

EDITORIAL COMMENTS

GATT, the United States and the Community

The decision of the 92 nations gathered at Punta del Este, Uruguay, in September, 1986, to hold a new GATT negotiating round ("the Uruguay Round"), beginning early in 1987, has already run into serious procedural difficulties. Detailed negotiating plans, and the composition of individual negotiating committees, should have been settled before Christmas, 1986. The United States has been a major instigator of the new "Uruguay Round" and claims that it seeks to strengthen both individual GATT policies – especially with reference to the key areas of agriculture, textiles and clothing in the developed countries – and the system's disputes settlement procedures. Indeed, Mr. Clayton Yeutter, the U.S. special trade representative, declared in his nomination hearing before the Senate Finance Committee in June, 1985, that a prime objective of a new negotiating round should be to "... improve timeliness and decisiveness in the disputes settlement process ..."

Few observers of the GATT system would venture to disagree with the obvious. Over the past forty years, since 23 nations signed the original understanding in 1947, GATT has many accomplishments to its credit but its central objectives remain largely unfulfilled. This is evidenced by the most recent GATT survey, on "International Trade, 1985-86", the first part of which has recently been published in Geneva, and also by the significant "Subsidies Code", properly known as the "Agreement on Interpretation and Application of Arts. VI, XVI, and XXIII of GATT", which was a product of the last negotiating round, the "Tokyo Round"

of 1973-1979. This "Subsidies Code", one of several agreements designed to reduce non-tariff barriers to international trade, endeavours to discourage the subsidisation of domestic products and to clarify the right of importing States to counteract foreign subsidies by the imposition of countervailing duties. Community cereals practice, especially in the wheat flour and pasta sectors, was of special concern to the negotiators in the "Tokyo Round" and it will again figure largely on the agricultural reform agenda for the forthcoming "Uruguay Round".

It has been clear for some time that there is serious disagreement between the U.S. and the Community sides over the strategies to be employed in the negotiation of these agricultural reform agenda items. The position was further complicated by the announcement at the end of December, 1986, of the U.S. decision to impose 200% retaliatory tariffs on a number of Community products, including wine, brandy, gin, canned ham and certain cheeses, should the twelve-month long dispute between the two sides over U.S. access to Spanish markets for animal foodstuffs not be resolved. Mr. Clayton Yeutter claimed that the imposition of Community "variable levies" on U.S. exports of feed grains, principally corn and sorghum, to Spain from the date of the latter country's accession to the Community on 1 January 1986, would cost the U.S. some \$400 m. to \$500 m. annually and amount to a fivefold tariff increase. The Community offered to allow Spain to import initially 1.6 m. tonnes of corn and sorghum annually, free of levies, from all markets outside the Community but the U.S. was unwilling to compete against other exporters for this trade.

During the negotiations over this issue, which had a deadline for completion at the end of January, 1987, the Community threatened to match U.S. measures with its own simultaneous retaliatory action. It also disputed the amount of the net loss to the U.S. of the "variable levies" and indicated that any compensation for loss would have to be offset by taking into account the benefits for the U.S. of reduced Spanish tariffs on U.S. exports of manufactured goods. This damaging dispute could not have come to a head at a more disadvantageous or inopportune time. With President Reagan facing strong protectionist pressures from the one hundredth Congress, which will be much occupied with the crisis in the U.S. farm economy, few major concessions were likely from the

American side. Instead the President was urged to use to the fullest extent the powers given under §301 of the 1974 Trade Act, which authorise him to ‘... take action against foreign trade practices that violate international trade agreements or burden or restrict U.S. commerce in an unjustifiable, unreasonable or discriminatory fashion.’ For its part the Community had to defend its concept of a customs union offering preferential trading terms to its own Member States.

Neither side could have wanted, or believed it could win, a trade war of retaliation and counter-retaliation. Mutual concessions had to be arrived at on adequate compensation for the U.S. losses so that a settlement that was both politically defensible and economically supportable could be reached. A heightening of political and economic tensions between the U.S. and the Community would have provided the worst possible context for the opening, and for the eventual success, of the GATT Uruguay Round.

Fortunately, good sense prevailed, although only on the eve of the imposition of the threatened sanctions. Mr. De Clercq and Mr. Andriessen, who had led the negotiations on behalf of the Commission, were able to report a settlement that was both equitable and practical – but which did not conceal lack of accord between the two sides on their interpretation of Article XXIV(6) of the GATT. A temporary agreement, which will last for four years, will open the Spanish market to the importation of 2 million tonnes of corn and 300,000 tonnes of sorghum annually at a reduced tariff. The United States will now have to compete with other exporters in this field. In addition a number of small reductions in customs duties levied upon certain processed industrial and agricultural products will be made. Finally, the Community agreed to lift the reservation of 15% of the Portuguese cereals market for Community exporters.

Mr. de Clercq, in announcing the conditions of settlement, wisely did not seek to quantify in financial terms the results of what had been very difficult and prolonged negotiations. Substantial concessions were made on both sides. Account was properly taken of the immediate losses suffered by the United States after last year’s enlargement. For its part, the Community has been able to share out the burden more evenly between its Member States.

We can now move forward to the initial phase of the “Uruguay

Round”, which is likely to last for most of 1987, with one shadow lifted. A consensus of understanding between the Community and the United States on the agricultural reform agenda items will require even greater patience and determination to achieve than has the settlement of the latest “corn war”.

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