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MANY NEW PROPOSALS TABLED AS YEAR ENDS - TNC DECIDES
DATES FOR BRUSSELS MINISTERIAL MEETING

Meetings of negotiating groups in the final weeks of 1989 were marked by many new proposals including those of the European Community and the Nordic countries on agriculture, the ASEAN countries on tropical products, the United States on subsidies and Brazil and others on services.

The following groups have met since the previous Uruguay round bulletin.

Trade Negotiations Committee ... 20 December

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

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

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

Group of Negotiations on Goods ... 19 and 20 December

Opening the meeting, the Chairman said that a very large number of national positions had now been tabled and discussed, and many negotiating groups were ready to enter the phase of negotiations proper, though in some the submission of further national positions was still necessary. It had been agreed in July that the December meeting of the GNG would pay special attention to the overall balance of the negotiations.

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

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

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

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

The Group heard a statement by the representative of Bangladesh outlining the particular problems of the least developed countries and setting out a variety of proposals, covering most negotiating groups, aimed at ensuring their interests are adequately reflected in the results of the Round.

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

MTN Agreements and Arrangements ... 20-22 November

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

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

New Zealand and the United States proposed changes in Agreement on Technical Barriers to Trade. New Zealand called for the strengthening of the Code by giving it unambiguous coverage of product and processes methods (the Code now mainly deals with standards

related to the qualities of the finished product). It also proposed adopting the principle of "equivalency" whereby an importing country should accept the exporting country's regulations on standards even if the two countries' regulations are not exactly the same. The US said that lack of acceptance of laboratory test data between countries has been a costly non-tariff barrier to trade. It proposed amendments that would clearly grant equal treatment to results of local and foreign laboratories. It also presented a revised proposal aimed at ensuring access to information on bilateral discussions which might lead to agreements between signatories to the Code. Noting the difficulties encountered by developing countries in translating notifications under the Code, India proposed that signatories provide documents in a GATT official language upon request by a developing country member.

Brazil presented a submission in support of the Indian proposal (see NUR 032) for changes in the Customs Valuation Code which would enable customs authorities to shift the burden of proof to the importer in certain circumstances.

Tariffs ... 23 November

The Group pursued its discussion on the negotiating methods and approaches it has to adopt, in order to find a common basis. References were made to the informal ministerial meeting held in Tokyo a week earlier, and to the United States proposal that all Uruguay Round participants should submit by 15 January their initial plans for cutting and eliminating tariffs, each participant remaining free to choose the method by which it intends to reach the goal of an average 33 per cent cut in tariffs as decided at Montreal. The Group considered a revised version of the Chairman's text, which proposes a combination of a tariff-cutting formula and the exchange of request and offer lists and clears up a number of points in the previous version. Many participants considered that the text was a sound basis for negotiations and expressed a preference for a systematic approach followed by all countries so as to have a valid basis for comparing offers. Some countries said that the approach proposed by the United States at Tokyo emphasised negotiating results rather than procedures, and that it should be studied, as well as its possible repercussions. Some countries compared various mathematical formulae for tariff reductions, which had varying effects in terms of harmonization. Besides this issue of the choice of tariff-cutting method, on which the Group noted that no consensus existed, comments and proposed amendments concerning the Chairman's text were also made with regard to credits for bindings, evaluation of the progress made in market access and the multilateral mechanism to ensure transparency in the tariff negotiations.

The Group unanimously agreed that there was a pressing need to reach a consensus. To this end, informal consultations will start at the beginning of the year.

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Agriculture ... 27-28 November

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

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

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

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

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

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

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

Japan's proposal further developed the views it expressed at the September meeting (NUR 031) concerning the implications of the idea of food security. The paper specified the conditions under which a country should be allowed to maintain border adjustment measures. It also saw a need to clarify the conditions of application of Article XI:2(c)(i), under which it is possible to restrict imports of any agricultural or fisheries products when this is necessary for the enforcement of governmental supply management measures. Japan also advocated a review of Article XI:2(a) which allows export restrictions in the event of food shortages.

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

In its communication, Korea stressed the low stage of development of its agricultural sector, and the need to take account of non-economic factors. It considered that the most appropriate means of responding to these considerations would be to accept the maintenance of potential agricultural production capabilities and the concept of minimum market access or minimum rates of self-sufficiency. Korea was also in favour of an improvement of Article XI:2 in order to allow it to be invoked more frequently. With regard to internal support, Korea considered that the possibility of decoupling production support should be explored, without calling into question the positive role of internal support in economic and socio-political stability.

Trade-Related Investment Measures ... 27-28 November

The European Community and the Nordic countries (Finland, Iceland, Norway and Sweden) presented comprehensive proposals. The EC

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

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

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

Surveillance Body ... 29 November

Although no new notifications on possible contraventions of the standstill were received by the Surveillance Body, delegations raised a number of points under the "early warning" system:

- the delegates of Brazil and India both protested that their countries had been retained on the so-called priority watch list under the "Special 301" provision of the US Trade and Competitiveness Act dealing with intellectual property rights, following a review of the list announced on 1 November.
- Chile warned that the extension of restrictive "quality control" measures to a number of fruits (kiwis, peaches, pears, nectarines and plums), as envisaged in draft legislation

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recently tabled in the US Senate, would constitute a violation of the standstill by the United States.

- Australia raised four developments in the European Communities as potential breaches: increases in processing aids for dried grapes; the recent 1 per cent increase in dairy production quotas eligible for price support; consideration of import securities affecting peas and beans; and a proposal that subsidies be paid to encourage conversion from areas of surplus production to previously unsubsidised products.
- the delegation of Argentina considered that the European Community's increases in price support for certain corn production were a violation.
- the European Community raised the issue of increased Brazilian export taxes on the vegetable fibre sisal.

The European Community announced a revised offer on rollback. It presented the package as an autonomous and substantial contribution involving the abolition of a large number of quantitative restrictions maintained by individual member States. The offer was unconditional although the Community insisted on the need for similar political will to be demonstrated by other participants to ensure implementation of the rollback commitment generally.

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

Tropical Products ... 29 November, 1 December

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

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

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

Subsidies and Countervailing Measures ... 30 November - 1 December

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

The United States proposal, like some others before it, envisaged three categories of subsidies and aimed generally at extending the export subsidy prohibition to all practices having similar trade distorting effects. Whereas only export subsidies on industrial products are at present prohibited by GATT, the United States proposed that this category be extended to other subsidies:

- by eliminating the "artificial distinction" between primary and non-primary products;
- by extending the prohibition to "trade-related" subsidies, which for example encourage the use of domestic inputs in preference to imported inputs or are granted to firms predominantly engaged in export trade;
- by recognizing that other domestic subsidies can have distorting effects where they exceed a certain percentage of total sales.

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

As regards the second category of subsidies - actionable subsidies - the criterion would be the benefit to the recipient. Countervailing duties could be imposed where imports cause or threaten material injury to the domestic industry.

The adverse effects of the first two types of subsidy on third-country markets could justify countermeasures. A third category of subsidies, for example unemployment benefits, adjustment assistance, etc., would in principle be non-actionable but could become actionable in certain circumstances.

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

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

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

The proposal by the Nordic countries emphasized the difficulty of making a clear distinction between the three identified subsidy categories, even if the existing criteria were strengthened. It therefore attached great importance to achieving effective transparency regarding subsidy programmes and practices, strengthening the disciplines in regard to investigations leading to countervailing measures, and the development of more effective dispute settlement mechanisms.

For the Nordic countries, there were two areas in which the existing disciplines are not sufficient: subsidies affecting third-country markets and import displacement. One possible approach would be to consider that subsidies above an agreed maximum level would trigger a multilateral examination; another might be to provide for the award of compensation to countries whose exports have been displaced through a subsidy.

The Australian proposal called for a significant increase and expansion of present disciplines on subsidies. In addition to the

existing list of subsidy practices that are most trade-distorting, Australia proposed another class of prohibited subsidies related to criteria that are objective and verifiable, in particular through quantitative criteria. One approach would be to envisage an overall subsidy ceiling for individual products, beyond which corrective measures examined by the contracting parties would be applied. Furthermore, countervailing duties could be applied without any requirement for an injury test and should be available in third-country markets.

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

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

Non-Tariff Measures ... 30 November

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

The Community and Japan indicated they would soon table proposals on rules of origin.

GATT Articles ... 6-8 December

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

The Group accepted on a provisional basis subject to confirmation by participants, a draft decision to record in tariff schedules "other duties or charges" maintained on bound tariff items under Article II:1(b); the decision is aimed at ensuring transparency of the legal rights and obligations deriving from this provision (see NUR Nos. 30 and 32). Once adopted, the draft decision will be transmitted to the Group of Negotiations on Goods. Nevertheless, the decision will remain provisional pending the outcome of the Uruguay Round negotiations as a whole. The eventual legal form of this decision will be decided at a later stage, in the context of the conclusion of the Round.

Argentina, Canada, Colombia, Czechoslovakia, Hong Kong, Hungary, Korea, Mexico, New Zealand and Singapore put before the Group a joint communication aiming at making Article XXVIII more responsive to present needs and to changes in the trading environment. The proposal sets out new criteria for determination of suppliers' rights which are intended to secure a wider distribution of such rights among smaller trading countries. It also provides for the payment of compensation in the absence of past trade flows, the granting of rights for compensatory concessions, and treatment of tariff rate quotas and preferential trade. The Group continued its discussion of Article XVII, concerning the obligation of contracting parties in respect of state trading enterprises, against the background of the submissions tabled at the last meeting by the United States and the EEC.

On Articles XII, XIV, XV, and XVIII which deal with matters relating to balance-of-payments problems, the United States and Canada tabled a joint proposal aimed at providing more effective policies to improve the operation of these provisions. While recognizing the right of countries to impose temporary trade restrictions to assist in addressing serious difficulties in their balance-of-payments position, the proposal aims to:

- clarify the criteria for assessing trade restrictions applied for balance-of-payments purposes;
- provide guidelines for the kinds of actions countries facing serious balance-of-payments problems are entitled to take without a decision by the Balance-of-Payments Committee;
- strengthen disciplines and Balance-of-Payments Committee procedures which apply to countries wishing to take measures in excess of those specified in the guidelines.

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

Dispute Settlement ... 7 December

Bangladesh proposed several measures in favour of the least-developed countries - including the establishment of a separate conciliation body to help settle disputes involving this group of countries. Several participants expressed general support. Some other delegations stressed that dispute settlement rules should apply equally to all GATT members but that some flexibility might be allowed for less-developed countries. The United States put forward some tentative ideas on improving the panel process, including changes in the establishment of a fixed pool of experts to serve on panels, the creation of an appellate body to review panel reports, and the automatic adoption of reports. On the subject of how to strengthen commitments to the GATT dispute settlement system, several participants underlined the importance of refraining from unilateral measures. Switzerland said that the Group should also explore ways of improving dispute settlement procedures at the national level. It said it would soon submit a proposal with suggestions on procedural standards for domestic review and improvements in national disciplines relating to the rights and obligations of private citizens in the area of international trade.

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

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

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

The importance of settling disputes through a multilateral process was widely stressed. Some participants considered that the

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

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

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

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

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

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

Natural Resource-Based Products ... 12 December

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

Textiles and Clothing ... 14-15 December

Five new proposals were tabled. The United States proposed that all participants agree that in this sector: (a) any integration process should encompass all measures affecting trade; and (b) at the end of the integration process, no GATT member would undertake or maintain any GATT-inconsistent measure. On the transition arrangement, it asked the Group to examine two alternatives to an MFA-based approach: a system of global-type quotas, or a system of global-type tariff rate quotas, perhaps allocated by country. Several participants cited the practical difficulties in implementing these two alternatives while some other participants said they could not agree to the transformation of existing MFA measures into another set of restrictions. The Nordic countries (Iceland, Finland, Norway and Sweden) submitted a proposal which they said was aimed at striking a balance between the the interests of exporting and importing countries. The members of the International Textiles and Clothing Bureau (ITCB) elaborated the broad approach that they have proposed at previous meetings. The ASEAN participants (Indonesia, Malaysia, Philippines, Singapore, and Thailand) presented a proposal which called for the complete phasing out of MFA restrictions by the year 2000. A number of developing-country exporters welcomed the convergence of views in the Nordic, ITCB, and the ASEAN proposals on several issues, in particular the focus on the Multifibre Arrangement (MFA) restrictions, the phasing out of these restrictions

upon the expiry of the MFA in July 1990, the immediate elimination of restrictions on several textiles and clothing products at the start of the phaseout process, and that issues related to strengthened GATT rules and disciplines be dealt mainly in other relevant groups. Bangladesh, on behalf of the least-developed countries, requested special treatment for the textiles and clothing exports of this group of countries.

Functioning of the GATT System ... 15 December

The Group resumed its discussion of the report by the GATT Director-General on his talks with the Managing Director of the International Monetary Fund and the President of the World Bank regarding the possibilities of closer cooperation with these organizations (see NUR 032). It agreed to continue the exchange of views at the next meeting. The Chairman invited participants to submit concrete proposals on how to increase the contribution of the GATT to achieving greater coherence in global economic policy-making through strengthening its relationship with other international organizations responsible for monetary and financial matters.

Australia, Canada, Hong Kong and New Zealand jointly proposed that GATT members encourage and promote national awareness of the government policy-making process related to trade. They said this would lead to a wider domestic understanding of the economic effects of government assistance to industries and thus foster greater public support for open trade policies.

Agriculture 19 and 20 December

The three final proposals of the year were presented by the Nordic countries, Austria and the European Community.

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

With respect to farm supports priority would be given to the most trade-distorting policies and there should be incentives to move towards more decoupled forms of support related to the national policy objectives mentioned above. The Nordic countries were prepared to work towards the elimination of most of their export subsidies. They proposed a gradual change in the levels and forms of border protection, facilitated by appropriate safeguard mechanisms. If tariffication were employed as an alternative it would involve, at least initially, rather high tariff equivalents. At the same time,

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variable levies, under strengthened disciplines, should also remain an alternative or concurrent option under GATT. The proposal covered detailed ideas on sanitary and phytosanitary measures aimed at establishing a discipline sufficiently clear, unambiguous and comprehensive that disputes could be largely avoided.

Austria, in its proposal, emphasized its need to maintain policies aimed at securing food supply. Farmers in Austria produced under unfavourable conditions, especially in Alpine regions, and had to be accorded special consideration. This situation would have to be taken into account in the negotiation. On market access, Austria saw a need to maintain a system of variable levies. There should be the possibility of safeguard measures and the continued possibility of restrictions under Article XI:2. Export subsidies would be reduced in a way which allowed orderly domestic adjustment to take place while domestic support measures related to supply control programmes should be permitted as should support promoting structural adjustment and social measures.

The proposal of the European Community took as its starting point the prevalent supply/demand imbalances in the agricultural sector which require government intervention on prices. The Community reaffirmed its attachment to a system of dual pricing in agriculture. The aim of the negotiation should be progressively to reduce support to the extent necessary to re-establish balanced markets and a more market-oriented agricultural trading system. There should be a global commitment which would ensure that all support having an impact on agricultural trade is the subject of a steady and balanced reductions - this would include frontier measures, market intervention, deficiency payments and other aids.

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

With respect to tariffication - proposed by a number of participants as a means of tackling border protection in a uniform manner - the EC remained doubtful. Nevertheless, the Community was prepared to consider such an approach given that the problem of rebalancing could be resolved in the same context. Thus, border protection for the list of products subject to commitments covered by the SMU would be assured by a fixed tariff component but subject to a corrective factor reflecting exchange rate and market fluctuations beyond certain limits. The fixed component would be expressed as an absolute value and would be reduced at a similar rate as the Support

Measurement Unit. Deficiency payments would have to be treated in the same way and converted into tariffs. The same arrangement would apply to exports, with the amount granted to exports not exceeding that levied on imports.

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

The presentation of the Community's ideas was widely welcomed as an important contribution to the work of the Group. Many participants were encouraged by the EC's apparent willingness to negotiate seriously and many found aspects of the proposal which they could support or, at least, discuss further. Some, however, were unhappy with the undefined, initial five-year commitment to reduction in supports, believing that it might not fully meet the objectives set out in the Mid-Term Review. Several expressed disagreement with the use of 1986 as a reference year for the commitments on internal support and many were opposed to the concept of rebalancing in any form, asserting that the objective of the negotiation was to reduce protection rather than reshuffle it. Some felt the paper did not adequately cover non-trade concerns in agriculture. More generally, it was suggested that a plan based upon a perception that supply/demand imbalances were the problem was ill-founded. Such imbalances were the symptom of the real problem which was, essentially, the involvement of government in the management of agricultural markets.

Trade in Services ... 20-24 November

The group considered several new proposals and had detailed discussions on a Secretariat compilation aimed at focusing and giving structure to the work necessary to assemble, by the end of 1989, the elements for the negotiation of a draft framework on services.

A submission by Brazil defined trade in services as the cross-border movement of services, consumers and factors of production in the latter case only where it is essential to suppliers and subject to certain criteria. The definition would not cover permanent foreign direct investment and international immigration. The agreement would cover all services so defined and should be drafted in a way to avoid a priori exclusions. It would set out a commitment to progressive liberalization in which four basic principles would always apply, namely:

- respect for national policy objectives;
- consistency with development objectives;
- balance of benefits among participants; and
- exceptions.

MORE

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

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

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

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

Trade in Services ... 18 December

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

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

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

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

Note to Editors

1. Press bulletins on the Uruguay Round are issued regularly and are intended as an indication of the subject areas under discussion rather than as detailed accounts of negotiating positions. Journalists seeking further background information are invited to contact the GATT Information and Media Relations Division.

2. These accounts of negotiating meetings should be read in conjunction with the text of the Punta des Este Ministerial Declaration (GATT/1396 - 25 September 1986), the decisions taken on 28 January 1987 regarding the negotiating structure, the negotiating plans and the surveillance of standstill and rollback (GATT/1405 - 5 February 1987) and the TNC Mid-Term Review decisions (NUR 027 - 24 April 1989). Further copies of these documents are available from the GATT Information and Media Relations Division.