corrective factor, and their reduction in proportion to that of internal support. Existing import access levels for products not covered by tariffication should be maintained;

Export subsidies should be reduced by 30 per cent in real terms. Switzerland subjects its offer to a number of conditions, in particular: that the GATT rules should recognize the non-trade objectives of agricultural policies; introduction of a special safeguard clause; the right of every country to increase payments not directly linked to production without increasing total support in real terms given to agriculture.

The overall lines of Austria's offer are similar to those of the European Community.

The offers of the Nordic countries varied considerably from country to country. For example, Iceland's offer reflected the country's special geographical and climatic conditions and its desire to retain a certain level of self-sufficiency for certain products and to maintain regional support. Sweden would be prepared to negotiate a reduction in internal support of between 30 to 50 per cent, running from 1986, and accepted tariffication with a corrective factor as well as the elimination of all export subsidies.

Net food-importing countries

A group of countries, comprising Egypt, Jamaica, Morocco, Mexico and Peru, expressed concern at the short-term and medium-term negative effects of agricultural reform for net food-importing developing countries, in particular those that are heavily indebted. They pointed out that liberalization of world agricultural trade, in particular the elimination of export subsidies, would for them lead to a large increase in the prices of the main foodstuffs; they called for compensatory financial measures aimed in particular at financing development and modernization programmes for their agriculture, as well as early improvement of market access for the agricultural products they export.

Other developing countries have stressed the need for special and differential treatment in any agricultural deal given their domestic needs to promote rural development in the most difficult circumstances.

END
TROPICAL PRODUCTS

Tropical products account for only three per cent of world trade (worth about US$110 billion in 1989) but it is a precious share for developing countries, the poorest of which depend on a few cash crops like coffee, jute or bananas. The Uruguay Round has, as one of its objectives, to liberalize trade in this area.

Tropical products were first treated as a separate GATT negotiating area in the Kennedy Round in the 1960s but the results, then, were modest. In the Tokyo Round, as a "special and priority sector", negotiations on tropical products began ahead of other goods with the results implemented two years before the completion of the Round. Trade was liberalized on nearly 3,000 tropical products, duties being significantly reduced on coffee, tea and cocoa among others.

The "special attention" accorded by the Punta del Este Declaration to tropical products has provided particular impetus for the work in this Group. Participants agreed at the outset to pursue negotiations on seven product groups covered in previous GATT consultations, namely: tropical beverages (e.g. coffee, tea and cocoa); spices, flowers and plants; certain oilseeds, vegetable oil and oilcakes (e.g. palm and coconut oil); tobacco, rice and tropical roots; tropical fruits and nuts (e.g. bananas, pineapples and peanuts); tropical wood and rubber; and jute and hard fibres.

The issues raised during the Round include:

- **Trade obstacles.** Recalling the mandate for "fullest liberalization of trade" in this sector, developing countries have underlined the need to reduce or eliminate the remaining trade obstacles to tropical products, including: tariff escalation, quantitative restrictions, internal taxes (a relic of the days when coffee and tea were considered luxury items), and sanitary regulations.

- **Competing products.** Some developed countries have been reluctant to negotiate on items which compete with products produced in temperate regions, like rice, tobacco and palm and coconut oil, preferring to see these products covered in the Agriculture negotiation.

- **Multilateral "burden-sharing".** Several industrial countries have maintained that the main developing-country beneficiaries, in accordance with their economic capacities,
must also contribute to the negotiations by market-opening measures of their own.

Developing countries began tabling lists of export interest in mid-1987. Some initial offers followed from industrial countries.

The Mid-term Review led to a provisional package of tropical product concessions which were largely implemented in the first half of 1989. Contributions, consisting mainly of tariff cuts, came from the European Community (on about 150 products), the United States (about 50) and Japan (about 170). Australia, Austria, Canada, Finland, New Zealand, Norway, Sweden and Switzerland also contributed as did, among developing countries, Brazil, Central American countries, Colombia, Malaysia, Mexico, Philippines and Thailand. The concessions covered each of the product groups mentioned above and involved trade worth an estimated US$20 billion.

In addition to the concessions, Ministers agreed to continue the negotiations in this area with due regard to the following elements: (i) elimination of duties on unprocessed products; (ii) elimination or substantial reduction of duties on semi-processed and processed products, actions which would include the objectives of eliminating/reducing tariff escalation; and (iii) elimination or reduction of all non-tariff measures affecting trade in tropical products.

It was later agreed that initial offers in this final stage would be tabled in March 1990. All participants who submitted proposals were involved in an assessment process to determine whether these proposals complied with the Mid-term Review agreement. As of mid-November, 51 participants have submitted new or improved offers, and negotiations to improve them further are continuing on a bilateral or plurilateral basis. Market-access concessions made in other negotiating groups will be taken into account in assessing a participant’s contribution to negotiations on tropical products.

END
There are thirty-eight articles in the General Agreement on Tariffs and Trade, and they have not been changed significantly since they were first drafted. The Uruguay Round has provided the first opportunity for a comprehensive review since 1955. All articles may be subject to review and, if appropriate, negotiation. However, those on dispute settlement, subsidies, dumping and safeguards are being handled in other negotiating groups.

Thirteen of the thirty-eight Articles of the General Agreement have been examined in the Group on GATT Articles. In some cases, examination has been followed by substantive negotiation and drafting of texts. These have been transmitted to the Group on Negotiations on Goods; they will remain in suspense pending the outcome of the Round as a whole. In one case (trade measures taken for balance-of-payments reasons) it has proved impossible to reach a consensus before Brussels on the need to modify the corresponding provisions of the General Agreement.

**Article II:1(b)**

This technical provision was the first one on which agreement was reached in 1990.

Article II:1(b) prevents customs duties being levied on imports in excess of those bound in national tariff schedules. It also prohibits all other duties and charges in excess of those imposed at the time the tariff binding was first agreed - which, in some cases, might be as far back as 1948. The Article currently does not require these other duties and charges to be recorded alongside the bound tariff itself. Thus, there can be considerable uncertainty about the precise level of overall import charges.

Although no comprehensive list has been drawn up of these other duties and charges, many examples have been cited including: fiscal taxes, stamp taxes, port improvement taxes, import surcharges and landing taxes.

The decision will:

- require all "other duties and charges" to be published in schedules of bound tariff items; and
- require all "other duties and charges" to be bound at the rates prevailing on the date of agreement of the Uruguay Round tariff protocol.
This agreement will introduce a high level of transparency in the charges faced by traders and secure a degree of liberalization which cannot subsequently be reversed.

Article XVII

In July 1990, negotiators reached agreement to enhance GATT disciplines and surveillance on the activities of state-trading enterprises, in order to have a clear appreciation of their effects on international trade. Under Article XVII, GATT members must comply with the general principle of non-discrimination for such enterprises in the same way as for private enterprises. These enterprises must be guided by commercial considerations in making purchases or sales and allow free competition to operate.

The text of the decision provides a working definition of State-trading enterprises which are concerned by this Article and on which notifications shall be made to GATT. These are: "Governmental and non-governmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports".

The decision also provides for the creation of a counter-notification mechanism for situations in which other GATT members consider the notifications submitted inadequate. A working party will be set up to review notifications and counter-notifications on a regular basis.

Article XXVIII

Negotiators agreed on a decision to widen, in favour of smaller countries, negotiating rights granted under Article XXVIII. This Article governs the conditions under which a country can modify its tariff concessions, by raising or unbinding them, as well as the rights of countries affected by these changes. Its provisions are also followed in negotiations relating to the formation or enlargement of customs unions.

In particular, Article XXVIII provides that the "principal supplying right" - the right to negotiate compensation for tariff changes - is to be determined on the basis of trade shares in the market of the importing country. At present it is reserved for the exporting country whose sales represent the largest share of the imports of the country raising its tariff.

Under the new decision, rights will also be granted on the basis of how important affected trade is for the
exporting country. A principal supplying right will be granted to the country for which the exported product is most important, in terms of the ratio of exports affected by the modification of the concession to its total exports.

For other aspects of this draft agreement, see NUR 043.

Waivers under Article XXV:5 and the Protocol of Provisional Application

Waivers are derogations to GATT rules according to which member countries may apply or maintain in exceptional circumstances measures which would otherwise be incompatible with their obligations.

The Draft Decision on Article XXV:5 tightens conditions under which waivers can be granted. A collective decision by the contracting parties to grant a waiver shall state the exceptional circumstances justifying it, the terms and conditions governing its application, and the date on which it shall terminate. For waivers granted for a period of more than one year, a review shall take place not later than one year after it was granted, and thereafter annually until the waiver terminates; contracting parties may, on this basis, extend, modify or terminate the waiver.

The Draft Decision further provides that waivers now in existence which do not bear an expiry date should terminate on a date, to be agreed at a later stage, unless extended in accordance with the new procedures.

The Protocol of Provisional Application, agreed at the time of the establishment of GATT, requires contracting parties to apply the provisions in Part Two of the General Agreement (Articles III to XXIII), "to the fullest extent not inconsistent with" legislation existing at the time when the acceding country becomes a contracting party. The Draft Decision states that this general derogation (the "grandfather clause") shall expire, at a date yet to be decided.

Article XXXV

Article XXXV currently provides that a contracting party or an acceding country may decline to apply the General Agreement to each other at the time of the latter's accession and provided that they have not entered into tariff negotiations.

The proposed Draft Decision on Article XXXV would allow invocation of non-application to be made after engaging in tariff negotiations. The proposed text aims at ensuring
that tariff negotiations between contracting parties and a
government acceding to GATT are not inhibited by
unwillingness to accept an obligation to apply the General
Agreement as a consequence of entry into such negotiations.

Several participants are still studying the legal
implications of the text, and two have expressed a
reservation pending the completion of this examination.

Article XXIV

Article XXIV regulates the conditions under which
customs unions and free-trade areas, which are inconsistent
with the basic principle of the mfn clause, are permitted.
With the proliferation of preferential agreements, there has
been a fear that the exception may become the rule and may
lead to the weakening of GATT. Moreover, some countries
believed that procedures to ensure that these agreements do
not harm trade interests of non-member countries had to be
clarified and reinforced.

The draft text recognizes the value of closer
integration of national economies and the contribution of
regional agreements to the expansion of world trade. It
reaffirms that such agreements should avoid creating adverse
effects on the trade of non-member countries. It clarifies
criteria and procedures for the review of new or enlarged
agreements, and for the evaluations of their incidence on
third countries.

Some countries have made it clear that the draft text
would be acceptable to them only if changes were made:
disagreement concerns mainly the procedure to be followed
when a country forming a customs union increases a bound
tariff.

Balance-of-payments provisions (Articles XII, XIV, XV and
XVIII)

Discussions on the need to modify the provisions of the
General Agreement that allow a member country to take
restrictive trade measures for balance-of-payments reasons
have not led to substantive negotiations. Some developed
countries consider it essential to strengthen the
disciplines governing such measures at a time when it is
sought to tighten all GATT disciplines. Developing
countries consider that this is an essential element of the
special and more favourable treatment to which they are
entitled and have so far refused to enter into negotiations
on the issue.

END
Apart from a major reduction in tariffs, the Tokyo Round (1973-1979) led to nine multilateral agreements and arrangements, six of which (the "Codes") were designed to deal with the problems raised by a variety of non-tariff barriers to trade.

While most developed countries have since signed all the Tokyo Round Agreements, very few developing countries have done so, with the exception of the Agreement on Technical Barriers to Trade (the Standards Code). Nevertheless, the Agreements are generally reckoned to have made a worthwhile contribution to the fight against non-tariff restrictions which has dominated trade policy developments in the 1970s and 1980s.

While some of the Agreements have been amended and extended since they were reached in 1979, it was decided at the outset of the Uruguay Round that they should all be subject to review during the negotiations with the objective of improving, clarifying or expanding them if necessary. Considerable attention has been given to the special problems faced by developing countries in becoming signatories.

Agreement has been reached on a comprehensive revision of the Agreement on Technical Barriers to Trade, as well as on improvements to the Agreements on Import Licensing and Customs Valuation.

Consultations continue on the procedures for accession to the Agreement on Government Procurement. While not formally part of the Uruguay Round, it should be noted that the Committee on Government Procurement has reached a final stage in negotiations to extend the Agreement to cover service contracts, to further Government (including sub-central Government) entities and to other entities whose procurement policies are substantially controlled or influenced by Governments.

Technical Barriers to Trade

The revised text of the Agreement on Technical Barriers to Trade significantly improves and clarifies the present disciplines of the Agreement, and extends its coverage and scope. The purpose of the Agreement is to ensure that technical regulations and standards - adopted for safety,
health, environmental protection or other reasons - do not create unnecessary obstacles to trade.

The revised text of the Agreement introduces criteria for determining whether a measure constitutes an "unnecessary obstacle". This clarification reduces the risk of disputes arising out of diverging interpretations and, when necessary, facilitates their settlement. The disciplines of the Agreement are extended to requirements specified in terms of processes and production methods, which are of growing importance in international trade. A Code of Good Practice lays down the principles with which local Government and non-governmental bodies as well as regional bodies involved in standardization are expected to comply, and increases considerably the transparency of their activities. The provisions on the recognition of the results of conformity assessment procedures carried out in other member countries are improved, as is transparency of procedures for assessment of conformity.

Import Licensing

With regard to import licensing procedures, the present Agreement aims at ensuring that licensing procedures do not themselves act as restrictions on imports. The revised Agreement strengthens the disciplines on the users of import licensing systems, in particular non-automatic ones, and increases transparency and predictability for the trading community. It provides for the publication of sufficient information for traders to know the basis for granting or allocating licences, as well as the time-limits for implementing them. The Committee on Import Licensing Procedures has been given an increased review function on the implementation of the Agreement.

Customs Valuation

Various texts addressing problems encountered by some developing countries in applying the Agreement on Customs Valuation, or wishing to accede to it, are designed to facilitate accession to the Agreement of a number of developing countries. Based on Article VII of the General Agreement, the Customs Valuation Code sets a fair, uniform and neutral system for the valuation of goods for customs purposes. It prohibits the use of arbitrary or fictitious valuation.

A draft decision relates to cases where customs administrations have reasons to doubt the truth or accuracy of the declared value. It shifts the burden of proof from the customs administration to the importer who can be asked to provide further evidence that the declared value
represents the total amount actually paid or payable. If the administration maintains a reasonable doubt, it may be deemed that the customs value of the imported good cannot be determined by the declared value. Another text allows developing countries to retain, for a transitional period, officially fixed values which would otherwise not be in conformity with the Agreement. It also refers to possible problems that some developing countries may encounter in the valuation of imports by sole agents, sole distributors and sole concessionaires.

**Anti-Dumping**

In the area of anti-dumping practices, many proposals have been made which seek to tighten up the basis on which governments may resort to anti-dumping duties. At the same time, some countries have focused their attention on new trading developments which, they believe, are not properly covered by the Anti-Dumping Code. One example is "circumvention" of anti-dumping duties - for instance, through the establishment of assembly plants within the import market protected by an anti-dumping duty or in a third country.

Successive drafts for a comprehensive revision of the Anti-Dumping Code have failed owing to the diverging and indeed diametrically opposed interests aired on the main problems: definition of dumping, definition of injury, circumvention of dumping. Efforts are continuing to reconcile positions on these and other less controversial issues.
SAFEGUARDS

The GATT's draftsmen were sufficiently worldly to realize that governments would be unwilling to accept far-reaching obligations to reduce and stabilize obstacles to trade unless they were allowed certain limited escapes from its general principles. Article XIX is one such "escape clause" and the actions it permits are usually referred to as "safeguards" measures.

A safeguard action is one taken to protect a specific industry from an unexpected build-up of imports. Article XIX specifies that the imports should be causing actual damage to the domestic industry concerned or, at least, threatening it. In these circumstances, the country affected may either increase tariffs or introduce quantitative restrictions.

It is understood that the action should be taken for a limited time and a price has often to be paid, either in terms of compensation in the form of tariff concessions in other products, or as retaliation, imposed in the form of increased tariffs, by the countries against whom the safeguard action is aimed.

In the forty-two years of GATT's existence, over 130 Article XIX actions have been taken. Australia has been the most frequent user (38 cases), followed by the United States (27), EC and its member States (25) and Canada (22). Almost half the actions have affected either agriculture and food products or textiles and clothing. The highest proportion was imposed during the 1970s. While 23 per cent of the total were in place for less than one year, 21 per cent lasted for over five years and some 26 actions are still in force today.

The disciplines associated with Article XIX actions, and other factors, led certain governments - principally those of the US and the European Communities - to pursue, over the past fifteen years or so, protection through bilateral agreements outside the GATT rules. These agreements are variously described as "voluntary restraint arrangements" and "orderly marketing arrangements" but most have as their common thread an undertaking by the exporting country to control the level of exports reaching a particular market. They are sometimes referred to as "grey area" measures because of their doubtful legality with respect to the GATT.
Nearly 300 such agreements have been recorded by the GATT Secretariat, including nearly 50 affecting the exports of Japan and about 35 the Republic of Korea. Products covered are principally textiles and clothing (77), agricultural and food products (64), steel and steel products (52), electronic products like televisions and video-recorders (32), cars and trucks (21), footwear (17) and machine tools (14). The great majority of these arrangements protect the US and European Community markets.

This drift towards bilateral and discriminatory deals has, according to many commentators, served to undermine the GATT and damaged the interests of consumers and efficient exporters alike.

The challenge of the safeguards negotiation in the Uruguay Round has been to achieve a comprehensive agreement which refines the rules of Article XIX and, at the same time, resolves the problem of proliferating bilateral agreements restricting exports. The major barrier to overcome has been the long-standing argument about "selectivity" - between those who favour the idea of taking action against single suppliers (essentially large importing countries who have found export restraints so attractive) and those who seek an agreement on non-discriminatory application of safeguard measures (principally small and developing countries who feel most at risk from such measures). Other vital questions have been the extent to which developing countries should be sheltered from safeguard actions, the duration of such actions, the need for accompanying adjustment measures by the protected industries and the possibility of securing compensation or imposing retaliatory measures.

Following the Mid-term Review in April 1989, the negotiating group has conducted its work on the basis of a series of draft agreements prepared by its chairman, Georges Maciel of Brazil. The current draft is at a comparatively advanced stage although participants have yet to find an answer to the selectivity issue, the treatment of developing countries and the basis for phasing out existing "grey area" measures.
Subsidies and Countervailing Measures

Subsidies continue to be one of the most frequently used and controversial instruments of domestic and commercial policy. Subsidies and their counterpart, counter-measures - or the counter-measures governments are entitled to take against subsidized exports - were addressed during the Tokyo Round of multilateral trade negotiations. They are a negotiating subject again in the Uruguay Round.

There has been a substantial increase in the use of subsidies in industry and even more so in agriculture during the 1980s. Under the influence of political and social pressures, governments embark on massive financial commitments in order, among other things, to support ailing industries, to stimulate infant industries and to promote exports. Subsidies, therefore, have become an important element in world trade to the extent that, in some sectors, financial ability to subsidize exports has over-ridden competitive reality.

To offset subsidies, some governments levy countervailing duties as they are permitted to do under the GATT. In fact, the United States has been responsible for 90 per cent of the countervailing duties imposed during the 1980s. In essence, a countervailing duty is intended to compensate for the competitive advantage enjoyed by subsidized exports. However, they should only be applied in closely defined circumstances; in particular, when the subsidized exports can be shown to be damaging, or threatening to damage, a domestic industry.

Negotiations in the Uruguay Round have been marked by two different approaches. On the one hand are those countries, principally the United States, for whom the use of subsidies is the primary question. They seek either the complete abolition or a drastic toughening up in the rules on subsidies. Many other countries are much more concerned with what they see as an abusive and excessive use of countervailing duties. These countries want the rules on the use of countervailing duties tightened up; in particular, to avoid what they regard as trade harassment when cases are pursued despite an absence of real evidence of either subsidization or damage.
The Mid-term Review agreement on subsidies began the process of striking a balance between these two approaches. In particular, it suggested the definition of three categories of subsidies. At one end of the spectrum would be prohibited subsidies (sometimes referred to as the red traffic light) for which a list would be agreed which might, for instance, include export subsidies. Second - the amber light - would come non-prohibited but countervailable subsidies. In this context, many participants expect to see tighter rules on the use of countervailing duties defined. Finally, there would be a "green light" category of non-countervailable, non-actionable subsidies.

It is also envisaged that the agreement should include conditions for special and differential treatment for developing countries as well as rules for notification, surveillance and dispute settlement.

Following the Mid-term Review many proposals were submitted by participants. Some sought to keep the number of permitted subsidies as low as possible while developing countries often emphasised their need to have recourse to subsidies for the provision of infrastructure, the development of marketing capacity and even as direct export incentives. Countries which have habitually been on the receiving end of countervailing duties have tabled proposals for much tighter regulations, especially with respect to the initiation and conduct of investigations. The United States and the European Community, on the other hand, have proposed new provisions to prevent circumvention of countervailing duties.

Since May 1990, the Group has proceeded with its work on the basis of a draft agreement drawn up by the chairman (Michael Cartland of Hong Kong). A third revision of the draft text, presented at the final meeting of the Group on 6 November, represented a substantial overhaul of the Tokyo Round Agreement on Subsidies and Countervailing Measures. The draft agreement attempts to clear up the many interpretative problems which have arisen from the operation of the current Agreement. It establishes "red-amber-green light" categories of prohibited, actionable and permitted subsidies and detailed provisions on countervailing-duty investigations and procedures. While some participants have commended the draft text, serious differences remain, in particular on what should be the appropriate balance (disciplines on subsidies on one hand and disciplines on countervailing measures on the other) of the final agreement.
TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS 
AND TRADE IN COUNTERFEIT GOODS (TRIPS)

Underlying the emergence of the protection of intellectual property rights as one of the key issues in trade relations between countries today is the greater perception of the importance of creativity and inventiveness - especially as a spur to technological development - for international competitiveness. Intellectual property rights are an important factor in determining the extent to which a company can realize commercial advantage from its creativity and the often expensively-acquired results of research and development.

The present international rules concerning the protection of intellectual property are largely embodied in the Paris Convention on patents, trademarks and other forms of industrial property and the Berne Convention on copyright; these and some other conventions are administered by the World Intellectual Property Organization, a UN body based in Geneva. These conventions are based on the principle of national treatment and lay down certain minimum standards of protection, although leaving much to the discretion of governments.

Since the early 1980s, the protection of intellectual property rights has become a source of tensions in bilateral trade relations. The question of trade in counterfeit goods was first raised in the Tokyo Round of multilateral trade negotiations, with a proposal to negotiate an international agreement that would oblige governments to provide to trademark owners a means to obtain the assistance of customs administrations to prevent the importation of counterfeit goods. When the Uruguay Round was launched in 1986, it was agreed in the Declaration of Punta del Este to aim to negotiate an international agreement to combat trade in counterfeit goods. It was also agreed to elaborate, if found appropriate, new international rules and disciplines to reduce distortions or impediments to international trade in connection with intellectual property rights.

During the first phase of the Uruguay Round, the discussions brought to the surface not only differences of view on substance but also differences on the scope of the work that the Group had been asked to undertake. The Mid-term Review Agreement, in April 1989, enabled negotiations to take place on all the major points of
concern raised by different delegations, with the understanding that this would be without prejudice to decisions on the institutional implementation of the result.

The negotiations dealt with the following issues, which are included in the draft Agreement:

* The applicability of the basic GATT principles and of intellectual property conventions, in particular national treatment and mfn or non-discrimination.

* The provision of adequate intellectual property rights, in particular the extent of new or enhanced minimum standards in the following areas:
  - copyright and related rights;
  - trademarks;
  - geographical indications, including appellations of origin;
  - industrial designs;
  - patents;
  - lay-out designs of integrated circuits;
  - trade secrets or commercially valuable undisclosed information.

* Enforcement of intellectual property rights, including the prevention of trade in counterfeit and pirated products. Effective procedures and remedies must be available to right holders, without giving rise to obstacles to legitimate trade, and taking account of differences in national legal systems and resources available in countries for enforcement.

* Multilateral dispute settlement, including strengthened commitments to resolve disputes through multilateral procedures.

* Transitional arrangements to facilitate the acceptance of the results by as many countries as possible.

Since May 1990, five draft legal texts have been submitted by the European Communities, Japan, Switzerland, the United States and fourteen developing countries; the Chairman has drawn up a text on the basis of these drafts. The draft Agreement by the Group's Chairman has been revised several times as positions have gradually been brought closer together.

It would seem clear that a number of issues will be left outstanding for consideration at Brussels. One such
issue concerns the institutional arrangements for the implementation of the results, which, as indicated above, was specifically left by the Mid-term Review agreement to be decided by Ministers at the end of the negotiations. The issue here is whether the results of the negotiations should be implemented in the GATT, or at least in the same institutional framework as the General Agreement, or whether they should be implemented in another forum, or whether some combination of the two approaches might be decided. Linked to this matter, and therefore also likely to be an issue for discussion in Brussels, is the question of the multilateral arrangements for the settlement of disputes between governments arising out of their obligations in the TRIPS area.

A number of issues relating to the substantive commitments are also outstanding. These include, for example in the area of patents, the questions of exclusions from patentable subject matter, in particular for pharmaceutical, chemical and food products, and the duration of patent protection. Another point in need of further negotiation is the appropriateness of including in the results provisions on the protection of undisclosed information or trade secrets. The transitional arrangements available to developing countries is also undecided.
TRADE-RELATED INVESTMENT MEASURES

Behind this new GATT subject is a view that certain measures which governments apply to investors and investments - like the use of local materials or export targets - can restrict or distort trade.

Investment measures can cause trade friction. A GATT dispute-settlement panel on a US complaint ruled in 1984 that the undertaking required of foreign investors to buy local materials under the Canadian Foreign Investment Review Act was contrary to GATT. The legislation was subsequently amended.

This negotiating area began as practically a blank slate since little previous work had been done in the GATT. The wide-ranging discussions and submissions tabled during the Round have enabled the Group to examine the trade effects of investment measures and their relation to the operation of GATT Articles, especially Articles III and XI.

In total, 12 trade-related investment measures have been put forward for consideration:

<table>
<thead>
<tr>
<th>Local content</th>
<th>Local equity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Export performance</td>
<td>Licensing requirements</td>
</tr>
<tr>
<td>Trade-balancing</td>
<td>Manufacturing requirements</td>
</tr>
<tr>
<td>Product mandating</td>
<td>Manufacturing limitations</td>
</tr>
<tr>
<td>Domestic sales</td>
<td>Exchange restrictions</td>
</tr>
<tr>
<td>Technology transfer</td>
<td>Remittance restrictions</td>
</tr>
</tbody>
</table>

The most frequently-cited measures are:

- **Local-content.** The investor is expected to purchase a certain proportion of local materials for production purposes.

- **Export-performance.** A certain quantity or proportion of production must be exported.

- **Product-mandating.** An obligation on the investor to export to certain countries or regions.

- **Trade-balancing.** To pay for imported materials, the investor has to use earnings from exports.

- **Domestic sales.** A commitment to supply a certain proportion of production to the local market.
- Exchange restrictions. Where an investor's access to foreign exchange, and therefore his ability to import, is limited.

Among the industrialized countries, the US considers that all 12 TRIMs cause adverse effects and should be disciplined, and in many cases prohibited; Japan and the EC reach the same conclusion as the US with respect to seven measures; the Nordic countries propose strong disciplines for local content, export performance and trade-balancing requirements, but would leave most others subject to GATT dispute settlement procedures. These countries have proposed the elaboration of new disciplines on TRIMs to supplement existing GATT Articles.

Many developing countries disagree that any TRIM causes adverse trade effects which warrant negotiation of supplementary provisions under GATT. They consider TRIMs to be integral to national development policies and to be aimed at legitimate domestic objectives, and in those few instances where they cause adverse effects, GATT provisions deal with them adequately.

In May 1990, the Chairman circulated a draft text as a possible framework for negotiations. In an attempt to accommodate the various concerns and priorities of participants, the text proposed, among other things, that certain TRIMs should be applied in a tempered manner so as to avoid damaging the interests of trading partners, whilst certain other TRIMs should be eliminated because it is impossible to avoid their adverse trade effects.

The main issues of divergence are:
- coverage, and particularly whether disciplines should cover TRIMs enforced through offering or withdrawing a subsidy, investment incentive or other advantage to an investor;
  - whether certain TRIMs are already prohibited by Articles III and XI of the GATT;
  - whether other TRIMs should be prohibited under new provisions;
  - the inclusion in the text of provisions on the control of abusive or anti-competitive practices by investors.

A further compromise text was presented to negotiators in late November.
DISPUTE SETTLEMENT

Apart from its success in reducing tariffs, GATT is probably best known publicly for its activities relating to international trade disputes. The dispute settlement system of GATT is a unique process which serves both to resolve disputes once they occur and - perhaps more importantly - as a pressure on governments to live up to their legal obligations as GATT members.

The system is enshrined in Articles XXII and XXIII of the General Agreement. These Articles lay heavy emphasis on bilateral contacts and consultations as the first step in settling disputes. In fact, most disputes never need go further than the stage of bilateral consultation. But when they cannot be resolved bilaterally the GATT panel system can be employed as a final resort. GATT members have resorted to these provisions and called upon the GATT Council or the Contracting Parties themselves to establish such panels or working parties 144 times since 1947.

A panel usually consists of three experts from countries without an interest in the matter in question. They meet as a kind of court hearing the case on both sides and the views of interested parties. They form a judgement based largely upon an interpretation of the General Agreement itself and upon previous cases.

The report, which is submitted to the Council, contains conclusions on the rights and wrongs of the case and, in its final paragraphs, usually a recommendation which offers a practical and sensible means of giving justice if contravention of the rules has been established.

If the Council adopts the report of the panel - which it does by consensus - then there is a duty on the part of the contracting parties concerned to act in accordance with its findings.

If the "violating" party does not implement the recommendations, the injured party may seek authority from the other members of GATT to take retaliatory action. In fact, in only one case, in the 1950s, has it been found necessary to authorize such retaliation. Pressure stemming from the need of GATT members for negotiating credibility within the multilateral system has proved to be the most effective means of bringing about effective settlements.
In recent years - and especially since the launch of the Uruguay Round - dispute panels have been used more often than ever. They have also operated more efficiently and effectively than ever. Another unexpected development has been the large number of disputes in the agriculture sector dealt with successfully in the GATT. While not perfect, the recent record on the implementation of panel reports has been encouraging. Among the more significant successes for the system have been:

- the opening by Japan of its markets for a number of agricultural products, including beef and citrus products, following resort to the panel system by the US;
- the ending of copyright legislation protecting the US printing industry as a result of a European complaint;
- revision of Canada's investment laws following a US complaint;
- changes in Japan's taxes and duties on alcoholic drinks after the European Communities had pursued its complaints through the GATT;
- the lifting of Thailand's ban on the importation of foreign cigarettes following a complaint by the US;
- the lifting in stages of restrictions on beef imports into Korea following complaints by the US, Australia and New Zealand;
- the US announcement of changes in its quota system for sugar imports following a complaint by Australia.

More recent findings by panels have condemned EC "anti-dumping circumvention" duties on products assembled within the Community.

Despite its relative success, the system has been affected by unnecessary delays, by blockages in the Council and by reluctance to implement adopted panel recommendations quickly and completely. The negotiating group was able, in the context of the Mid-term Review, to agree an interim package of reforms and improvements which have been implemented by the GATT Council for new cases after April 1989. The main features of the new streamlined procedures were:

- total period from the initiation of consultations to Council decision on panel report not to exceed 15 months;
strict time limits for determining terms of reference and membership of panels;

decisions to establish panels to be taken no more than one Council meeting after that in which an initial request is made;

panels normally to take no more than six months to deliver their reports;

delays in the adoption of panel reports by the Council to be avoided;

implementation of recommendations of reports to be reviewed no more than six months after their adoption by Council.

Other features of the agreement included more specific procedures and time limits; arbitration as an alternative to panel proceedings; procedures for multiple complainants and for the intervention of third parties.

Following the Mid-term Review, the Negotiating Group on Dispute Settlement continued to look at further possible reforms. Proposals have been made relating to the adoption of panel reports, including the establishment of an appeals body and the possibility of the disputing parties having an opportunity to examine and comment upon reports before they are finalised by the panelists. Some countries have indicated that these additional steps in the settlement of disputes could lead them to accept a certain weakening of the rule of consensus for the adoption of the reports by the Council. Other ideas have related to implementation, compensation and retaliation and the elaboration of precise rules for arbitration.

More recently, the Group has also been discussing proposals for dealing with non-violation disputes, i.e. disputes concerning measures which, without being contrary to GATT provisions, have nullified or impaired benefits of contracting parties.
A number of institutional reforms have been proposed for the GATT in the context of the Uruguay Round. Apart from changes to the dispute settlement system, these have been handled in a Negotiating Group on the Functioning of the GATT System (often known by the acronym FOGS).

An early result of the Round was the decision by Ministers in Montreal to establish a new system of national trade policy surveillance in GATT. GATT has always had responsibilities to survey particular aspects of national trade policies, to ensure that governments fulfil specific commitments they have accepted under the GATT. Now, under the new Trade Policy Review Mechanism (TPRM), the GATT Council conducts regular reviews of the totality of such policies for each GATT member, permitting a collective evaluation of their effects and impact on the multilateral trade system generally. The biggest traders are subject to review every two years with others somewhat less frequently. Trade policies of the following countries have been reviewed so far since December 1989: Australia, Morocco, the United States, Colombia, Sweden, Canada, Hong Kong, Japan and New Zealand.

The objective of the review mechanism is to increase the transparency of trade policies and practices and to assist understanding of them. In this way, it is believed, GATT members will be encouraged to live up to their multilateral obligations and, thus, ensure a smooth running trading system. It should also serve to enhance the level of public debate on the choice between different trade policy options at a national level. It is not, however, intended to be a substitute dispute settlement mechanism nor a means of enforcing specific GATT disciplines.

In conjunction with the TPRM, the Group has also instituted annual reviews by the Council of developments in the international trading environment vis-à-vis the multilateral trading system. To further enhance surveillance, the Group has agreed to promote domestic transparency of government decision-making within national systems, albeit on a voluntary basis. A final element in the Group’s agreed approach to enhanced surveillance is the decision to establish a central registry of notifications where information about new trade measures adopted by Contracting Parties will be recorded and cross-referenced under the responsibility of the GATT Secretariat.
The group has also been working on ideas to improve decision-making in the GATT. Here the central question has been to determine the future extent of ministerial involvement in the institution. Such involvement is relatively rare at present - in fact, there have only been five ministerial level meetings since 1970. At the same time, trade has moved increasingly centre-stage in the political arena and the formulation and negotiation of commercial policies have long-since passed from the hands of a few technical specialists. In Montreal, the Ministers agreed to have a more active role in the GATT by holding meetings of the Contracting Parties at Ministerial level at least once every two years.

Two further interlinked issues under discussion have been the establishment of a small ministerial group in GATT and the establishment of a new multilateral trade organization. The consensus in the Group is that both these issues have a considerable political dimension and that further substantive work on them will have to wait for the results of the Round to be clearly perceived.

Work continues on the third area of interest for this negotiating group - its mandate to investigate ways of increasing the "contribution of GATT to achieving greater coherence in global economic policy-making", particularly by strengthening GATT's relationship with other international economic institutions dealing with monetary and financial matters. The Group has agreed that GATT should continue to develop its relations with these institutions, and that the GATT Director-General should review, in the light of GATT's future responsibilities, its cooperation with the International Monetary Fund and the World Bank. The Group has also agreed to draft a "declaration". The main outstanding issue in the proposed declaration is whether fluctuations in exchange rates and high interest rates are a cause for complaint (and by implication, an excuse for trade policy action or inaction) or, on the contrary, represent only proper adjustments to macroeconomic factors such as differing national inflation rates.
TRADE IN SERVICES

For many countries services is the fastest growing economic sector and the most vigorous creator of jobs. For a large proportion of those countries, trade in services represents the greatest hope for export success in the future.

What are services? There are many everyday examples: transport, communications, insurance, tourism, financial and banking services, films and broadcasting, construction, even hairdressing.

The production of services accounts, on average, for nearly 60 per cent of the GDP of developed countries and for nearly 50 per cent in the case of developing countries. It is believed that about 60 per cent of jobs in industrial countries and around 20 per cent in developing countries are in the service sector.

The value of world trade in commercial services is estimated by GATT at around US$680 billion for 1989. This represented a growth of 9 per cent on 1988 and accounted for about 20 per cent of total world trade. In the period 1980-87, services trade was growing at about 5 per cent annually. Because of the poor quality of statistics on trade in services, these figures are almost certainly underestimates.

Given the success of GATT in stimulating the growth of world trade in merchandise through a set of multilateral rules governing commercial relations among countries and through the process of trade liberalization, many countries whose governments have identified a priority in expanding their services exports have seen logic in seeking a similar multilateral arrangement in that sector.

But when the Uruguay Round negotiation was launched in 1986, the level of understanding of the nature and problems of trade in services was at a rudimentary level. Statistics on trade flows were almost non-existent. Nor was there any agreement on how to define trade in services and therefore which service industries and which transactions might be covered by the multilateral framework of rules on trade in services which ministers at Punta del Este decided should be established.
Since then, considerable background work and discussion have served to give governments a far better basis on which to determine national interests and to make negotiating proposals of which there have been over 100 tabled in the Group of Negotiations on Services (GNS).

The question of the promotion of the development of developing countries has been central to the discussion to date. In other words, if many industrial countries can see clear commercial advantages in a services agreement, how can the specific interests of developing countries be reinforced.

The question of the sovereign right of all countries to regulate service industries for purposes of domestic development and social policies has also been an important theme in the group. Naturally, rules which are intended to promote and expand trade could diminish or restrict the ability of governments to act freely in the pursuit of domestic objectives.

More specifically, the group has discussed the principles which might be the basis of the agreement. In particular, they have considered how familiar disciplines on which the GATT is based can be utilised. The Montreal Mid-term Review agreement defined the backbone of a future services agreement which would include:

* The need for transparency in services laws and regulations;
* The achievement of progressive liberalization of trade in services;
* The application of "national treatment" requirements;
* The application of a "most-favoured-nation"/non-discrimination provision;
* Expansion of market access for service suppliers;
* Facilitation of the expansion of the services sectors of developing countries and their increased participation in world trade;
* Safeguards and exceptions;
* Recognition of the right of governments to regulate the services sector, consistent with commitments made under the multilateral framework.
Discussion on the framework centred on four main areas:

- the concepts, principles and rules (as above). How to spell them out in precise legal language.

- the mechanics of liberalisation. How to ensure the opening up of the services market to competition. This involves a series of questions. For instance: will signatories be ready to accept a freeze on the introduction of new regulations inconsistent with the framework; how to handle legitimate national regulation affecting the service sector and the negotiating procedures to secure progressive liberalization.

- institutional considerations. How will the disputes settlement mechanism operate and what would be the relationship between the General Agreement on Trade in Services and other international arrangements and disciplines - including GATT.

- the treatment of developing country interests. How to promote the development of domestic and export capacities in the services sectors of developing countries.

The Montreal Agreement also permitted work to move into specific sectoral discussions. In May of this year, working parties were established on telecommunications, construction, transport (air, maritime and inland), tourism, professional services, financial services (including insurance), audio-visual services and on labour mobility. The objective was to identify their sectoral particularities and determine whether or not they would require special annexes or annotations in relation to the general framework on services. This sectoral work proceeded in parallel with work on the framework.

Discussion on sectoral questions have given rise to a number of difficulties. For instance:

- Most-favoured-nation treatment: Can mfn treatment be offered automatically in sectors where extensive bilateral trading arrangements exist at present (for instance, air service agreements under which landing rights are decided, and cargo-sharing arrangements in the maritime transport sector)?

- Initial commitments: How to get an initial package of liberalization commitments in services to set alongside the framework and sectoral annexes when they enter into force? This is comparable with the initial tariff package
which was agreed on the establishment of GATT. Some participants have already starting tabling lists of initial commitments and it is expected that the final package will be negotiated during 1991.

- Financial services: How to accommodate the view of many developed countries that liberalization commitments in financial services should be more ambitious than in other sectors; and how to ensure that governments maintain freedom to regulate activities in the sector for prudential purposes.

- Audio-visual: How to deal with the widespread view that there should be either a general "cultural exception" to the provisions of the framework or a special audio-visual annex allowing film and TV screening quotas to be maintained to promote national cultural policy objectives.

- Labour: To what extent should the movement of all kinds of labour be facilitated by the provisions of the framework agreement, subject to immigration laws.
STANDSTILL AND ROLLBACK

Two political undertakings were made by Ministers in Punta del Este. In the case of standstill, the undertaking has three parts:

- no new trade restrictions inconsistent with GATT;
- no new trade restrictions which go further than necessary to remedy specific situations provided for in GATT, and
- no trade measures taken to improve negotiating positions.

Rollback was seen as a limited means of trade policy disarmament - in other words, the progressive dismantling, during the Round, of all trade restrictions which are illegal under GATT. Rollback was expected to take place through a process of consultation but GATT concessions could not be requested as payment for the elimination of these measures.

To oversee these two commitments, a Surveillance Body was established which, at its thirteenth meeting in November 1990, adopted the Chairman's report which will be submitted to the TNC in Brussels in December.

According to the report, the Surveillance Body has received a total of 25 notifications, by 11 participants against eight participants concerning the standstill commitment. Twenty-four notifications were made during the period October 1986 to November 1988, and one during 1990. Ten notifications were addressed to the United States; six to the European Communities; three were addressed to Canada; two to Brazil; and one each to Greece, Indonesia, Sweden and Switzerland. The notifications covered quantitative restrictions, tariffs, import levies, import controls and prohibitions, export restrictions, internal taxes, production and export subsidies, and government procurement.

In the Surveillance Body's "early warning" discussions on proposed legislation and other actions affecting trade, 35 cases were subject to discussions, some being discussed at several meetings. Sixteen cases were related to actions by the United States, including the Omnibus Trade and Competitiveness Act of 1988, and the "Super 301" and "Special 301" provisions under the Act. Twelve cases
concerned EC actions, including the "Television without Frontiers" Directive, and increases in certain agricultural aids. Other countries concerned were Australia, Finland, Brazil and the Republic of Korea.

Under the rollback commitment, a total of twenty rollback requests covering a wide range of measures were notified. Nineteen requests were made during the period June 1987 to October 1988, and one request was made in February 1990. Most requests concerned quantitative restrictions, others referred to import licensing systems, sanitary and phytosanitary regulations, prohibition of imports, export subsidies and voluntary export restraints.

The Surveillance Body has given active attention to the development of procedures for promoting rollback action, and has also made an effort to assess the extent to which GATT-inconsistent measures continue to be maintained.

Participants identified two difficulties in establishing the full picture of outstanding GATT-inconsistent measures. First, in a strict legal sense, the GATT-inconsistency of a particular measure can only be determined by a ruling of the CONTRACTING PARTIES. Second, the Punta del Este Ministerial Declaration requires that each participant implement the rollback commitment, taking into account agreements reached in the Uruguay Round. However, before completion of the Uruguay Round, it has been difficult for participants to determine what measures should be considered to be GATT-inconsistent since agreements, undertakings and understandings with respect to GATT provisions were still under negotiation.

Against this background, the Surveillance Body has considered ways by which the full implementation of the rollback commitment could be facilitated. However, without knowledge of final agreements or decisions in individual negotiating areas of the Uruguay Round, it was difficult for the Surveillance Body to come to consensus in this matter, as these agreements or decisions would affect the implementation of the rollback commitment. The Surveillance Body therefore concluded that in the light of multilateral agreements, undertakings and understandings, including strengthened rules and disciplines, reached in the Uruguay Round, Ministers meeting at the TNC in Brussels may wish to consider what further action is needed to ensure that the rollback commitment be fully met.
WHAT IS THE GATT?

In essence, the GATT is no more - and no less - than a large group of countries who believe that their best economic interests are served through a trading system based upon open markets and fair competition secured through agreed multilateral rules and disciplines. They are bound together through a contract called the General Agreement on Tariffs and Trade - so they call each other "contracting parties".

The GATT is not a club that everyone can join merely by paying a cash fee. Countries negotiate their way in through complex and sometimes lengthy negotiations - securing benefits but offering them also to the other contracting parties. There is a sensitive balance of rights and obligations among the members.

Some 100 countries have become full contracting parties in the past forty years - all the industrialized (OECD) countries are members together with some 70-plus developing countries and several with centrally-planned economic systems.

Why do they bother? Largely because when the multilateral system has worked most effectively, world trade, economic growth and employment have reached their highest levels. As members of GATT, countries have a stake in the multilateral trade system and can influence it. They can seek to ensure that the GATT rules operate credibly. They can take part in negotiations which amend or extend the rules. And they can negotiate to maximise their trading advantages within the system - to end the unfair trading practices of others and to secure new opportunities for their exporters.

At the same time, an effective multilateral trade system should give governments the capacity to keep their own domestic markets open - or to liberalize them further. Experience shows that, in the long term, this is the only way in which private producers will attain the competitiveness to be successful overseas and, with that, the opportunity and confidence to expand their businesses through further investment.

While there are many complicated rules which make up the GATT and its associated agreements, there are relatively few, simple principles and objectives which underlie them.
Non-discrimination. There should be no special favourites and no particular victims associated with the trading policies of any country. This means that GATT members should not be subject to special trade restrictions which are not applied generally. More positively, it means that trade advantages negotiated between any two GATT countries must be immediately made available to all others - permitting small and poor countries to benefit substantially from GATT membership.

Fair competition. The General Agreement seeks to ensure that the world's exporters have the chance to compete with each other on fair terms. If dumping or subsidization takes place, then the GATT sets the basis on which a reasonable competitive balance can be re-established.

Protection limited to tariffs. Although various new kinds of quantitative restrictions have become fashionable in recent years, the intention of the GATT (which is not a "free trade charter") is to permit protection almost solely through the least damaging and most transparent mechanism - the customs duty or tariff.

Trade liberalization. The GATT is not a static book of rules. It envisages perpetual effort by governments to negotiate new and better marketing opportunities for their companies. This has been achieved, particularly, through seven trade "rounds". It is currently being pursued through the eighth round, the Uruguay Round.

Special treatment for developing countries is an integral part of the GATT. Less-developed countries have some negotiating advantages and the possibility of securing special trading conditions with industrial countries. Nevertheless, they have been hit hard in recent years by protectionism in these countries.

Settlement of trade disputes takes place through a unique system developed over the lifetime of the GATT. This system has assisted the resolution of several hundred disputes.

Stability and predictability in trading conditions should be encouraged if GATT rules are observed. Tariffs, in particular, are often "bound" within the GATT contract. More generally, governments should be constrained from subjecting importers, or exporters, to constant changes in market access, import regulations, technical standards and so on.
There are exceptions to many of these principles. Free-trade areas and customs unions are permitted, for instance, as are preferences for developing countries. Trade restrictions are sometimes permissible for countries in balance-of-payments difficulties, for national security reasons and in other circumstances. Short-term relief from rapidly-growing imports can sometimes be acceptable through the "safeguards" rule. Agricultural trade has also been excepted from some general disciplines with respect to subsidies and market access.
### GATT Trade Rounds

<table>
<thead>
<tr>
<th>Year</th>
<th>Place</th>
<th>Participating Countries</th>
<th>Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>1947</td>
<td>Geneva</td>
<td>23</td>
<td>The founding countries of GATT completed some 123 negotiations and established 20 schedules which became an integral part of GATT. These covered some 45,000 tariff concessions and about US$10 billion in trade</td>
</tr>
<tr>
<td>1949</td>
<td>Annecy</td>
<td>13</td>
<td>Participants exchanged some 5,000 tariff concessions</td>
</tr>
<tr>
<td>1951</td>
<td>Torquay</td>
<td>38</td>
<td>Some 8,700 tariff concessions were exchanged, yielding tariff reductions of about 25 per cent in relation to the 1948 level</td>
</tr>
<tr>
<td>1956</td>
<td>Geneva</td>
<td>26</td>
<td>About US$2.5 billion worth of tariff reductions.</td>
</tr>
<tr>
<td>1960 - 1961</td>
<td>Geneva</td>
<td>26</td>
<td><strong>The Dillon Round.</strong> Some 4,400 tariff concessions were made, covering US$4.9 billion of trade.</td>
</tr>
<tr>
<td>Year</td>
<td>Place</td>
<td>Participating Countries</td>
<td>Results</td>
</tr>
<tr>
<td>------</td>
<td>-------</td>
<td>-------------------------</td>
<td>---------</td>
</tr>
<tr>
<td>1964</td>
<td>Geneva</td>
<td>62</td>
<td>The Kennedy Round departed from the product-by-product approach used in previous Rounds to an across-the-board or linear method of cutting tariffs of industrial goods. The working hypothesis of a 50 per cent target cut in tariff levels was achieved in many areas. Concessions covered an estimated total value of trade of about US$40 billion. Separate agreements were reached on grains, chemical products and a Code on Anti-Dumping.</td>
</tr>
<tr>
<td>1967</td>
<td>Geneva</td>
<td>62</td>
<td></td>
</tr>
<tr>
<td>1973 - 1979</td>
<td>Geneva</td>
<td>99</td>
<td>The Tokyo Round. Tariff reductions and bindings covered more than US$300 billion of trade, and lowered the weighted average tariff on manufactured goods in the world's nine major industrial markets from 7.0 to 4.7 per cent. It also resulted in the recognition of preferential tariff and non-tariff treatment for and among developing</td>
</tr>
</tbody>
</table>
Results

countries, and liberalization of trade on many tropical products. It established "codes" on subsidies and countervailing measures, technical barriers to trade, import licensing procedures, government procurement, customs valuation, dairy products, bovine meat, civil aircraft and revised the GATT anti-dumping code.

<table>
<thead>
<tr>
<th>Year</th>
<th>Place</th>
<th>Participating Countries</th>
<th>Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>1986</td>
<td>Geneva</td>
<td>107</td>
<td>Uruguay Round. Launched by GATT Ministers on 20 September 1986 in Punta del Este, Uruguay, this is the eighth - and the most complex and ambitious round of multilateral trade negotiations in the GATT. The Round, expected to be completed in four years, is aimed at the further liberalization and expansion of world trade and extends the multilateral negotiations among contracting parties to such new areas as trade-related aspects of intellectual property rights, trade-related investment measures and trade in services. At the end of 1990, some 107 countries were participating in the Round.</td>
</tr>
</tbody>
</table>
### Countries participating in the Uruguay Round

<table>
<thead>
<tr>
<th>Country</th>
<th>Country</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Algeria</em></td>
<td>Gabon</td>
<td>Nicaragua</td>
</tr>
<tr>
<td>Antigua and Barbuda</td>
<td>Gambia</td>
<td>Niger</td>
</tr>
<tr>
<td>Argentina</td>
<td>Ghana</td>
<td>Nigeria</td>
</tr>
<tr>
<td>Australia</td>
<td>Germany</td>
<td>Norway</td>
</tr>
<tr>
<td>Austria</td>
<td>Greece</td>
<td>Pakistan</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>Guyana</td>
<td>Paraguay</td>
</tr>
<tr>
<td>Barbados</td>
<td><em>Guatemala</em></td>
<td>Peru</td>
</tr>
<tr>
<td>Belgium</td>
<td>Haiti</td>
<td>Philippines</td>
</tr>
<tr>
<td>Belize</td>
<td><em>Honduras</em></td>
<td>Poland</td>
</tr>
<tr>
<td>Benin</td>
<td>Hong Kong</td>
<td>Portugal</td>
</tr>
<tr>
<td>Bolivia</td>
<td>Hungary</td>
<td>Romania</td>
</tr>
<tr>
<td>Botswana</td>
<td>Iceland</td>
<td>Rwanda</td>
</tr>
<tr>
<td>Brazil</td>
<td>India</td>
<td>Senegal</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>Indonesia</td>
<td>Sierra Leone</td>
</tr>
<tr>
<td>Burundi</td>
<td>Ireland</td>
<td>Singapore</td>
</tr>
<tr>
<td>Cameroon</td>
<td>Israel</td>
<td>South Africa</td>
</tr>
<tr>
<td>Canada</td>
<td>Italy</td>
<td>Sri Lanka</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>Jamaica</td>
<td>Spain</td>
</tr>
<tr>
<td>Chad</td>
<td>Japan</td>
<td>Suriname</td>
</tr>
<tr>
<td>Chile</td>
<td>Kenya</td>
<td>Sweden</td>
</tr>
<tr>
<td><em>China</em></td>
<td>Korea Rep. of</td>
<td>Switzerland</td>
</tr>
<tr>
<td>Colombia</td>
<td>Kuwait</td>
<td>Tanzania</td>
</tr>
<tr>
<td>Congo</td>
<td>Lesotho</td>
<td>Thailand</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>Luxembourg</td>
<td>Togo</td>
</tr>
<tr>
<td>Côte d'Ivoire</td>
<td>Madagascar</td>
<td>Trinidad and Tobago</td>
</tr>
<tr>
<td>Cuba</td>
<td>Malawi</td>
<td>Tunisia</td>
</tr>
<tr>
<td>Cyprus</td>
<td>Malaysia</td>
<td>Turkey</td>
</tr>
<tr>
<td>Czechoslovakia</td>
<td>Maldives</td>
<td>Uganda</td>
</tr>
<tr>
<td>Denmark</td>
<td>Malta</td>
<td>United Kingdom</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>Mauritania</td>
<td>United States</td>
</tr>
<tr>
<td><em>El Salvador</em></td>
<td>Mauritius</td>
<td>Uruguay</td>
</tr>
<tr>
<td>Egypt</td>
<td>Mexico</td>
<td>Venezuela</td>
</tr>
<tr>
<td><em>Fiji</em></td>
<td>Morocco</td>
<td>Yugoslavia</td>
</tr>
<tr>
<td>Finland</td>
<td>Myanmar</td>
<td>Zaire</td>
</tr>
<tr>
<td>France</td>
<td>Netherlands</td>
<td>Zambia</td>
</tr>
<tr>
<td></td>
<td>New Zealand</td>
<td>Zimbabwe</td>
</tr>
</tbody>
</table>

TOTAL 107

*Not contracting parties to GATT  7*