COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 514 final

Brussels, 8th October 1979

GATT MULTILATERAL TRADE NEGOTIATIONS

(Communication from the Commission to the Council)

FINAL REPORT ON THE GATT MULTILATERAL TRADE NEGOTIATIONS IN GENEVA (TOKYO ROUND) AND PROPOSAL FOR COUNCIL DECISION

COMMISSION OF THE EUROPEAN COMMUNITIES

ADDENDUM

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GATT MULTILATERAL TRADE NEGOTIATIONS

(Communication from the Commission to the Council)

FINAL REPORT ON THE GATT MULTILATERAL TRADE NEGOTIATIONS IN GENEVA (TOKYO ROUND) AND PROPOSAL FOR COUNCIL DECISION

ADDENDUM TO

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Part II, page 31

to add after point B. 10, 2 :

3. Arrangement between Australia and the Community concerning beef.

4. Arrangement between Australia and the Community concerning Cheeses.

5. EC Tariff concessions.

6. Arrangement on Buffalo Meat.

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to add after "2. Australian concession on "fancy cheese":

3. Arrangement between Australia and the Community concerning beef.

4. Arrangement between Australia and the Community concerning Cheeses.

5. EC Tariff concessions.

6. Arrangement on Buffalo Meat.

PART I

MULTILATERAL TRADE NEGOTIATIONS

INTRODUCTION

The Commission herewith submits to the Council its report on the Multilateral Trade Negotiations and recommendations for the conclusion of the results. It is of the view that overall, with the exception of the area of safeguards and wheat and coarse grains, it has very largely achieved the objectives which the Community set itself at the outset of the negotiations.

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Part I of the reports sets out in brief the evolution of the negotiations and makes an overall assessment. Part II contains the recommendations for the conclusion and other action by the Council on the various legal instruments which were negotiated. Part III contains 12 sections, each of which :

(i) sets out in more detail the results of the negotiations in the individual fields, such as tariffs, agriculture, non-tariff measures, etc.,

(ii) refers to the mesures to be taken, where necessary, by the Community to ensure the implementation of the commitments (1), and

(iii) reproduces the relevant legal texts agreed upon in Geneva, both multilateral and bilateral.

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(1) The Commission's proposals for implementation by the Community are contained in separate documents.

PART I - GENERAL APPRECIATION

Development of the negotiations

The Tokyo Round of Multilateral Trade Negotiations was formally launched when the Tokyo Declaration was adopted by the Ministers of 102 countries meeting in September 1973. The negotiations had been given political impulse by joint declarations of the United States with the E.E.C., and also with Japan, in early 1972 and had begun to take concrete form in the Community when the Council adopted a Global Approach for negotiations in June 1973.

Following the Tokyo meeting negotiating machinery was rapidly established but substantive bargaining was not possible until, first, the passage of the Trade Act in January 1975 provided the required negotiating authority in the United States and, second, the Presidential election in late 1976 made it possible in the following year to take the required political decisions. In this period the adoption of the negotiating Directives by the Council in February 1975 established the Community's negotiating position.

In effect the real negotiation was begun in mid 1977 when certain major differences of view, especially in relation to the scope and procedure for negotiations on agriculture, were resolved in discussions between the United States and the Community. This enabled a detailed timetable to be set up for the initial phase of requests and offers in the areas of tariffs, agriculture and non-tariff measures, as well as making further progress possible in the development of the multilateral non-tariff measure codes.

By mid 1978 negotiations had reached the point of substantial agreement in principle among the major participants on the shape of the final Tokyo Round package. This agreement was conveyed to other participants by the publication in Geneva of a Joint Memorandum of Understanding. Although the bulk of tariff negotiations, both in industry and agriculture, and the major part of the codes had been completed by the end of that year, it was not until April 1979 that all remaining issues had been finally agreed and negotiators were able to initial the Procès-Verbal incorporating the results for reference to governments.

Since April time has been needed to finalize the details of concessions that had been agreed, especially as regards tariffs and certain codes in which specific obligations are envisaged (eg lists of purchasing entities, product coverage of civil aviation agreement). Discussions and negotiations were also continued with developing countries in certain areas to ensure that special treatment was given to their interests wherever this was found to be feasible. A Tariff Protocol was initialled in July and this, together with the suspension of negotiations on the issue of a new safeguard clause - when no generally acceptable agreement proved possible - constituted in effect the end of formal negotiations. A further supplementary Tariff Protocol is foreseen in November to allow more participants to deposit their lists of tariff concessions (inter alia Australia).

The remaining task is now the implementation by the participants of the agreements through their internal laws and regulations.

Overall assessment of results

The conclusion of the Multilateral Trade Negotiations, the most ambitious and far-reaching ever launched, is a major achievement. Its significance lies only partly in the programme of tariff reductions, the staged implementation of which will, subject to a reassessment after five years, cover most of the 1980s. In current difficult economic circumstances a reduction world wide in tariffs of about one-third, only marginally less than the results of the Kennedy Round, is a substantial result, considerably better than could have reasonably been expected.

The major significance of the negotiations however lies in agreement on a series of codes and other legal texts - such as on customs valuation, subsidies and countervailing duties, government purchasing, standards, and import licensing - which taken together with the machinery of enforcement of each code in terms of committees of signatories means a considerable updating and strengthening of the G.A.T.T. The way has thereby been cleared for allowing the G.A.T.T. to continue to play a major role in reducing uncertainty for traders and promoting trade flows. It is of great importance furthermore that the rules of the G.A.T.T. will generally apply to all among the developed countries. Substantial progress has also been made in ensuring greater stability and better market opportunities for agricultural products and in ending the warfare which has raged intermittently over the last two decades over the implications for world trade of the Community's common agricultural policy. The agreements reached and the general consultative mechanism to be set up will substantially contribute to the stability of world markets while avoiding any threat to the principles and mechanism of the common agricultural policy.

In the case of the developing countries while it should not be expected that they are entirely satisfied with the outcome, all that has been reasonably possible to meet their demands has been done, without in most cases any reasonable reciprocity on the part of those more advanced developing countries that are in a position to grant it.

Above all, the success of the Tokyo Round means that the major trading countries of the world have turned their backs on the protectionism which has threatened over the last few years and which would have engulfed the world even more virulently than in the early 1930s if these negotiations had failed.

In the Commission's view the package which has emerged is fair, balanced and acceptable. The Community stands to gain a good deal. Not all the Community's aims have been secured, but a substantial degree of greater access to the American and, though less so, to the Japanese and other markets of the developed countries have been secured.

With the United States major agreements have been arrived at, both in the industrial and agricultural sectors. The United States customs tariffs will have fewer peaks and in the non-tariff field the United States will come into line with the GATT, particularly in relation to the criterion of "material injury", for the application of countervailing duties, abolition of the American Selling Price and Final List systems of valuation, elimination of the discriminatory fiscal system of wine gallon assessment on alcoholic beverages,and significant changes in the application of the Buy American Act.

Japan was not willing to respond, except on some points, to the EEC's specific requests relating to processed agricultural products and industrial products subject to high and/or unbound duties (textiles, leather products, footwear). Therefore, in order to obtain an acceptable balance it has proved necessary to make certain withdrawals from the Community's offers. But overall the Japanese industrial tariff will be substantially reduced and bound, and Japanese adherence to the codes and other arrangements is a positive contribution to be welcomed.

Canada's contribution in the tariff field is substantial, more so than in previous rounds of negotiations. Although its acceptance of the code on customs valuation will be delayed, it can in due course be expected to adhere to all the codes. In the fields of agriculture and fish some advantageous reciprocal deals were concluded.

In the case of Australia while substantial concessions were exchanged in the field of agriculture, the final offer of new bindings on tariffs was disappointing so that Australia will continue to maintain high tariffs, mostly unbound, and its adherence to some of the codes remains uncertain.

Nevertheless, even if these results are not so satisfactory, the political importance of an agreement which settles a number of outstanding matters of disagreement should not be underrated.

In its difficult external situation, New-Zealand has made a welcome effort to contribute to a successful outcome of the negotiations.

South Africa's offers are insignificant in scope and that country moreover continues to unbind a large number of concessions without offering valid concessions in return.

Although in general State trading countries will benefit from the important concessions made by the Community in various fields, the Commission does not consider that the Community is obtaining reciprocal benefits, Hungary has withdrawn part of its tariff offer, and those made by Czechoslovakia and Romania relate to customs tariffs, whose significance can be questioned. Romania's offer in the non tariff sector is of no substantial interest. None of these countries has acceded to the Community's request to increase purchases of certain categories of products from contracting parties (1).

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(1) For results with developing countries see later subsection of Part I

Tariffs (1)

The settlement on industrial tariffs which has emerged is largely consistent with the Community's objectives. Taken together with the elimination of all tariffs on imports of commercial aircraft, engines and other parts under the agreement on commercial aircraft trade, a tariff cut of about one third has been negotiated, covering over 100 billion dollar of trade (1976 statistics). Although substantial, the overall depth of the tariff cut goes less far than the Kennedy Round. Among developed countries an important step has been taken in the direction of harmonization whilst maintaining the Common Customs Tariff as an important cohesive element of the Community as well as affording Community producers a not insignificant overall level of protection.

The use of the "Swiss formula" has had the effect that higher rates of customs duties have tended to be reduced more sharply than lower rates. As a result of this harmonisation effect, cuts in tariffs on finished and semi-finished products are generally deeper than those on raw materials, thereby reducing the problem of tariff escalation which preoccupies in particular the developing countries. Two further considerations in particular shaped the tariff cutting formula. The first was that in the current difficult economic situation tariff reductions would be more easily absorbed if staged over a number of years. Thus the arrangements as a rule provide for eight annual cuts starting in 1980. The second consideration was that in view of the difficulty of predicting economic conditions over a long period, it would be sensible to consider at a certain point of the staging what to do about the remaining reductions. So the provision inserted by the E.E.C. in its tariff schedule annexed to the Geneva tariff protocol allows it to reassess the situation at the end of the first five annual stages to see whether it is in a position to move to the second phase.

Within this tariff framework increased access to the markets of the Community's major trading partners will be assured with overall reciprocity and a substantial element of harmonisation (in particular in the U.S. tariff on chemicals and to a lesser extent on textiles). If this general assessment on the harmonization of tariffs also applies to Japan, this is not the case of some developed countries such as Australia, South Africa and, although less so, New Zealand, where tariffs will remain high and often free of bindings and therefore adjustable upwards at will.

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(1) for details see Part III, section 1

In those cases where our partners were not in a position to offer full reciprocity, the Community has attempted to adjust its own concessions on items of interest to them so as not to exceed a strict balance (for details see Part III, section 1 dealing with tariffs and section 6 on aircraft).

So far, 20 Tokyo Round participants (1) have established their lists of concessions : taken together these run to thousands of pages. A supplementary protocol later this year will allow more participants to submit their lists and will in due course be submitted to the Council for conclusion.

In parallel with the tariff negotiations, the Commission conducted article XXVIII renegotiations on the withdrawal or modification by the United States of concessions on ceramic dinnerware, the so-called Prato textiles and the conversion of certain specific duties into ad valorem rates. These renegotiations are described in a separate report with a view to conclusion by the Council.

Effects of the tariff cuts in the Community's own resources

Estimates of the effects of the tariff cuts on the Community's own resources have been made with the help of a simplified econometric bilateral trade model. Without the cuts, customs duties would be expected to grow by 11 % in 1980, by 9,6 % in 1981 and by 8,2 % in 1982.

It is difficult to be precise as to the effect of the tariff cuts on these rates of growth at any particular date owing to the variables which can influence the calculation. For example, tariff cuts in important sectors such as chemicals and textiles will be implemented later than for other sectors, the general tariff cuts based on a formula do not apply to agriculture, which also follows a different timetable for implementation, and calculations based on the overall average reduction conceal wide variations for different products with different importance in trade. Furthermore, the final effect on these resources will also be influenced by the additional demand for imports created by the tariff cuts.

In the light of these factors the best estimate is that the annual growth rates of customs duties for the years 1980, 1981 and 1982, mentioned above, will each be reduced by a figure in the range 1 % to 1 1/2 %. This suggests "losses" of 50 to 70 MEUA in 1980, of 130 to 170 MEUA in 1981 and 220 to 270 in 1982.

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(1) Argentina, Austria, Canada, Czechoslovakia, EEC, Finland, Hungary, Iceland, Jamaica, Japan, New Zealand, Romania, South Africa, Spain, Sweden, Switzerland, Yugoslavia and United States. Bulgaria, which is not a contracting party, has also deposited a list of concessions.

Agriculture and fisheries[1]

The overall results obtained may be analysed in the light of the objectives which the Community had set for itself at the beginning of these Negotiations:

(i) For agriculture the Community had first of all advocated a specific approach to the Negotiations (as regards procedure and method), whereas our partners preferred to negotiate agriculture and industry in the same way. The Community was finally able to have its views accepted: the specific nature of the agricultural negotiations was recognized, an Agriculture Committee was set up and it formulated an approach to the negotiations which was specific to agriculture. This recognition of the specific nature of agriculture has made it possible not to call into question the Common Agricultural Policy. It also enabled rules to be laid down to ensure over the next few years a more orderly development and expansion of world trade in agricultural products and to establish the bases for greater international cooperation. Lastly, it enabled the obligations entered into under the General Agreement to be shared more equitably among the contracting parties.

(ii) The Community had recommended that international arrangements be established by product for cereals, beef and veal and milk products. This approach was also accepted by our partners. Although no concrete result has been obtained for cereals, the principle of the agreements has not been called into question and the international arrangements for bovine meat and milk products represent major progress in relation to the low level of international cooperation in these two sectors before the negotiations.

[1] See Part III, Section 2 for the details.

(iii) The Community had stressed that it could not allow the principles and mechanisms of the Common Agricultural Policy to be called into question during the Negotiations. The CAP was not called into question and the basic principle behind, and operation of, its mechanisms, including those most open to attack by our partners, such as levies and refunds, remain intact.

(iv) The Commission is aware of the fact that the Community has had to make specific concessions on a number of agricultural products which are sensitive for certain member countries, in order to reach a final result. It must be considered, however, that the Community obtained major tariff and non-tariff concessions in agriculture from its partners, and as a result there can be significant developments in its exports of agrifoodstuffs.

The Commission therefore considers that the objectives which the Community had set itself have largely been met and that the outcome of the Negotiations in the agricultural sector is acceptable not only because a balance has been established with the Community's partners, but also because the Community mechanisms have been adjusted to the extent required to ensure a balance at Community level with regard to the internal interests at stake.

Non tariff measures and decisions of the framework group (1)

One of the major achievement of the Tokyo Round has been the establishment of new rules, mostly in the form of codes which improve and bring up to date the institutional framework of rules and procedures that govern world trade in this field. These codes will help to remove or reduce and bring under better surveillance a number of non-tariff barriers. In this sense it can be said that whereas the six previous rounds of negotiations were mainly negotiations within the frame of existing rules the Tokyo Round dealt with the basic rules themselves.

On non tariff measures, the Community's objective was partly to eliminate practices elsewhere not in conformity with the G.A.T.T. and damaging to Community's exporters and partly to ensure that as far as possible areas of interest to Community's exporters such as customs valuation, technical barriers and government purchasing be governed by equitable multilaterally agreed rules.

The codes on customs valuation, on licensing, the new antidumping code and the code on subsidies and countervailing measures will clarify the operation of existing G.A.T.T. provisions and help to ensure that all developed countries accept the same obligations.

The codes on technical regulations and on government procurement innovate and supplement existing rules and introduce new disciplines in fields which were not covered up to now or only partly. The G.A.T.T. has so far had little experience in these fields and much will depend on the implementation and management of the new rules. The code on technical regulations in particular can be expected to make an important contribution to opening up those markets excessively reliant on the use of standards as a trade policy instrument by providing a means of tackling unnecessary obstacles to trade and improving access to certification systems.

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(1) For details see Part III, sections 4, 5, 6, 7, 8, 9, 10, 11 and 12.

The arrangement on aircraft is basically an agreement to ensure duty free treatment in this sector of export interest to the Community with ancillary provisions to take account of the particular characteristics of production and trade in this area. The agreement on measures to discourage the importation of counterfeit goods, although not amongst the Community's initial negotiating objectives, was promoted by the United States and is of common interest.

Most of the texts agreed upon in the framework group allow for various kinds of preferential treatment and flexibility in G.A.T.T. provisions for developing countries. These were agreed upon in consideration of their demands with a view to giving them the economic assistance which seems appropriate at this stage. However these texts also encourage the more advanced ldc's gradualy to assume more G.A.T.T.obligations along with their economic development. The texts also deal with a number of basic G.A.T.T. rules such as the commercial measures for balance of payments purposes, with the procedure for consultation and dispute settlement and they are intended to make their operation more clear.

The results achieved in all these fields, in a highly difficult world economic environment, constitute a constructive and coherent reform of the international trading system which should enable it to respond more effectively to the needs of the 80's. The Community should give them its full support.

The developing countries

The developing countries have obtained major benefits as a result of the multilateral negotiations, from the overall results and from the Community's specific concessions. These benefits include not only tariff cuts, particularly for tropical products but also offer increased security, both commercial and legal, as a result of the agreements on non-tariff measures and the codes, the arrangements concerning agricultural products and reform of the legal structure. The third part of this report contains more specific information on this matter.

In accordance with its negotiating directives, the Commission, for its part, endeavoured to take into account, as far as possible, the interests and problems of the developing countries, particularly the least developed, in all the sectors of the negotiations. It also took special account of the interests of the developing countries with whom it has special relations, among others the A.C.P., particularly through meetings in Geneva and through sessions of the E.E.C.-A.C.P. commercial cooperation sub-committee held in Brussels.

On 1 January 1977, without asking for any contribution in exchange at that stage of the negotiations, the E.E.C. implemented its tariff (MFN and GSP) and non-tariff offer (notably the status quo commitments regarding certain internal charges) in the special, priority sector of tropical products. For the year when it was brought into operation, this offer related to a volume of Community imports from the beneficiary countries (excluding the A.C.P. countries) of the order of $ 4 000 million (of which $ 3 000 million correspond to the reductions made on the basis of the M.F.N. clause, in particular for coffee) (1977 figures).

As regards industrial tariffs, the one-third reduction in the industrialized countries' customs tariffs constitutes a significant new step in tariff dismantling from which the developing countries will benefit in the near future of in the longer term. This reduction which, for the E.E.C., relates to a trade volume of the order of $ 5 000 million, will inevitably erode the preference margins resulting from the G.S.P. to a certain extent, as well as the advantages which the A.C.P. states and other preferential countries enjoy, but as it is not uniform, since the E.E.C. had adjusted certain reductions in an effort not to affect the G.S.P. and certain associated countries, and also as the concessions will be applied in stages, the erosion process will be progressive and selective.

In the sphere of non-tariff measures, in addition to the advantages arising from the general provisions contained in the codes, the developing countries will benefit from the various provisions according special and differential treatment: greater flexibility, derogations from certain obligations in the codes, technical and financial assistance, special measures for the least developed countries, etc.[1].

One of the significant results of the Tokyo Round is therefore the inclusion of an explicit legal provision for the GSP, which will also serve as a basis for the exchange of preferences between developing countries and for other forms of differential treatment for these countries, notably more favourable special treatment for the least developed countries; this result, which is in response to concern so often expressed by the developing countries, represents a positive stage in the development of international trade relations.

Although no figures can be given in the non-tariff sphere for the benefits obtained by the developing countries, these benefits will in the long term prove as important as the more easily identifiable benefits arising from the traditional negotiations on tariffs and the removal of other barriers to trade.

The progress made or results obtained in certain spheres of the negotiations do not, it is true, go more than part of the way towards fulfilling the developing countries' very high expectations, particularly in the sphere of quantitative restrictions and certain product sectors. The constraints on the developed countries, however, which are faced with the need for the rapid reorganization of certain parts of their manufacturing industry and, in many cases, with high sectoral unemployment, have not always allowed them to carry liberalization any further. Moreover, some of the specific problems which arose in spheres such as customs value and anti-dumping measures have not all been solved, notably because some of the requests from the developing countries touch the very core of the problems which these codes are attempting to solve and would have changed their nature completely.

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[1] See on this subject each of the sections dealing with the various parts of the negotiations.

The developing countries' role in, and contribution to, the negotiations has been very uneven. Whereas a few developing countries were well represented in terms of their acquaintance with the dossiers and in terms of numbers, many others did not really succeed in coping with the intense, varied and often very technical negotiations conducted in Geneva. The most advanced developing countries, moreover, did not always recognize that in the interest of their own economic development, the opportunity of the Tokyo Round should be taken even if only to initiate a process of progressive commitments concerning their own trade measures, which are often too protective and hinder their economic development and the expansion of trade among those countries. Since the unilateral non-tariff and, above all, tariff liberalization measures which certain developing countries announced as a contribution have not in most cases been bound under G.A.T.T., they do not bring any guarantee of permanence.

Lastly, the least developed countries, which are only at the threshold of their economic development, could not really derive much benefit in the short- and medium-term from trade negotiations of the Tokyo Round type, since their economic interests lie in other types of international action.

Acceptance of the results of the Tokyo Round by the developing countries remains an open question. Up to now, only Argentina has initialled the Procès-Verbal of 12 April and only Argentina, Jamaica and Yugoslavia have initialled the Tariff Protocol of 13 July. Since that date Korea and Uruguay have deposited their concession lists which will be annexed to a supplementary tariff protocol. Some other countries have announced their intention to put forward lists (Israël, Brazil, India, Singapore).

A number of developing countries (among them Argentina, India and South Korea) intend to sign some codes. In any event, it is in the developing countries' interest to do so in order to be able to participate from the outset in the administration of these codes.

Lastly, it is to be noted that, at the Tokyo Round, Colombia and the Philippines negotiated their accession to the General Agreement. Protocoles have been established to which the tariff concessions exchanged are annexed (see also Part III, section 3, developing countries).

Negotiating objectives not fully realised

One major area in which the Community's objectives have not been satisfactorily achieved is that of revision of the safeguard clause (Art. XIX of G.A.T.T.)

Initially many participants had doubts about the need for any changes as well as opposing views on the nature of such changes. Developing countries for example, long nourished the hope that they might be exempt from safeguard measures altogether. There were also attempts to broaden the scope of the negotiation to include all manner of measures which were considered analogous to safeguard action and could have protective effects. Although some felt that it was not realistic to expect governments to submit to significantly tougher procedures and disciplines in so sensitive an area of economic policy, the majority view slowly developed in favour of making the somewhat vague language of Article XIX more precise coupled with much stronger procedures for international review and surveillance of such actions.

The Community's response to this evolution was to adopt, in June 1978, its own objective of seeking to have selective actions clearly recognised by EEC partners in GATT. In this way it was felt that the safeguard clause in future would correspond more closely to the needs of the situation, especially where disruption and injury was the result of aggressive marketing by only one or two suppliers; and on this basis the Community was willing to contemplate additional disciplines and procedures in this area.

The concept of selective action was initially unwelcome to almost all participants other than the Nordic group and some other European countries. Nevertheless it was finally possible to persuade other developed countries to support the principle of a new agreement including rules for selective action; and some progress was made with developing countries who began to see that, by this course, action could where appropriate be limited to a few, highly competitive suppliers in a position to increase exports very rapidly and that the majority would in effect be exempted from

the effects of the action. Opposition nonetheless remained total from more advanced developing countries in Asia, who clearly felt themselves threatened by any change; and the strength of support for the m.f.n. principle in the G.A.T.T. was shown by the demands of such countries (with some support from other participants such as Japan, Canada, Australia and to some extent the U.S.A.) for procedures to prevent abuse of selective measures which would effectively have limited the scope for action to an unacceptable degree.

It has not been possible so far to find the basis for a mutually acceptable solution. The insistence of developing countries that selective action be authorised, prior to its application, by an international committee and justified against a series of very tough requirements could not be accepted. Similarly their refusal to admit selective action in emergencies (critical circumstances), even where a degree of prior bilateral consultation had taken place, was also unacceptable. And even if these issues had been resolved, some contentious problems relating to new discipline for export restraint arrangements, the application of the new clause to agriculture, and U.S. legislative provisions on the level of injury and of causation of injury would still have had to be agreed.

Informal discussions are to continue to see if, later, common ground can be found.

Quantitative Restrictions

The Community was faced in the area of Quantitative Restrictions with strong pressure from many other participants to agree to a general phasing out of the few remaining restrictions of individual Member States according to an agreed timetable. Our negotiating objective was, while resisting this global approach to the problem which would not have taken satisfactory account of social and economic circumstances involved, to offer the liberalisation of a substantial number of remaining restrictions on condition that this could be achieved under satisfactory conditions especially in regard to highly competitive suppliers such as Japan. The Community's offer along these lines has not been implemented, largely because satisfactory assurances were not forthcoming and because in relation to Japan which would have seen the principal beneficiary, the overall balance of reciprocity in the negotiations was considered unsatisfactory.

Implementation of the results

The Commission proposes to the Council that the Community accept the agreements resulting from the Tokyo Round according to the schedule worked out in consultation with the Article 113 Committee.

The agreements set the date for their entry into force. This date is 1 January 1980, except for the agreement on government procurement (1 January 1981) and the agreement on customs valuation (1 January 1981, but 1 July 1980 agreed with the USA). These deadlines are not hard and fast, legally speaking, because the possibility remains open for the agreements to be accepted at a later date. However the U.S. legislation (Trade Agreements Act 1979) which implements the agreements initialed last April makes it obligatory for the President to accept before 1/1/1980 the anti-dumping, subsidies/countervailing and standards codes failing which the legal provision adopted by Congress for the implementation of these agreements (which include in particular the introduction of the injury criterion for countervailing duties) would not enter into force. Furthermore, the President can only accept the series of agreements covered by the legislation (1) if they have also been accepted by the E.E.C., Japan, Canada and, in the case of the civil aircraft agreement, Sweden. However acceptance by the U.S. would still be possible, subject to certain conditions, if only one of the major partners had failed to accept in time.

The Commission has always recognised the importance for all major parties to the M.T.N.s to give full and accurate effect in their domestic legislation and administrative practice to the rules and obligations set out in the various non-tariff codes and other legal texts. The Commission has agreed that before recommending the final conclusion of the M.T.N. package, it would verify the implementation by its partners (2).

Implementation by the U.S. was of particular concern to the Community, since the Geneva codes themselves will not have direct force of law in the U.S., and therefore, before implementation, had to be translated into U.S. law : a process which required approval by Congress. Given some protectionist forces in Congress, it was feared that Congress might not accept or might try to water down the substance of some of the concessions made by the U.S. negotiators in Geneva. For this reason, the Commission followed very closely the drafting of the U.S. implementing legislation.

(1) The countervailing code is not covered by the U.S. legislation.

(2) Section VI of Part II of the present report refers to what the Commission proposes in this respect for the Community's own implementation.

The Trade Agreements Act of 1979 was approved by the House of Representatives on July 11, 1979 and by the Senate on July 23 and signed by the President on July 26. One of the most important, if not the most immediately visible, consequence of the approval of this legislation by Congress is the full U.S. participation in a consolidation of new multilateral trade rules and a formal recognition by Congress of U.S. international international trade obligations. This is a very significant step forward.

Although the U.S. implementing legislation is not in every respect drafted as would have been desirable, it is the Commission's judgment that on the whole it reflects the letter and spirit of the M.T.N. accords. In particular it does not contain anything that appears to prevent the U.S. administration from fulfilling its obligations under the codes. Concerning the important issue of "material injury" in the context of dumping and countervailing duties it meets two of the most important objectives of the E.C. in these negotiations : (i) incorporation of a "material injury" test in the U.S. countervailing duty legislation (ii) by the use of the same wording for antidumping, strengthening of the injury test in U.S. dumping legislation on injury.

Although the definition included in the U.S. legislation is not couched in the positive terms which would have been preferable, the legislative history does expressly exclude the "more than de minimis" injury concept used by the International Trade Commission in a number of its past decisions.

The legislation now in place does not by itself guarantee the fulfillment by the U.S. of their obligations. A number of key provisions are open to varying interpretations. There will also be further regulations still to be issued governing procedural matters in the application of the agreements. It is therefore of utmost importance to the E.C. how these obligations are interpreted and applied in practice. The Commission intends to monitor closely the effects of the new legislation on American practice to see that the agreements reached in Geneva are observed.

The Government of Japan intends to submit the Tariff Protocol and the Codes to the Diet for approval as soon as possible (1). If the Diet gives its approval at a session before the end of the year, action could be taken by the Government from 1 January 1980. If, as appears more likely, however, the Diet does not give its approval until March 1980, there would then be an element of considerable uncertainty on the date of Japan's acceptance although it is possible that some solution to this problem could be found.

When considering the M.T.N. texts, the Diet would also deal with the steps to implement Japan's announced intention to make certain accelerated tariff cuts. On the likely timetable the first of these autonomous reductions would be applied from 1 April 1980.

The Commission considers that while there may, for constitutional reason, be some delay in implementing, there is little reason to doubt that it will take place.

The new Canadian Government in power since the elections of May 22, 1979 decided to accept the results of the MTN.

As to the implementation of tariff reductions responsible ministers announced appropriate procedures to permit Canada to commence tariff reductions on January 1, 1980. Given the importance of the MTN reductions, a bill, modifying the Customs tariff act, will be presented to Parliament. If Parliament's schedule would not allow completion of the process before January 1, a Ways and Means Motion could be introduced and then implemented on a provisional basis pending approval later.

As to non-tariff agreements, new legislation has been announced for those texts that deal with unfair or injurious import practices. As to customs valuation, the ministers' statement emphasizes that Canada has a four year period, besides other conditions, before it will be required to apply this Agreement, but it also makes clear that new legislation will be necessary.

Concerning Government procurement, import licencing procedures and technical barriers to trade, Ministers note that no legislative action is required, but some changes to regulations and administrative procedures.

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(1) The remaining agreements such as the framework group results, the dairy and meat products agreements, require only to be approved by the Government.

PART II - CONCLUSION AND IMPLEMENTATION OF AGREEMENTS

INTRODUCTION

In this part of the report, the Commission presents to the Council:

the full list of texts applicable to the Community resulting from the Multilateral Trade Negotiations (Section I);

the internal decisions and measures which it recommends that the Council adopt with a view to concluding the negotiations (Section II).

The Commission also invites the Council to lay down the procedures for Community participation in the committees and bodies set up by certain of the agreements negotiated at Geneva (Section III).

This is followed by discussion of the implementing measures designed to give effect to the agreements at internal Community level (Section IV).

In conclusion, the Commission proposes that the Council:

i. establish procedures and timetables for completion of the acts of acceptance of the agreements, which will be legally binding on the Community vis-à-vis its partners (Section V);

ii. determine the arrangements for publication of the agreements in the Official Journal of the European Communities (Section VI).

SECTION I

List of texts applicable to the Community resulting from the MTNs

In this section the Commission has confined itself to presenting a full list of the texts, with brief comments on each. All have already been discussed in the series of communications presented to the Council during the negotiations.

PART II

The nature and purpose of the various texts enshrining the results of the MTNs as they concern the Community are analysed in detail in Part III, which also sets out the actual texts in full.

A. Multilateral legal instruments

These consist of the texts initialled in Geneva on 11 April by the Commission representative and the delegates of various other countries[1], subject to the purely formal corrections made since then, and by the Geneva Tariff Protocol (1979), which was opened for signature on 11 July and initialled for authentication by the Commission representative on 13 July and by the delegates of third countries [2].
There is also a text on trade in counterfeited goods which has not yet been initialled as the negotiations came to an end only recently.

There are two types of instrument: firstly, a number of multilateral agreements and arrangements opened for individual acceptance by the parties, which must therefore be concluded by the Council (subsection 1); and secondly, drafts of decisions, resolutions and declarations which are to be approved by the contracting parties to the General Agreement, and need not therefore be concluded but simply approved in principle (subsection 2). These are the drafts negotiated in the Framework Group, and a text on the Multilateral Agricultural Framework.

Other multilateral legal instruments were negotiated in the MTNs framework, viz protocols of accession to GATT for Colombia and the Philippines subsection 3).

1. Multilateral agreements and arrangements

The agreements and arrangements mentioned below, which are reproduced in Part III of this report, are in the main presented in the version "certified" by the GATT Secretariat, and belong to the GLI series.

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[1] Argentina, Australia, Austria, Bulgaria, Canada, Czechoslovakia, Finland, Hungary, Japan, New Zealand, Norway, Spain, Sweden, Switzerland, United States, EEC, Romania.

[2] Argentina, Austria, Bulgaria (not a contracting party to the General Agreement, so its list will not be annexed to the Protocol but will appear in a separate instrument), Canada, Czechoslovakia, EEC, Finland, Hungary, Iceland, Jamaica, Japan, New Zealand, Norway, Romania, South Africa, Sweden, Switzerland, United States, Yugoslavia.

PART II

Other agreements and arrangements are given in the version in which they were "initialled", taking into account the purely formal corrections made since. These texts bear MTN or L/ series numbers.

Some of the texts (anti-dumping and customs valuation codes and dairy products arrangement) also exist in more than one version; these are noted in the comments accompanying the analysis of the agreements in Part III.

Certain issues still outstanding with some participants may call in due course for a special Council decision.

The Geneva Protocol (1979) annexed to the General Agreement on Tariffs and Trade contains the results of the multilateral tariff negotiations. By annexing their lists of concessions to this Protocol the Community and the countries which took part in the Tokyo Round will give their undertakings on tariff cuts force of law under the General Agreement. The list of the Community's new concessions is among those so annexed. The Protocol will be open for acceptance, by signature or otherwise, by the participants in the Tokyo Round until 30 June 1980; it will enter into force on 1 January 1980 for those having accepted it by that date, and for the other participants, when they have accepted.

The Commission proposes that the Council conclude this Protocol.

The concessions of certain countries, notably Australia and some developing countries, will be included in an Additional Protocol which will be presented to the Council at a later date for conclusion.

The arrangements on certain agricultural products are aimed at stabilizing the markets and preventing excessive price fluctuations.

The Arrangement regarding Bovine Meat (GLI/269) represents the negotiating partners' decision to improve their knowledge of the market and market trends by means of information and consultation machinery, and to improve market access through bilateral and plurilateral concessions. An International Meat Council is set up with these aims in view.

PART II

The Commission proposes that the Council conclude the Arrangement (text reproduced in Part III, Section 2).

The International Dairy Arrangement (MTN/DP/8 Annex A+B as amended by MTN/DP/W/49) aims to improve international cooperation, inter alia by setting up an International Council to assess the situation and outlook for the world market for dairy products; the Council is empowered to identify solutions to remedy the situation if necessary.

The Arrangement also lays down certain price disciplines, and improves market access by means of the concessions contained in the bilateral agreements on the cheese sector.

At the moment there are two versions of this agreement, one of which has been initialled only by Hungary and Romania, who also initialled the first version.

The Commission proposes that the Council conclude the Arrangement in the version which has been widely accepted (see Part III, Section 2).

Agreement on Technical Barriers to Trade (GLI/270); this includes a number of rules of conduct for participating countries concerning the formulation of standards, testing, and certification of conformity with standards. It will encourage more uniform standards, in particular by gaining wider acceptance for international standards, and reaffirms that the adoption of standards may not be used as a disguised means of providing additional protection for the parties' industries.

The Agreement also requires the parties to take such measures as may be available to them to ensure that local government authorities and non-governmental bodies comply with the provisions of the Agreement.

The Commission proposes that the Council conclude this Agreement.

The Agreement on Government Procurement (GLI/272) requires the participating countries inter alia to provide suppliers bidding for certain public contracts with the same treatment as domestic suppliers (national treatment) and suppliers of any other party to the Agreement (non-discrimination). It thus extends the scope of these General Agreement rules to an area of trade which had formerly been expressly excluded.

The Agreement provides that a certain number of the contracts awarded by the central government entities covered by the Agreement are subject to its provisions; they do not apply, however, to procurement by regional and local authorities. There is a special arrangement with the United States aimed at preventing the current level of preference in contracts awarded by such public authorities from rising above a certain limit. There is also provision for a review of the scope of application of the Agreement three years after its entry into force.

The Commission proposes that the Council conclude this Agreement.

The Agreement on Trade in Civil Aircraft (GLI/273) provides for:

1. the elimination by 1 January 1980 of all customs duties and similar charges of any kind levied on the importation of products used in civil aircraft, as listed in an annex to the agreement, and on repairs on civil aircraft;

2. the application to trade in civil aircraft of the Agreement on Technical Barriers to Trade and the Agreement on Subsidies Countervailing Measures;

3. undertakings on official intervention in the sale or purchase of civil aircraft;

4. the prohibition of quantitative restrictions and import licensing requirements which would restrict imports of civil aircraft in a manner inconsistent with GATT provisions.

The Commission proposes that the Council conclude this Agreement.

PART II

The Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Subsidies/Countervailing Measures) (GLI/271) contains definitions and rules of procedure aimed at ensuring the uniform interpretation and application of the provisions of the General Agreement relating to subsidies and their effects on international trade (Articles VI, XVI and XXIII).

It includes well-defined injury criteria as a condition for the imposition of countervailing duties on subsidized imports, and requires the demonstration of a cause-and-effect relationship between the subsidized imports and the injury.

The Commission proposes that the Council conclude this Agreement.

The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (Anti-Dumping) (MTN/NTM/W/232 Rev. 1 as amended by W/258) updates the 1968 anti-dumping code. It lays down a consistent set of rules for contracting parties seeking satisfactory solutions to dumping within the framework of the General Agreement.

It improves the transparency of procedures, and lays down criteria for the determination of injury and its cause.

At the moment there are two versions of the Agreement, one of which is supported only by Czechoslovakia, Hungary and Romania, which have also initialled the other version.

Subject to the result of the current talks on the alternative version, the Commission proposes that the Council conclude the widely-approved version of the Agreement (reproduced in Part III, Section 8).

PART II

The Agreement on Import Licensing Procedures (GLI/268) involves undertaking to comply with certain rules on automatic and non-automatic licensing, which are mainly aimed at simplifying the administrative procedures and practices used in international trade, and ensuring their transparency and fair and equitable application and management.

The Commission proposes that the Council conclude this Agreement.

The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (Customs Valuation) (MTN/NTM/W/229 Rev. 1 as amended by MTN/NTM/W/252) is designed to ensure a more uniform application of the general principles set out in Article VII of the General Agreement. Its aim is to establish a system for determining the value of goods for customs purposes which is fair, i.e. based on commercial practice and incorporating the best features of the various systems in current use, uniform, i.e. based on five methods of valuation meeting simple criteria, and neutral, i.e. preventing the artificial raising of customs values for protectionist purposes.

At the moment there are two versions of this Agreement, one supported only by Argentina, Spain, Czechoslovakia, Hungary and Romania, the latter three countries having also initialled the first version. Talks are continuing in Geneva, mainly with some developing countries concerned, to try and resolve the remaining problems.

Subject to the results of the talks on the alternative version, the Commission proposes that the Council conclude this Agreement.

The Agreement on Measures to discourage the Importation of Counterfeit Goods (L/4817) is designed to discourage international trade in such goods.

The contracting parties therefore undertake to do everything possible under the Agreement to prevent the sale or resale of counterfeit goods.

The Agreement does not affect the legislation of the Contracting Parties relating to industrial property rights.

Given that this Agreement has at present been made only on a bilateral basis between the E.E.C. and the United States, and that discussions are continuing to obtain the support of other participants, the Commission will not present proposals to the Council for concluding this Agreement until a later date.

2. Draft decisions, resolutions and declarations of the contracting parties

The texts prepared by the Framework Group (MTN/FR/6) have their basis in paragraph 9 of the Tokyo Declaration, which calls for "improvements in the international framework for the conduct of world trade". The participants in the negotiations identified a number of issues, falling under five headings and reached a consensus on a comprehensive solution. This comprises:

i. provisions grouped under the heading "Differential and more favourable treatment, reciprocity and fuller participation of developing countries" (Points 1 and 4);

ii. a Draft Declaration on trade measures taken for balance-of-payments purposes (Point 2a);

iii. a text entitled "Safeguard action for development purposes" (Point 2b);

iv. a Draft Understanding regarding notification, consultation, dispute settlement and surveillance (Point 3);

v. an Understanding regarding export restrictions and charges (Point 5).

The questions of the legal form and the entry into force of these texts, which are to be adopted by the contracting parties, have yet to be settled.

The Commission proposes that the Council approve the substance of these texts (reproduced in Part III, Section 12).

The Multilateral Agricultural Framework is in the form of a recommendation (MTN/27) by the negotiating parties to the contracting parties for the establishment of appropriate consultative machinery with functions to be defined.

The Commission proposes that the Council give approval to the principle of a Decision to that effect by the contracting parties (text reproduced in Part III, Section 2).

3. Protocols of accession to the General Agreement

Accession protocols for Colombia and the Philippines were negotiated in the framework of the MTNs.

They are standard GATT accession protocols, and have annexes setting out the two countries' tariff concessions.

The Commission proposes that the Council conclude these protocols (see Part III, Section 1).

Negotiations for the accession of Mexico are still under way.

B. Bilateral agreements and exchanges of letters

Under the MTNs the Community also negotiated with certain of its partners a series of bilateral agreements, partly in the form of exchanges of letters, to clarify their reciprocal rights and obligations[1]. These agreements are listed below under two headings - general and agricultural.

The Commission proposes that the Council approve these agreements and exchanges of letters.

GENERAL

A.1 Agreement reached in Paris on 15 June 1979 between certain participants in the Agreement on Trade in Civil Aircraft (EEC, Canada, Japan, Sweden, United States) on reciprocal consultation rights in case of withdrawal of tariff concessions;

A.2 Exchange of letters with the United States on possible extension of restrictive procurement practices in the USA and reserve by the European Community on its application of the Agreement on Government Procurement in this connection.

AGRICULTURAL SECTOR

B.1 Arrangement between the United States and the Community concerning cheeses and letter relating to that Arrangement;

B.2 Exchange of letters between the Community and the United States concerning the poultry sector;

B.3 Exchange of letters between the Community and the United States concerning rice;

B.4 Exchange of letters between the Community and the United States concerning the elimination of the Wine Gallon Assessment;

B.5 Exchange of letters between the Community and the United States concerning high-quality beef;

B.6 Exchange of letters between the Community and the United States concerning fresh, chilled and frozen beef;

[1] The texts of these exchanges of letters are reproduced in Part III of this report, either in Section 2 - Agriculture and fisheries - or in other sections according to the non-tariff field.

B.7 Exchange of letters between the Community and Canada concerning quality wheat;

B.8 Arrangement between the Community and Canada concerning cheese;

B.9 Memorandum of Understanding (results of bilateral negotiations between the Delegations of New Zealand and the Community) with the following attachments:

1. New Zealand's supplementary tariff offer made in response to specific requests from the Community;

2. New Zealand import licensing offer made in response to specific requests from the Community;

3. Joint discipline arrangement between New Zealand and the Community concerning cheese;

4. Arrangement between New Zealand and the Community concerning beef.

B.10 Agreed record dated 29 May 1979 of conclusions reached in bilateral negotiations between the Community and Australia, with the following annexes:

1. Australian concessions to the Community,

2. Australian concession on "fancy cheese";

B.11 Arrangement concerning beef between the Argentine Republic and the Community;

B.12 Arrangement concerning beef between the Eastern Republic of Uruguay and the Community and letter relating to that Arrangement;

B.13 Arrangement concerning beef between the Hungarian People's Republic and the Community;

B.14 Arrangement concerning beef between the Socialist Republic of Romania and the Community;

B.15 Arrangement concerning beef between the Polish People's Republic and the Community.

C. Other documents established during the negotiations

During the negotiations various documents were drawn up which, in contrast to the multilateral and bilateral instruments referred to in points A and B above, involve no undertakings on the part of the Community.

These texts are listed below:

The Commission proposes that the Council take note of the texts listed in Section (i); the other texts, in Section (ii), are being presented for the Council's information:

(i) Texts to be noted by the Council:

A.3 Letter to the United States concerning the need for an effective balance of rights and obligations between participants in the Agreement on Technical Barriers to Trade and a declaration by the European Community relating thereto;

A.4 Letters addressed to certain participants in the Agreement on Trade in Civil Aircraft (Canada, Japan, Switzerland, Sweden, USA) relating to the interpretation of the term "military aircraft" in the EEC tariff;

A.5 Letters between the EEC and the United States clarifying the interpretation to be given to certain concessions offered by the European Community and by the United States in the lists annexed to the Agreement on Trade in Civil Aircraft;

A.6 Letters to Canada concerning the Canadian reservation to its list of entities annexed to the Agreement on Government Procurement (possible withdrawal of the Canadian Department of the post office) and reservation by the Community of its position if the balance of advantages in this agreement should be modified by any such withdrawal;

A.7 Letters between the European Community and the United States relating to the interpretation to be given to article 6.2 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (customs valuation);

A.8 Letters between the European Community and the United States concerning the application of the American Selling Price method of valuation to certain chemical products in the period prior to the abolition of this system on 1 July 1980;

B.16 Letter dated 24 July from the United States to the Commission concerning interpretation of the brief insert in the Subsidies Code clarifying Article XVI(3);

B.17 Provincial statement of intentions with respect to sales of alcoholic beverages by provincial marketing agencies in Canada and letters relating to that statement;

B.18 Communication from the Swiss Federal Authorities dated 6 September 1979 concerning the monopoly duty on Cognac and Armagnac and acknowledgement of receipt dated 14 September 1979.

(ii) Texts presented to the Council for information:

A.9 Letters from the Commission to certain participants in the Agreement on Trade in Civil Aircraft relating to further discussion of the product coverage of the agreement in the future;

A.10 Agreed minutes of discussion between participants in the Agreement on Trade in Civil Aircraft relating to the clarification of certain questions in connection with this Agreement;

A.11 Letters between the European Community and Japan clarifying certain points in the Japanese offer annexed to the Agreement on Government Procurement;

A.12 Letter from the Commission to the United States on the subject of future proposals to be made on the definition of kraftliner (48.01 C II) in the EEC tariff;

A.13 Letter from the Commission to the United States on the subject of the duty free tariff quotas applicable to coniferous plywood (44.15) in future years;

B.19 Exchange of letters between the Commission and the United States concerning distilled spirits;

B.20 Letter dated 27 July 1979 from the Commission to the United States concerning the Community's concession on table grapes.

SECTION II

The decisions and measures relating to the conclusion of the negotiations

A. Legal basis of the decisions and measures to be taken by the Council

According to the Commission, the Community has, overall, the necessary powers to subscribe to the international commitments contained in the instruments which it is proposed that the Council adopt, without any need for the Member States to participate too.

These powers derive from Article 113 of the EEC Treaty, combined, in the specific case of the tariff concessions relating to ECSC products, with Article 72 of the ECSC Treaty. Even though some of the instruments may have an effect in other areas, their actual purpose is to regulate various aspects of international trade, this being an area which undeniably falls within the sole powers of the Community, under the heading of trade policy.

B. List of the decisions and measures which the Commission recommends that the Council adopt

1. Decisions concerning the conclusion of the agreements

The Commission recommends that the Council adopt the following decisions:

i. Decision approving the multilateral agreements (1) mentioned in Section I.A.1. (see Annex I);

ii. Decision approving the bilateral agreements mentioned in I.B. (see Annex II);

iii. Decision approving the Protocols on the accession of Colombia and the Philippines to the GATT, as mentioned in Section I.A.3. (see Annex III).

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(1) with the exception of the Agreement on Counterfeiting, see page 28.

2. Council Decisions stating the Community's approval of the future decisions, resolutions and statements to be adopted by the Contracting Parties to the GATT

The Commission proposes that the Council express its agreement, by inclusion in the list of its decisions, on the texts drafted by the Legal Framework Group and on the text concerning the multilateral agricultural framework, mentioned in Section I.A.2.

3. Council Decision noting the non-contractual negotiation documents

The Commission proposes that the Council note, by inclusion in the list of its decisions, the non-contractual documents referred to in Section I.C.(i).

PART II

SECTION III

PROCEDURES FOR THE COMMUNITY'S PARTICIPATION IN THE ADMINISTRATIVE BODIES PROVIDED FOR BY THE AGREEMENTS

The majority of the Multilateral Agreements establish Committees made up of representatives of the signatories which are responsible for certain functions in the management of the Agreements. Procedures for consultation and for dispute settlement are also included. These procedures are either those in the General Agreement itself to which the Agreements make reference or of a more specific character but nevertheless derived from the G.A.T.T. procedures and practices which have been developed from them.

The Commission considers that the Community's participation in the administrative bodies provided for by the agreements referred to in point I.A.1. should conform to the practice hitherto followed by the Community under GATT, and that in particular:

(i) the Member States should take part in the bodies' work on a basis which would allow their presence to be identified within the Community delegation;

(ii) the positions to be adopted by the Community in these bodies should be determined in accordance with the customary procedures at coordination meetings to be held beforehand; due account would be taken of the specific interests which any of the Member States might put forward; if insurmountable differences of viewpoint emerged at the coordination meetings, the Community representatives would adopt a "pending" position within these bodies, until a solution was found within the Article 113 Committee, the Permanent Representatives Committee or, where appropriate, the Council.

(iii) the common position will be expressed within the bodies by the Commission; Member States directly and specifically affected by the matter under discussion would be able to intervene, where appropriate; their statements would have to fit into the context of the common position determined beforehand and would be designed to support and develop this position.

SECTION IV

Measures concerning the internal implementation of the agreements by the Community

By virtue of their conclusion by the Community, the agreements will be binding on the Community institutions and the Member States (Article 228(2) of the EEC Treaty), which will thus be obliged to observe their provisions.

It appears from decisions of the Court of Justice that the provisions of international agreements concluded by the Community prevail in the event of conflict over rules of internal law and confer on interested parties the right to rely upon them before the courts where such provisions are self-executing.

Most of the multilateral agreements that emerged from the Multilateral Trade Negotiations stipulate that the parties accepting them will have to ensure, not later than the date on which the said agreements enter into force for them, that their laws, regulations and administrative procedures are compatible with the said agreements.

These principles form the framework within which the Community institutions and the competent authorities of the Member States will have to take measures to ensure the internal implementation of the agreements signed by the Community, where these agreements entail precise legal obligations and consequently require changes or additions to the arrangements in force internally.

According to the Commission, many provisions of the agreements will not entail any special internal implementing measures. Some of them simply define objectives or rules of conduct for the public authorities, for which no internal legislative provisions are needed but to which the Community institutions and the Member States' authorities will of course have to adhere. There are other provisions in the agreements which are

perfectly compatible with the internal provisions in force and so no changes would be necessary.

On the other hand, there are provisions in the agreements which, in order to be implemented in a clear and effective manner, will call for special measures of internal law.

In separate documents the Commission is proposing to the Council the Community measures it thinks necessary in this connection, particularly in order to bring into alignment with the agreements certain provisions of existing Community law (for example: alignment of Council Regulation (EEC) No 803/68 of 27 June 1968 on the valuation of goods for customs purposes with the provisions of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade).

Indications of the Community measures put forward by the Commission are given in the different sections of Part III of this report.

The Council will have to act on these proposals in good time so that, in accordance with the agreements, the measures in question can be adopted not later than the time when the agreements enter into force for the Community following their acceptance.

The Commission reserves the right to present to the Council at a later date further proposals for any Community implementing measures that might prove necessary in the light of experience.

PART II

SECTION V

FORMALITIES AND DEADLINES FOR ACCEPTANCE OF THE AGREEMENTS LEGALLY BINDING ON THE COMMUNITY

A. Acceptance formalities

1. Multilateral agreements

Following adoption by the Council of the acts concerning the conclusion of the agreements, the Community will have to sign an instrument of acceptance. For the Director-General of the GATT this formality will constitute the Community's acceptance of the agreements and will mean that it is bound by them at international level.

The decision referred to in section II.B.1 contains a provision authorizing the President of the Council to appoint the person authorized to bind the Community.

2. Bilateral agreements

The bilateral agreements take the form of exchanges of letters.

The decision on the conclusion of these agreements, referred to in section II. B.1., authorizes the President of the Council to appoint the person empowered to take whatever measures may be required to give practical effect to the Community's undertakings in respect of the matters covered by the agreements.

B. Acceptance deadlines

The factors which are relevant to the deadlines for acceptance are set out at the end of Part I of this report, under the heading "Implementation of the results".

PART II

SECTION VI

PUBLICATION ARRANGEMENTS

The Commission proposes that all the multilateral and bilateral agreements it presents to the Council for conclusion be reproduced in the Official Journal, except for the lists of its partners' tariff concessions (some 4 500 pages). These will be published by the GATT Secretariat.

Part II

Annex 1

COUNCIL DECISION
ON THE CONCLUSION OF THE MULTILATERAL AGREEMENTS
RESULTING FROM THE 1973-79 TRADE NEGOTIATIONS

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof.

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 72 thereof,

Having regard to the Recommendation from the Commission,

Whereas the multilateral trade negotiations under the GATT opened pursuant to the Ministerial Declaration adopted in Tokyo on 14 September 1973 resulted in the following multilateral agreements:

Geneva (1979) Protocol to the General Agreement on Tariffs and Trade;

Arrangement regarding Bovine Meat;

International Dairy Arrangement;

Agreement on Technical Barriers to Trade;

Agreement on Government Procurement;

Agreement on Trade in Civil Aircraft;

Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade;

Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade;

Agreement on Import Licensing Procedures;

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade;

Whereas all the reciprocal concessions and undertakings negotiated by the Community and the countries participating in the negotiations, as embodied in the above multilateral agreements, constitute an acceptable result,

HAS DECIDED AS FOLLOWS:

Article 1

1. The Geneva (1979) Protocol to the General Agreement on Tariffs and Trade is hereby approved on behalf of the European Economic Community and the European Coal and Steel Community.

2. The following agreements are hereby approved on behalf of the European Economic Community:

Arrangement regarding Bovine Meat;
International Dairy Arrangement;
Agreement on Technical Barriers to Trade;
Agreement on Government Procurement;
Agreement on Trade in Civil Aircraft;
Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade;
Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade;
Agreement on Import Licensing Procedures;
Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade;

3. The texts of the agreements referred to in this Article are annexed to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person empowered to take such steps as are required by the agreements referred to in Article 1 in order to bind the Community.

Part II

Annex 2

COUNCIL DECISION ON THE CONCLUSION OF THE BILATERAL AGREEMENTS RESULTING FROM THE 1973-79 TRADE NEGOTIATIONS

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the Recommendation from the Commission,

Whereas the 1973-79 trade negotiations resulted in multilateral agreements which were approved on behalf of the Community by the Council Decision of .....; whereas, furthermore, some of the reciprocal concessions and undertakings negotiated by the Community and certain countries participating in the negotiations are embodied in bilateral agreements;

Whereas the reciprocal concessions and undertakings contained in those bilateral agreements represent an acceptable result,

HAS DECIDED AS FOLLOWS:

Article 1

The following are hereby approved on behalf of the European Economic Community:

Agreement reached in Paris on 15 June 1979 between certain participants in the Agreement on Trade in Civil Aircraft (EEC, Canada, Japan, Sweden, United States) on reciprocal consultation rights in case of withdrawal of tariff concessions;

Exchange on letters with the United States on possible extension of restrictive procurement practices in the USA and reserve by the European Community on its application of the Agreement on Government Procurement in this connection;

Arrangement between the United States and the Community concerning cheeses and letter relating to that Agreement;

Exchange of letters between the Community and the United States concerning the poultry sector;

Exchange of letters between the Community and the United States concerning rice;

Exchange of letters between the Community and the United States concerning the elimination of the Wine Gallon Assessment;

Exchange of letters between the Community and the United States concerning high-quality beef;

Exchange of letters between the Community and the United States concerning fresh, chilled and frozen beef;

Exchange of letters between the Community and Canada concerning quality wheat;

Arrangement between the Community and Canada concerning cheese;

Memorandum of Understanding (results of bilateral negotiations between the Delegations of New Zealand and the Community) with the following attachments:

1. New Zealand's supplementary tariff offer made in response to specific requests from the Community,
2. New Zealand import licensing offer made in response to specific requests from the Community,
3. Joint discipline arrangement between New Zealand and the Community concerning cheese,
4. Arrangement between New Zealand and the Community concerning beef.

Agreed record dated 29 May 1979 of conclusions reached in bilateral negotiations between the Community and Australia, with the following annexes:

1. Australian concessions to the Community,
2. Australian concession on "fancy cheese".

Arrangement concerning beef between the Argentine Republic and the Community;

Arrangement concerning beef between the Eastern Republic of Uruguay and the Community and letter relating to that Arrangement;

Arrangement concerning beef between the Hungarian People's Republic and the Community;

Arrangement concerning beef between the Socialist Republic of Romania and the Community;

Arrangement concerning beef between the Polish People's Republic and the Community.

Article 2

The President of the Council is hereby authorized to designate the person empowered to take such measures as are necessary to give effect to the undertakings entered into by the Community in the areas covered by the bilateral agreements listed in this Decision.

Part II

Annex 3

COUNCIL DECISION ON THE CONCLUSION OF THE PROTOCOLS FOR THE ACCESSION OF THE REPUBLIC OF COLOMBIA AND THE REPUBLIC OF THE PHILIPPINES TO THE GATT

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Whereas the Republic of Colombia and the Republic of the Philippines have entered into negotiations with the European Economic Community and with the other Contracting Parties to the General Agreement on Tariffs and Trade with a view to their accession to that General Agreement;

Whereas the outcome of these negotiations is acceptable to the Community,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocols for the accession of the Republic of Colombia and of the Republic of the Philippines to the General Agreement on Tariffs and Trade, the texts of which are annexed to this Decision, are hereby concluded on behalf of the European Economic Community.

Article 2

The President of the Council is hereby authorized to designate the person empowered to sign the Protocols referred to in Article 1 in order to bind the Community.

Part III

TARIFF NEGOTIATIONS

Secton 1

1. The Community's objectives

The Common Customs Tariff (CCT), which to start with was based on the arithmetic mean of the customs duties of the four customs zones of the Community as originally constituted, underwent cuts during the Dillon and Kennedy Round negotiations and was subsequently renegotiated as part of the exercise conducted within GATT under Article XXIV(6) when the Customs Union was created and the Community was enlarged. In so far as industrial products were concerned it was a relatively low tariff, with a homogeneous structure and almost entirely bound. Furthermore, because of the extension of the network of free-trade agreements concluded by the Community with various partners (EFTA, Mediterranean countries, ACP) and the introduction and improvement of the GSP, this tariff applies only to part of the EEC's imports, basically those coming from developed countries, state-trading countries and in part - in the GSP context - to imports of sensitive products from non-associated developing countries.

The EEC's exports, however, continued to come up against tariff barriers - which were often high - on the principal markets of our developed partners. Though zero or relatively low duties often applied to products which were not manufactured in the country concerned or produced by a highly competitive domestic industry, our partners' customs tariffs imposed on certain products and even entire sectors high duties that provided protection which was all the more effective in that it was selective and had by and large remained intact despite a succession of tariff negotiating conferences. In addition, with the exception of the United States the degree of binding under GATT of our partners' tariffs varied considerably and did not offer the degree of legal protection accorded by the Community.

It is therefore not surprising that the Community, basing itself on its experience in the preceding rounds of negotiations, argued for the application of a formula which could be applied as generally as possible, and which, while significantly reducing tariffs, would at the same time

harmonize them. This harmonization, by levelling out the differences in the various tariff profiles, was to create fairer terms of trade, while the problems of reciprocity would have to be settled during the negotiations. These objectives, already contained in the overall approach, were spelt out in the Council Directives of 10 February 1975. At the same time, in view of the profound changes in the international economic situation, the Community considered that the negotiations should be conducted in such a way as to contribute to full employment for its workers and to its economic development.

2. The negotiations

Unlike in the case of the preceding negotiating rounds the technical aspects of the tariff negotiations under the MTNs were very thoroughly prepared, thanks to the work done by the GATT Secretariat under the direction of the Tariff Study Group. This time an enormous amount of information on tariffs and import statistics covering all the developed countries was assembled on tape.

The Tokyo Declaration stipulated, only in this field, that the negotiations on customs duties should be conducted "by employment of appropriate formulae of as general application as possible".

Pending the entry into force of the Trade Act, which gave the United States President extensive powers in tariff matters[1], the Tariffs Group set up by the TNC was able to make only modest progress on certain preliminary aspects, such as the definition of basic duties. The discussions on the reduction formulae rapidly highlighted very substantial differences

[1] Ability to abolish duties of 5% or less and reduce duties of over 5% by up to 60%.

as to the approaches envisaged. The Community, Japan, Switzerland and the Scandinavian countries brought up the matter of harmonization and to that end put forward various formulae. The United States, while not refusing a modicum of harmonization, argued for an approach which was essentially linear and ambitious in terms of the degree of reduction. Canada stated that it was mainly interested in eliminating low duties and achieving free trade in forestry products and non-ferrous metals. Australia and South Africa stated that, in view of the structure of their economies and trade, they were in favour of a product-by-product approach.

In September 1977, however, the Community and the United States reached agreement on an approach to be used for conducting the negotiations. Basically, the compromise involved the following points:

i. use of the formula proposed by the Swiss Delegation; this algebraic formula stipulated reductions which met the objective of harmonization in that the higher the initial duties, the bigger the cuts;

ii. the objective of an average cut of the order of 40%;

iii. the possibility of total or partial exceptions to the formula;

iv. the staging of the cuts over a period of 8 years as from 1 January 1980, the Community specifying that the start of the sixth stage could be deferred if the economic circumstances at the time justified so doing.

The main developed countries agreed to this compromise, which was not, however, officially formalized within the Tariffs Group.

In January 1978, the main partners lodged their preliminary offers of tariff cuts. The Community stated that it was prepared to apply

the Swiss formula with a coefficient of 16[1] to the whole of its tariff, without any exceptions, giving an average reduction of 40%. It reserved the right, however, to adjust its offer in the light of an assessment of the qualitative and quantitative value of its partners' offers so as to achieve adequate reciprocity. The United States and Japan also lodged offers based on application of the Swiss formula with a coefficient of 14, but with a list of exceptions. Canada applied a complex formula derived from the Swiss formula, also with exceptions. The European countries generally followed the Community's approach.

An analysis of the offers made by our principal partners showed that, while amounting to reductions of 40% or more on average, they deviated significantly from application of the agreed formula and these deviations ran counter to the objective of harmonization and affected the Community's export interests. The United States' offer contained a large number of proposals to abolish low duties or make bigger cuts in them than were called for by the formula, while many duties were made subject to total or partial exceptions (special steels, ballbearings, numerous textile products, glass and glassware, titanium, footwear, ceramic tiles, knives, gloves) and these duties were generally high. In addition, for duties of more than 21% the United States could not apply the Swiss formula in full, since there was a 60% ceiling on the maximum reduction. Canada's[1] offer involved, although to a lesser extent, the same phenomenon of bigger reductions than in the formula

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[1] The "Swiss" formula is as follows:

$z = \frac{ax}{a+x}$, in which

z = final duty
x = basic duty
a = coefficient to be determined.

The lower the coefficient, the higher the reduction.
For example, 10% duty: coefficient 14 : 5.8%
coefficient 16 : 6.2%.

[2] Partial offer lodged in February 1978, full offer on 10 April 1978.

for certain average duties and exceptions for certain high duties (numerous textile products, glassware, clocks, special steels, domestic appliances, footwear, certain chemicals). The Japanese offer was presented in the form of substantial reductions, but starting from legal rates significantly higher than the rates applied, so that the real reduction was less than 20%; furthermore, very low or zero reductions were envisaged for most textile products, nearly all hides, skins and leather, certain chemicals, etc.

Thus, while presenting to its partners requests for improvement of their offers, concentrating solely on the products which they had made exceptions and which concerned its exports, the Community transmitted to all its partners at the end of April 1978 a list of possible withdrawals. It also armed itself, internally, with a "conditional" list to serve as a bargaining weapon in case its partners' offers were not improved but lowered instead.

Bilateral discussions with the main partners over the period February-July 1978 produced no improvement in their offers. Only Japan presented an improvement in June, which was considered inadequate, for although the reduction rate was increased to around 25% the improvement was qualitatively of little interest as it related to average or low duties and products of which the EEC was not the principal supplier, whereas the requests for improvement were virtually ignored.

In July the Commission therefore transmitted to the GATT Secretariat, for circulation to all participants, a revised tariff offer which incorporated the possible withdrawals announced in April and certain products on the conditional list which interested Japan in particular (e.g. motor cars).

A phase of intensive bilateral negotiations got under way in the autumn of 1978. The negotiations with the United States were complicated by the fact that the latter submitted a very confused offer on chemicals subject to the American Selling Price, involving both conversion of duties and offers under the MTNs; this offer was considered unacceptable by the Community. Moreover, the United States embarked upon renegotiations under Article XXVIII concerning ceramic products, Prato woven fabrics and the conversion of a large number of specific or mixed duties into ad valorem rates. At the end of November 1978 they announced substantial adjustments of their offer in the textiles, chemicals and steel sectors. Reacting to this amendment of the US offer the Commission informed its principal partners that it would be making withdrawals in the textile sector (conditional list) and threatened to make changes in other sectors. The negotiations got bogged down in the first few months of this year with the two partners concentrating on priority sectors or products: paper and electronics on the US side; chemicals, steel, footwear and ceramics on the Community side. Textiles were dealt with separately in order to obtain reciprocal improvements. An ad referendum agreement involving both improvements and certain withdrawals was reached at the beginning of April. This agreement was only on cuts equal to or below the formula, with the United States reserving the right to withdraw cuts above the formula. In fact only some of the latter were withdrawn and here the formula cut was applied.

With Japan, attempts to obtain an improvement in that country's offers on products (agricultural and industrial) subject to duties which were high and/or unbound ended in failure. The two parties therefore confined themselves to recording the state of their respective offers, with very slight improvements on either side. Later, when Japan had withdrawn some of its offers (following US withdrawals of offers above the formula), the Community was in turn prompted to make certain adjustments.

The negotiations with Canada ended in agreement at the beginning of April, essentially on the basis of the previous offers. Those conducted with Australia were not completed until May.

Finalization of the tariff negotiations on the basis of provisional lists drawn up in mid-April was scheduled for the end of June, but came up against certain difficulties. While the drafting of a Tariff Protocol did not raise too many problems the procedure for checking the lists turned out to be more complex than anticipated. The difficulties arose basically in connection with the United States' list, which contained many amendments and, above all, a quantitative and qualitative deterioration in the textile sector, owing to the offer being formulated in terms of ad valorem duties on products liable to mixed duties. Before giving its agreement to finalization of the negotiations the Commission therefore withdrew certain offers in the textile sector. The Protocol was open for acceptance on 11 July. On 13 July the Commission representative affixed his signature as authentication, subject to conclusion by the European Communities.

In addition to the Community list, the lists of the following countries are annexed to the Tariff Protocol: Argentina, Austria, Canada, Czechoslavakia, Egypt, Finland, Hungary, Iceland, Jamaica, Japan, New Zealand, Norway, Romania, South Africa, Sweden, Switzerland, the United States and Yugoslavia.

The Australian and certain developing countries' lists will be annexed to an additional protocol which should be open for signing by mid-November.

3. Overall results

It is difficult to calculate the overall tariff cut resulting from the Tokyo Round. The GATT Secretariat's estimates regarding ten developed import markets[1] put the cut at around a third if it is calculated on the basis of customs revenue. This result, however, takes into account reductions calculated on the basis of the legal rates for Japan and Canada. If the cuts for those two countries are calculated on the basis of the applied rates the overall tariff reduction comes to around 29%.

The tariff concessions are to be implemented in eight equal annual reductions starting in 1980 except, as a general rule, in three sectors - textiles, steel and aircraft - and for a number of products specific to each of the participants in the negotiations. The Agreement on aircraft is to take effect on 1 January 1980 while the concessions on textiles and steel will be implemented in six equal annual reductions beginning in 1982.

At the end of a preliminary stage of five years the Community will examine whether it is able to pass on to the second three-year stage. The other participants have also reserved their rights in this connection.

The tariff cuts resulting from the negotiations include an important element of harmonization as pointed out by the GATT Secretariat: "In addition to the overall tariff cut, the harmonization effect of the Swiss formula should also be considered an important achievement of the negotiations... The differences in the national tariff levels were diminished considerably. Finally, mention should be made of the consolidation of a number of tariff lines at the prevailing duty-free rates.

...." As to industrial sectors, the deepest cuts have been concentrated in non-electrical machinery, wood products, chemicals and transport equipment while less-than-average reductions are being made in the textiles and leather and rubber sectors."

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[1] Austria, Canada, European Communities, Finland, Japan, New Zealand, Norway, Sweden, Switzerland and the United States.

EEC

The EEC will cut its industrial tariff by 25.5%[1] vis-à-vis countries with which it does not have a specific trade agreement. After the Tokyo Round most duties (50% of dutiable imports) will be between 5% and 10%; 16.4% of dutiable imports will remain subject to duties of between 10% and 15%, and 2.2% of imports will be subject to duties of between 15% and 20%. Out of a total of 2 100 dutiable tariff lines only one will remain subject to a duty of more than 20% (lorries subject to a duty of 22%), 30 will be liable to duties of between 15% and 20%, and 150 will be liable to duties of between 10% and 15%. The biggest cuts for the EEC are in the aircraft sector (the only sector where customs duties will be abolished) and in the chemicals and non-electrical machinery sectors. In view of the economic and social conditions in certain industries there were, however, relatively low reductions or none at all for footwear, motor cars and lorries, fertilizers, certain plastics and electronic components.

United States

The United States will reduce its industrial tariff by 28,5 % (1) if offers above the formula are taken into account and by 26,2 % (1) if only that part corresponding to the formula is included in the case of concessions above the formula.

After the Tokyo Round most (64%) of the United States' dutiable imports from all countries will be liable to duties of less than 5%. Customs duties will be abolished on imports worth $3 000 million[2] in 1976. United States imports liable to duties in the 10% to 15%, 15% to 20% and 20% to 30% brackets will account for 3% of total dutiable imports, and those subject to a duty of more than 30% will be of the order of 1.5 %

The US concessions were principally in the aircraft, chemicals, non-ferrous metals, machinery and paper sectors.

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[1] This result includes the abolition of customs duties in the aircraft sector. Crude petroleum is not taken into account in the calculation.
[2] Of which $ 900 million for aircraft.

Japan

Japan will reduce its industrial tariff by 48% on the basis of its legal duties at 1 January 1972 and 25% on the basis of the rates applied in 1977. After the Tokyo Round the majority (nearly 60%)[1] of Japan's duties will be 5% or less; 7,3 % of imports will remain liable to duties of between 10% and 15%, and 1,5% to duties between 15% and 20%. Imports liable to duties in excess of 20% will account for 0.5% of dutiable imports. The biggest cuts agreed to by Japan concern aircraft and machinery.

Canada

Canada will cut its tariffs by about 39 % on the basis of its legal rates and by about 34 % on the basis of the rates applied. A majority (almost 44 %) of dutiable imports will be liable to duties of between 5% and 10%, and 36% to duties between 10% and 15%. However, 10% of dutiable imports will continue to be liable to duties between 20% and 25%. The biggest cuts are in the field of aircraft and machinery.

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The other developed country partners with which the Community negotiated - Australia, New Zealand and South Africa - offered contributions only on a rather limited number of products, so the overall incidence of the cuts will be negligible. In the case of Australia and New Zealand, however, there will be a greater degree of binding.

4. Results by country

The results achieved vis-à-vis the Community's main developed partners are as follows:

4.1 The United States

This is the Community's largest trading partner, and in 1976 it imported $ 49,7 million[2] worth of dutiable industrial products, 26% of which came from the EEC.

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[1] Calculated on the basis of dutiable imports.

[2] Non-oil.

The average bilateral industrial tariff reduction is about a third on either side (including aircraft and offers above the formula). In working out the reduction, if the part of the offers which goes beyond the result arrived at by application of the formula is excluded, the average bilateral reduction comes to about 31 %, including the abolition of aircraft duties.

The EEC's major aim of tariff harmonization, a response to the large number of US duties over 15 % and 20 %, has been largely achieved. The US tariff will admittedly still contain high duties, since many of these were on textiles, which in the main were not covered by the reduction formula. Nevertheless, substantial concessions have been obtained even in this sector.

The proportion of US imports from the EEC subject to duties over 10 % will fall from 16.3 % to 6 %, while that of imports subject to duties over 20 % goes down from 4.8 % to 1.2 %. After the negotiations only 185 headings, rather than 756 as now, will remain above 20 %.

Results of great significance for the Community have been obtained in certain sectors.

With regard to chemicals, in addition to an average bilateral reduction of the order of 35 % on either side, the abolition of the American Selling Price (ASP) is one of the major achievements of the bilateral negotiations ; after translating the rates relating to products subject to the ASP into equivalent duties, the EEC obtained cuts in the very high effective duties (40 % to 50 %), bringing them down to below 20 %. The uncertainty arising from the ASP as to the amount of duty to be paid has been eliminated.

In addition, "future" produicts, i.e. ones not imported into the United States before 1 January 1978 or not manufactured in the United States before 1 May 1978, will be liable from 1 July 1980 for the final rate conceded (1).

In the case of textiles, the cut in the US tariff for EEC goods is 27.5 %. The reduction applies to a number of fairly high duties which were virtually making trade impossible. In this sector the Community has cut its duties vis-à-vis the US by 22.6 %.

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(1) Except for dyestuffs, where the offered rates will be fully applied in five annual stages from the date of entry into force of the customs valuation code.

As regards steel, where dutiable US imports from the EEC are four times EEC imports from the US, the US has cut its duties on Community goods by 29.6% apart from some legal exceptions concerning special steels. This reduction continues the process of harmonization in this sector which began under the Kennedy Round.

In the paper sector, where there was strong US pressure for a substantial cut, the Community reduction vis-à-vis the US is 28%.

As regards other sectors, the US has offered substantial tariff reductions on machinery, transport equipment, ceramics and glass. It has also offered useful cuts in the following fields:

(i) jewellery: reduction in duty of over 2/3

(ii) furniture: cut of about 50 %.

Details of various US concessions of value to the Community will be given in the breakdown by sector.

The US concessions will take effect in accordance with the schedule described in the overall results, i.e., generally speaking, phased in over 8 years: 1 January 1980 for aircraft; generally 6 years from 1 January 1982 for textiles and steel - with postponements or accelerated implementation for some products and, for others, where cuts exceed 24 points - such as certain chemicals and textile products - phasing-in over a period longer than 8 years to comply with a clause in the US Trade Act which specifies a maximum reduction of 3 points a year.

4.2 Japan

Particularly with regard to Japan, the aim in the tariff negotiations was to achieve a high level of harmonization and of real improvement in market access for Community exports. Efforts were therefore concentrated on securing reductions in fields which were protected by very high duties, and on getting cuts on the duties effectively applied in 1977, whereas the Japanese were calculating their reductions on the basis of the 1972 legal rates. Faced with Japan's refusal to concede the Community's priority claims, the Community readjusted its own offers to exclude, partially or totally, sensitive products from Japan.

Overall, the balance of advantage in the reciprocal industrial offers, in terms of tariff statistics, lies with the EEC: the weighted average reduction in Japan's industrial duties ('77 base) vis-à-vis the Community is of the order of 25%, whereas the equivalent Community reduction vis-à-vis Japan is about 20%. However, these reciprocal tariff cuts apply to a bilateral trade balance heavily tilted in Japan's favour, giving Japan the advantage in terms of actual customs receipts.

In terms of qualitative results, Japan can also be seen to have retained high duties, some of which are not bound, in such sectors of interest to the Community as footwear, leathergoods and certain textiles. Their agricultural concessions fall well short of what might reasonably have been expected (see chapter on agricultural negotiations).

Japan has made particularly significant concessions in the field of aircraft, computers and office equipment, electrical machinery, cars and toys. However, they should be seen in the context of the other barriers to trade.

Japan's concessions will take effect on the basis of the legal rates over an eight-year period. However, the Japanese authorities plan to apply the reduction autonomously, for all or some of the tariff headings on which they have made concessions, on the rates actually applied. In some cases, they are even envisaging

autonomous improvements. However, Japan is looking for a similar gesture from the EEC in return, in the form of faster implementation for some of the products of export interest to it.

The implementation of Japan's tariff cuts will probably start from 1 April 1980, with an initial reduction of 2/8 on the applied rates in some cases.

4.3 Canada

The Community is Canada's second largest supplier, accounting for 12.5 % of the US $ 22 500 million of Canadian imports for 1976 (1), behind the US (70 % of imports).

The EEC wanted a reduction in line with the Swiss formula, leading to cuts in and harmonization of the high Canadian duties, and an increase in the number of bound headings. In the previous negotiations, Canada had benefited from its partners' concessions without offering satisfactory reciprocal arrangements. It had thus kept large numbers of high duties and unbound tariff headings.

In the Tokyo Round, Canada made a satisfactory contribution to the tariff cuts by reducing a number of high duties and increasing bindings. These concessions apply in the main to manufactured products.

In view of the nature of its exports, Canada wanted duties on forestry products and paper and in the non-ferrous metals sector to be substantially cut or abolished altogether.

Canada's February 1978 tariff offer was based on a variant of the Swiss formula, reducing the harmonization effect and comprising, vis-à-vis the EEC, about 25 % partial or total exceptions, 60 % offers based on the formula and 15 % offers above the formula. The exceptions, however, were concentrated on duties of 20 % or over, while the offers going beyond the formula

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(1) Dutiable non-oil imports.

concerned duties of the order of 12%, with an average Canadian tariff incidence on EEC goods of 15.5%. The offer included many high-duty exceptions in the field of textiles, furniture, footwear and chemicals, while proposing to bind numerous autonomous reductions or suspensions which had often been decided on as a means of lowering prices in the absence of any domestic production. The EEC therefore adjusted its January 1978 offer, for want of improvements in the Canadian offer. Following adjustments and improvements on either side, Canada offered concessions amounting to a 31%[1] reduction in its tariff vis-à-vis the EEC, while the Community offered a cut of about 30%[2] vis-à-vis Canada.

In the machinery sector Canada offered major concessions. Numerous machines were offered at 15%, 9.2% or even zero; vacuum cleaners and fridges were cut from 20% to 12.5%[3], data processing equipment to 3.9% or zero from rates of between 10% and 20%. Other products, such as cars and car parts, were reduced from 15% to 9.2%. Bicycles fell from 25% to 13.2%[3]; skis and some accessories from 20% to 11.3%; precious stones from 25% to 13.5%; and wallpaper from 15% to 7.5%.

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[1] The bound rates in Part II of Canada's list of concessions were based on Part II bound rates for the United Kingdom and Ireland, and on Part I bound rates for the other Member States.

[2] Including the abolition of duties in the aircraft sector.

[3] Implementation as from 1 January 1983.

Concessions were also made by three other developed partners - New Zealand, South Africa and Australia - but in the form of product-by-product offers.

4.4 New Zealand

New Zealand offered concessions (reductions or binding) on its industrial tariff for products representing imports from the Community worth about US $150 million in 1976, the Community being the main supplier of the majority of the products involved. The weighted rate of reduction on these concessions is about 40%. The value of the Community's industrial offer to New Zealand is limited, since the country's interests are mainly in the agricultural field. The Commission considers the overall balance acceptable.

4.5 South Africa

South Africa's contribution, on a product-by-product offer basis, covers 81 headings. Some of these correspond to "ex" headings in the South African tariff. South Africa says that the offer on a quarter of these headings takes the form of binding the absence of preferences[1].

South Africa's concessions affect 5% of that country's imports from the Community.

They have not materially improved its level of binding, which was low at the outset.

It should also be pointed out that for many years South Africa has been negotiating with the Community under Article XXVIII to modify its concessions. Although the Community's offer has been adjusted as far as possible in the light of the South African offer, there is still a clear imbalance, made worse by the continual withdrawal of concessions.

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1 Unbound preferences generally enjoyed by the United Kingdom

4.6 Australia

The tariff negotiations with Australia were complicated by that country's repeated changes of line. Australia had a relatively high tariff, largely unbound, and wanted to offer its concessions on the basis of the rates applied at 1 January 1973, before the 25% autonomous reduction made at the end of 1973. Having in March and April 1978 put forward its initial offers on particular products, Australia offered in July 1978 to apply a Swiss-type formula, with certain exceptions (textiles, footwear, domestic appliances and cars), subject to reciprocity, particularly in the agricultural sector. At the end of the negotiations, since it had failed to obtain reciprocity, Australia reverted to an offer covering particular products.

Nevertheless, the Commission managed to secure certain improvements in that offer, which covers imports which totalled some $300 million fob in 1977-78, compared with a Community offer in the industrial sector worth $240 million cif in 1976. This offer, which has not yet been formally lodged with GATT and will need to be annexed to a supplementary protocol, is made up partly of reductions, and partly of bindings of current, or sometimes ceiling, rates. It will boost the level of Australia's bindings, which will nevertheless remain modest (about 25% of all industrial imports from the EEC).

Australia's concessions include chemical products (pharmaceuticals, perfumes, plastics), ceramic tiles, machinery (motors, pumps, dish-washing machines, tractors and agricultural machinery), electronics (computers, generators, transmission equipment), and medical and measuring apparatus.

4.7 State-trading countries

In view of its position as regards the role of the tariff in state-trading countries, the Community did not present those countries with tariff requests, but instead tried unsuccessfully to secure increased scope for exports of certain products.

Hungary presented a tariff offer based on the application of the Swiss formula, but proceeded to stipulate certain exceptions and withdrawals. Czechoslovakia also lodged a list of concessions including withdrawals and converting some specific rates into ad valorem duties; the Community did not negotiate with Czechoslovakia.

The same applies to Romania, which annexed a list of tariff concessions to the Geneva Protocol. On that occasion the Community stated that the annex did not alter the position it had adopted on Romania's customs tariff at the time of that country's accession to the GATT, and subsequently in the working party responsible for reviewing the tariff, which had not yet completed its examination.

The Community also reserved its position with regard to Bulgaria's list of concessions. Bulgaria, though not a contracting party, circulated a statement to which was annexed a list of tariff concessions.

Poland did not lodge a tariff offer, as GATT has not yet examined its tariff.

In view of the lack of reciprocity from state-trading countries, the Community decided to withdraw from its tariff offer a number of products of which those countries are the main exporters. State-trading countries will nonetheless benefit from the tariff reductions granted by the EEC on other products without making any real concessions in return.

NB : A supplement giving a sector-by-sector breakdown will follow.

AGRICULTURE AND FISHERIES

A. MULTILATERAL AGREEMENTS

1. Grains Agreement

The objective fixed by the Community and its partners had been to conclude a wide-ranging grains agreement, but the limited flexibility of certain exporting countries with regard to the basic problems at issue (prices, stocks) and the, in some cases extreme, demands of certain developing countries concerning the same subjects made it impossible for the Community and other countries that were prepared to adopt an intermediate position to reconcile the different viewpoints.

The United Nations Conference responsible for negotiating such a new arrangement adjourned on 14 February this year without having been able to reach agreement. It nevertheless recommended the International Wheat Council to extend the present Arrangement (which has since been done) and to pursue its work with a view to the resumption of the Conference in the near future in the context of the preparatory Committee established in June this year in London. In this forthcoming work, the Community should demonstrate the same firmness and also the same open-mindedness that it showed at the Conference with the objective of achieving an International Agreement covering all grains and of working to find a compromise between the various interests involved.

It should also make known its intention, pending the establishment of a new agreement, of cooperating with other exporters, in particular via a sustained exchange of information, in order to achieve a more satisfactory balance on the world market.

2. Dairy Products Arrangement

The International Arrangement which has been worked out (see text of the Arrangement in Annex) includes information and cooperation procedures (in the event of difficulties on the world market) for all dairy products and a series of agreements on price disciplines for milk powder, milk fats (butter and butteroil) and cheese. The main countries which produce, import and export dairy products have stated that they are prepared to participate.

The text of the Arrangement has not yet been finalized in its entirety, certain developing countries having at the last minute proposed amendments to the text approved by the developed countries. If necessary, the Community will have to express its readiness to arrive at a solution enabling all the interested parties to take part in the Arrangement.

It should also be noted that this Arrangement is supplemented by bilateral arrangements on cheese negotiated between participating countries, particularly between the Community and its customers and/or suppliers (see country-by-country analysis).

3. Arrangement regarding bovine meat

The Arrangement on bovine meat is based on machinery for the exchange of information and on machinery for multilateral consultations in the event of difficulties on the world market (see text of the Arrangement in Annex). The main exporting and importing countries will participate.

This Arrangement, like the dairy products Arrangement, is supplemented by bilateral arrangements negotiated between the main countries, notably between the Community and its customers and suppliers. It should bring about a better balance on the world market and prevent the serious crises that have arisen in the past.

B. GENERAL ARRANGEMENTS

1. Multilateral Agricultural Framework

The directives given by the Council in February 1975 recognized that it was necessary in the agricultural sector to strengthen the existing arrangements and machinery for improved information on the market situation with a view to achieving improved coordination of the policies pursued and to maintain in GATT a specific forum for the examination of agricultural problems.

The establishment of an International Agriculture Consultative Committee was therefore proposed in December 1978, but the difficulties connected with the drafting of its brief have prevented any progress beyond the adoption of the following Recommendation from the TNC to the Contracting Parties:

"It is recommended to the Contracting Parties to further develop active cooperation in the agricultural sector within an appropriate consultative framework.

It is therefore recommended to the Contracting Parties that the definition of this framework and its task be worked out as soon as possible."

The discussions on the precise terms of reference to be given to this consultative body will resume between now and the next meeting of the Contracting Parties. The Commission will work to ensure that this body, which should meet within GATT, is allowed the maximum flexibility in its work and discussions.

2. Export subsidies

Certain exporting countries wished initially to establish for agricultural subsidies binding disciplines identical to those in the industrial sector (prohibition).

The Community was able to win acceptance for the maintenance of the present provisions of Article XVI(3), which recognizes the possibility of applying subsidies (with a clarification of its terms), and in order to avoid any doubt as to the contents of the Code and its interpretation the United States has sent a letter to the Community (see text in Annex B 16).

The results of the negotiations in this sector have made it possible to avoid any calling into question of the refund mechanism (hitherto challenged in GATT) and at the same time has reduced the risks of confrontation with our partners on this subject. In the Commission's view, this result is satisfactory since it enables the Community to consolidate its agricultural export policy.

3. Other general codes

Of the other codes concerning agriculture, reference should be made to the Agreement on technical barriers to trade, which has made it possible to consolidate the harmonization work undertaken in other international forums. The disciplines that have been introduced (information, consultation) should facilitate the Community's exports of agri-foodstuffs.

C. BILATERAL ARRANGEMENTS

The objective of the bilateral negotiations was to try to resolve, under the best possible conditions, the problems which the Community's agricultural exports were encountering and, at the same time, to put an end to a series of import disputes between the Community and its partners.

The results achieved with each customer or supplier country are set out below:

1. UNITED STATES

In the negotiations with the United States (which is its largest customer), the Community's objective was to give priority to resolving the question of the possible application of countervailing duties (which represented a more or less permanent threat to Community exports) and to improve the conditions governing the importation into the United States of products exported by the Community.

The United States had in mind to impose on the Community exhorbitant disciplines to restrict its refund policy, the adoption of a linear reduction formula right across the Community's agricultural tariff and the setting of ceilings for (or even in certain cases the elimination of) the import levy (on rice, meat, poultry, eggs, etc.).

(a) The Community obtained satisfaction on the majority of its requests and obtained major concessions on most of the major subjects of discord that had arisen in the past.

(i) As regards cheese, a considerable extension of our export possibilities has been achieved. A number of type of cheeses can be exported without any quantitative restriction (soft cheeses, goat's cheeses and sheep's cheeses). For the other types of cheeses, the quotas have been increased from 28 500 t to 43 500 t. Moreover, refunds can be granted in respect of our exports and on certain cheeses the customs duties have been reduced (Italian type) (see Annex B 1).

(ii) In the spirits sector, it has proved possible to eliminate one of the most improtant non-tariff barriers, which had been fought without success in the past, namely the Wine Gallon Assessment (see Annex B4) as well as the tariff counter-measures imposed on cognac at the time of the "chicken war".

(iii) The United States has also agreed to the removal of the tariff surcharges on dextrin and starch imposed at the same time.

(iv) Lastly, it has been agreed that the Community can resume its traditional exports on beef and veal (minimum 5 000 t) (see Annex B 6)

(b) The offers which the Community made in return for these concessions fell well short of the initial demands made by the United States and, in most cases, Community producers have received compensation in the context of the market organization measures. The concessions made by the Community involve the following products:

(i) In the poultry sector, the EEC agreed to keep seasoned uncooked turkeys or turkey cuts in heading No 16.02, but it was agreed that consultations would be initiated if imports of all turkey meat exceeded the average level achieved in 1977 and 1978. In addition, the technical coefficients for turkey cuts have been slightly lowered (see Annex B 2).

(ii) In the rice sector, the request that the levy be bound was rejected but the EEC has agreed to abolish the corrective amount between long-grain and round-grain rice, a step that was necessary in any event to restore the balance between the two types of production in the Community; internal measures have been taken in the context of the annual price decisions to encourage the production of round-grain rice (see Annex B 3).

(iii) For table grapes a tariff cut (18 % to 10 %) was agreed but only for the "Emperor" variety, with phased implementation on 4 years and a specific safeguard clause.

(iv) For prunes a tariff reduction of four points was accepted instead of the ten points requested by the United States; any effects which this measure might have on the competitive position of Community producers has been offset under the market organization arrangements by a corresponding increase in the premium.

(v) For tobacco the price threshold has been abolished and the tariff heading has been divided into two subheadings by types of tobacco.

This tariff classification will reduce import charges, particularly for higher-quality tobaccos, which do not compete directly with Community production. To avoid any repercussions on the competitive position or income of Community producers, the premium granted to producers has been increased.

(v) Limited tariff reductions have been granted in respect of other products, (preserved fruit, offal). In addition, export facilities have been granted for 10 000 t of high-quality cuts of beef and veal (see Annex B 5).

The United States had also made requests concerning, inter alia, oranges, fruit juices, lemons, grapefruits and almonds. Despite strong pressure from the United States, no concession was allowed by the Community in these sectors that are highly sensitive both for certain Member States and for the Community's Mediterranean policy.

2. CANADA

In the negotiations with Canada, the Community's objective was to obtain guaranteed access for its cheese and, in the alcoholic beverages sector, to put an end to the discrimination in Canada between foreign and national suppliers and between the various foreign suppliers themselves.

Canada for its part was seeking improved access to the Community market for Cheddar and a number of tariff reductions involving fishery products, certain berries and whisky. Canada also reiterated its demands concerning quality wheat as framed in the 1962 and 1973 Article XXIV (6) negotiations.

The results obtained with Canada are as follows:

(i) With regard to cheese, an arrangement was concluded in the form of an exchange of letters (see Annex III (b) 3) under which:

- Canada will bind the present level of the overall quota of 45 million pounds (approximately 20 000 t) and will reserve for the Community a bound proportion of 60% (approximately 12 000 t); as regards Cheddar, the EEC is placed in the same position as other suppliers;

- The Community has undertaken to import 2 750 t (approximately 6 million pounds) of mature Cheddar subject to a minimum price (170 u.a./100kg) and a levy of 10 u.a./100kg;

- Consultations will be held on the functioning of the arrangement;

- There is a formula for reciprocal improvements after 1982.

(ii) With regard to alcoholic beverages, there is an exchange of letters (see Annex B 17). containing a declaration of intent by Canada's provincial governments providing, in respect of all products, for non-discrimination between foreign suppliers; for spirits, the discrimination between domestic products and imported products will be abolished over eight years and, in respect of wine, vermouth and champagne, the present difference between domestic products and imported products will be frozen and a minimum price introduced for imports of wines.

(iii) Canada has given up its demands concerning quality wheat and has merely requested, in an exchange of letters (see Annex B 7). that this question be examined in 1982.

In these circumstances, the Community has given a favourable reply to a number of Canada's requests for tariff offers concerning certain agricultural products (berries, whisky, maple syrup) and certain fishery products.

3. NEW ZEALAND

New Zealand protects its agriculture not only by high customs duties but also by quantitative restrictions, which are applied on virtually all agricultural products. This is why the Community was aiming above all to get New Zealand to abolish its quantitative restrictions or progressively improve access, notably for products of the agri-foodstuffs industry and for alcoholic beverages.

New Zealand for its part was hoping to obtain from the Community guaranteed access for milk products (particularly butter, cheese and casein) and substantial tariff concessions for other products such as sheepmeat, fishery products, apples, etc.

The results which the Community has achieved in its negotiations with New Zealand are generally well-balanced. They comprise (see Annex B 9).

(a) on the part of New Zealand

complete liberalization of imports of beer and champagne;
additional licences for almost all the products of the agri-foodstuffs industry of interest to the Community;
considerable tariff reductions (average reduction of 42.9%) for the same range of agri-foodstuffs.

(b) on the part of the Community

an agreement on cheese enabling New Zealand to export a total quantity of 9 500 t, made up of 6 500 t of Cheddar intended for direct consumption and 3 000 t of cheese intended for industrial processing (mainly for the manufacture of processed cheese); a fixed levy is to be applied to these imports and a minimum price must be respected by New Zealand;

New Zealand will also benefit, to a certain extent, from the tariff concessions which the Community has granted to other partners.

The other specific requests have not been met.

4. AUSTRALIA

The Community, being aware of the fact that the only agricultural products it can export to an agricultural country such as Australia are processed products, endeavoured to obtain from Australia improved access for products of the agri-foodstuffs industry and alcoholic beverages.

Australia's objective was to obtain from the Community considerable concessions on cheese and beef and veal and also sizeable tariff reductions for certain fresh, dried and preserved fruit (peaches, apricots, pears, apples, prunes), sheepmeat and honey. Australia did not accept that agricultural concessions should be made to the EEC.

The negotiations with Australia therefore proved to be particularly difficult but led in the final analysis to a balanced result. This agreement may open the way for fresh cooperation between Australia and the Community. The Commission is convinced, moreover, that this agreement, modest though it is, is of considerable political importance. It puts an end to the succession of misunderstandings and assorted disputes which have built up between Australia and the Community over four or five years. The results are as follows (see Annex B 10).

(i) With regard to cheese, an agreement was reached involving concessions on both sides:

Australia bound at a substantially reduced level - indeed at 0% for certain types ("Fancy cheeses" such as Camembert, Brie, Stilton, Roquefort and goat's cheeses) - the customs duties levied on imports of all the cheeses exported by the EEC.

In return for this commitment, the EEC has undertaken to grant access for 3 000 t of cheese (including 2 500 t of Cheddar). A fixed levy will be charged and Australia has undertaken to respect a minimum import price.

(ii) Australia has granted the Community considerable tariff reductions, notably for products of the agri-foodstuffs industry, covering nearly 50% of the volume of the Community's exports to Australia.

These concessions are all the more important as they involve Australia in the process of binding its tariff duties - a process it had hitherto sidestepped.

(iii) In a bilateral agreement concerning beef and veal, the Community has given the following commitments:

The Community has undertaken to enter into consultations with Australia should Australia not benefit from the increase in the GATT quota for frozen beef and veal (increase from 38 500 t to 50 000 t of boneless meat);

For special cuts of high-quality beef and veal Australia has been allocated a share of 5 000 t in the overall quota;

In view of the time it takes to transport frozen beef and veal from Australia to the Community a 60-day advanced-fixing of the levy has been agreed;

Cooperation is envisaged with Australia with a view to establishing the estimate for beef and veal intended for processing and there is provision under the estimate for a suspension of the levy (maximum 45%);

(iv) As regards buffalo meat, the Community is opening a tariff quota of 2 250 t without a variable levy, at a rate of 20% ad valorem.

5. ARGENTINA AND URUGUAY

Since Argentina and Uruguay are considered developing countries, they have already benefited under the MTNs from the advance implementation by the Community of its offer on tropical products.

In the negotiations with these countries, the Community's objective was to get them to make a suitable contribution in line with their level of economic development.

For their part, these two countries, both major traditional meat exporters, sought guaranteed access to the Community.

Argentina granted the Community concessions on cognac and on Scotch whisky and Irish whiskey, while Uruguay made concessions on cognac, liqueurs and Irish whiskey.

The Community therefore concluded arrangements on beef comprising (see Annexes B 11 and B 12):

for both countries, an exchange of letters providing for:

cooperation in preparing the estimate for beef and veal intended for processing and, in the context of that estimate, suspension of the levy (maximum 45%);

advance fixing of the levy to take account of the transport time between South America and Europe;

for special cuts of high-grade beef and veal a share of 5 000 t for Argentina and 1 000 t for Uruguay.

6. STATE-TRADING COUNTRIES

The Community's objective in the negotiations with the state-trading countries, given the limited influence of the tariff aspect in those countries' import decisions, was to get them to enter into a quantitative and progressive import commitment.

For their part, the state-trading countries presented considerable lists of requests to the Community covering almost the whole range of the products they export to the Community.

All the state-trading countries refused to enter into a quantitative commitment towards the Community and the Community was therefore unable to consider their requests.

Negotiations were, however, concluded with Poland, Romania and Hungary in the beef and veal sector via an exchange of letters, the terms of which are almost identical to that agreed with Argentina. The improvements made to the arrangements governing the importation into the Community of bovine animals intended for fattening, in addition to satisfying the state-trading countries, should also be in line with the interests of the Member States, particularly those that are short of such animals (see Annexes B 13, B 14 and B 15).

7. JAPAN

It had been hoped that, to reduce the Community's considerable trade deficit, Japan would make a special effort in the MTNs particularly in respect of pigmeat, milk products (cheese, condensed milk) agri-foodstuffs and alcoholic beverages. A substantial reduction in customs duties had been requested in certain of these sectors; in the case of alcoholic beverages, the major objecti was to obtain the removal of the discrimination embodied in certain domestic taxes and increased access for certain qualities of pigmeat.

The only requests made by Japan to the Community were concerned with fisheries and preserved mandarins.

From the strictly arithmetical viewpoint, the Community obtained more concessions from Japan in the agricultural sector than it conceded to Japan. However, from the qualitative viewpoint, Japan's concessions, which to a large extent consist simply in the binding of the customs duties currently applied, are not satisfactory to the Community. On the question of the taxes - the discriminatory taxing of alcoholic beverages (the major obstacle in this sector) - Japan considered them to be domestic measures that were not negotiable in the international negotiations. Japan also refused to extend the import licences granted for certain qualities of pigmeat.

In these circumstances, and also in view of the particular sensitivity of the fisheries sector, the Community did not concede the Japanese requests relating to this sector. It did, however, accept Japan's request regarding preserved mandarins. The indirect benefits Japan will derive from the concessions made by the Community at the request of other countries are minor.

8. SOUTH AFRICA

From South Africa, which is a considerable exporter of agricultural products to the Community, the Community was looking for substantial concessions, tariff and non-tariff (quantitative restrictions), for agri-foodstuffs and for alcoholic beverages.

South Africa had asked the Community for concessions concerning in particular fresh fruit (grapes, apricots, pears, peaches, pineapples and citrus fruit) and preserved fruit (particularly peaches and pineapples) and Boberg wine.

The progress made in the negotiations was not such as to enable the Community to make direct concessions to South Africa. Indeed, the balance sheet of initial agricultural concessions revealed from the outset a very marked imbalance to the Community's disadvantage. South Africa is a major beneficiary under certain concessions made by the Community at the request of the United States (concerning tobacco, preserved fruit and vegetables). Despite that, South Africa requested additional concessions from the Community on tinned peaches and Boberg wine, without wishing to offer adequate concessions to balance the situation. It was not possible to resolve the problem of this imbalance with South Africa and the Community therefore refused to comply with South Africa's requests.

9. EFTA COUNTRIES

For obvious reasons, the Community did not hold agricultural negotiations with the E.F.T.A. countries.

It should be noted that in the MTN Switzerland gave a favourable response to the request (formulated on many occasions by the Community before these negotiations) to put an end to the discrimination between whisky and cognac/armagnac (to the latter products' disadvantage) as regards the monopoly duty charged (see Annex B 18).

D. IMPLEMENTING MEASURES

Implementation by the Community of undertakings on agriculture will call for the adoption of tariff amendments or fixed levy quotas for cheese and also Commission regulations (for instance, amendments to sluicegate price coefficients and to levies on turkey parts, the introduction of import o export certificates, etc.). The Commission has already begun to prepare for implementation as from 1 January 1980 by submitting the necessary proposals to the Council or other competent bodies (Management Committees).

Part III
Section 3

Developing countries

1. Tropical products

The negotiations on tropical products - in which some 25 developing countries took part - received special mention as a matter of priority in the Tokyo Declaration. The Community put its own "tropical products" offer into operation on 1 January 1977 without asking for partial reciprocity at that stage of the negotiations. All the other developed countries, bar the United States, adopted the same attitude.

Hammering out this offer was not easy. For one thing, apart from its own economic worries, the Community had to take account of the interests of those developing countries with which it has concluded preferential agreements, and these interests were made clear during consultations with the countries concerned. Also, it had to reconcile the requests - in some instances contradictory - of the other developing countries, some of which were asking for preferential reductions and others for reductions of general application (for example, the south-east Asian countries); such general cuts would have benefited developed countries in certain cases, or would even have been chiefly of benefit to those countries. Lastly, the Community had to try to restrict the negotiations to purely tropical agricultural products in order to avoid slipping gradually into general negotiations on a wider and wider range of products.

The EEC's offers on tropical products involve four sets of measures concerning products falling within Chapters 1 to 24 of the CCT:

(i) a general reduction in customs duties on 22 products including green coffee (from 7% to 5%), cocoa beans (from 4% to 3%), tea (from 11.5% to 5% and from 9% to 0%), pepper, cinnamon and so on, involving imports into the Community to a total value of $3 700 million in 1977;

(ii) improvement of the GSP by the addition of new products (orchids, fish, vegetables) or the improvement of existing arrangements (reduction of duty on tobacco, vegetable oil, preserved fruit, etc.). A total of 150 agricultural products were affected, imports of which into the Community were valued at $1 700 million in 1977;

(iii) abolition of quantitative restrictions remaining in France and Italy on certain acids, alcohol, industrial fats and glycerine;

(iv) an undertaking on the part of certain Member States not to increase in future any domestic specific taxes on coffee, tea, cocoa and spices.

In addition, in 1979 most agricultural imports from the least developed countries were granted duty-free admission.

The Community's offer on tropical products obviously did not meet all the requests; it was nevertheless a very substantial one, especially since it was not accompanied by a request for immediate partial reciprocity from the recipient countries as a means of encouraging them to assess the scope of the offer and to propose an appropriate contribution when the time was ripe. The United States used a different approach in that it made its offer subject to a concurrent contribution from the developing countries.

It is difficult to assess the respective merits of these two lines of approach. The Community and its partners who followed the same line adopted an open and trusting attitude towards the developing countries, while the USA was able, in the final stages of the negotiations, to obtain concessions from recipients, particularly on products of interest to the United States. The commercial advantages which the United States gained in this way are probably not very great but the approach did oblige many developing countries to change their expectant attitude, thus encouraging them to think about their own contribution, at least as far as the United States was concerned.

2. EEC concessions

Industry

During the negotiations on industrial tariff questions, the EEC looked into the possibility of applying special, differential measures on the basis of the developing countries' requests and involving products of

interest to those countries. The EEC's differential measures could be of general application, including the creation of tariff subheadings, or consist in an improvement of the GSP, thus making it possible to choose the option best suited to the developing countries' individual needs.

Some twenty developing countries and some of the countries that have concluded preferential agreements with the EEC sent in requests, some of which were not presented until July 1978 or even later, whereas the Community had made its initial offer in January of that year. Perusal of these requests, involving nearly 700 products, revealed quite wide disparities in the developing countries' approach. While some of them put forward short lists of priority products (for example, Brazil and Mexico), others, such as India and especially Yugoslavia, sent in very long lists.

A relatively large number of developing countries did not restrict their requests to those products they currently wished to export but also included those of possible interest in the future. Moreover, the requests turned out to be contradictory in many instances, with some developing countries asking for smaller across-the-board cuts than the formula offered, even going as far as to request exception for all products (even for exports that stood at zero) in order to safeguard their GSP "margin", whereas others were keen to obtain greater general reductions than offered under the formula. In some instances even, developing countries that are small suppliers of the Community requested greater general reductions than offered under the formula while large suppliers were requesting the total or partial withdrawal of the EEC's offers. Lastly, requests involving deviation from the formula often ran counter to the issues involved in our negotiations with certain developed countries. The Community had to reject requests for withdrawal because of the consequences it could have had on negotiations with the United States. Conversely, it was not possible to go beyond the formula on a systematic basis with a view to differentiated treatment for products of which the developed countries were the chief suppliers. All these requests to the Community from the developing countries had to be examined in the light of the interests of the countries benefiting from preferential access outside the GSP, taking account also of each developing country's

contribution to the negotiations.

The A.C.P. and other countries linked to the E.E.C. by preferential agreements secured benefits on non-Community markets as well, and where G.S.P. margins were maintained, it was also possible to preserve the preference in favour of the A.C.P. and other preferential partners.

Because the developing countries' requests were so diverse it is not possible to give a full picture of the application of both the general formula and the differential measures. The following table sums up the overall result. The figures are given in million EUR (it should be noted that, because of the effects of rounding off, the average rates of reduction do not correspond exactly to the straight calculation on the basis of the columns of average rates before and after the MTN).

Country	Total imports into EEC	Dutiable imports into EEC	Imports subject to total withdrawal by EEC	% of dutiable imports subject to reductions	Average rate of duty before MTN (%)	Average rate of duty after MTN (%)	Average rate of reduction (%)
Yugoslavia	1.030.095	879.721	125.225	85.8	10.9	8.4	23.0
Korea R	805.110	797.813	146.749	81.6	13.4	10.8	19.3
Romania	808.929	764.986	317.783	58.4	9.4	7.7	17.9
India	802.209	452.108	14.606	96.9	12.5	8.8	29.7
Brazil	979.417	442.120	46.943	89.4	8.9	6.7	25.1
Singapore	419.555	345.676	113.703	67.1	13.4	11.1	16.8
Pakistan	183.300	163.590	10.499	93.5	10.0	7.2	28.2
Malaysia	793.701	156.326	37.398	76.1	13.6	11.0	18.5
Mexico	199.135	126.020	26.811	78.7	9.6	7.0	26.8
Argentina	237.657	120.191	4.840	96.0	7.4	4.7	36.2
Thailand	172.726	102.173	1.711	98.3	12.8	9.1	28.8
Philippines	168.398	74.906	9.384	87.5	13.2	10.2	22.8
Uruguay	87.219	62.866	1.136	98.2	6.6	4.6	31.4
Bangladesh	78.944	45.768	4.664	89.8	10.1	5.4	47.1
Colombia	81.415	42.912	2.640	93.8	10.4	7.9	23.9
Peru	206.686	22.032	8.684	60.6	6.1	5.1	17.4
Indonesia	264.337	13.579	1.048	92.3	8.4	5.7	32.4
Chile	531.364	13.389	1.028	92.3	8.6	4.8	44.4
El Salvador	8.892	6.484	3.862	40.4	15.4	13.8	10.6
Sri Lanka	40.639	5.696	1.727	69.7	10.4	7.4	29.4
Bolivia	89.676	3.322	76	97.7	10.0	7.5	25.0
Ecuador	7.464	2.581	899	65.2	6.9	4.5	34.5
Nicaragua	15.397	2.526	964	61.8	7.5	5.5	25.9
Costa Rica	3.038	1.956	28	98.6	7.7	4.1	46.0
Guatemala	32.151	1.181	44	96.3	12.9	9.2	28.3
Honduras	11.303	1.053	217	79.4	6.6	4.7	27.5
26 developing countries	8.058.757	4.650.975	882.669	81.0	11.1	8.6	22.6

Part III
Section 3

Agriculture

In the context of the procedures adopted by the Group "Agriculture", the Community exchanged lists of requests concerning agricultural products with some 25 developing countries. Requests on which no progress had been made in the offer on tropical products were generally renewed and requests were made on new agricultural products.

The task of working out the Community's offer to the developing countries in respect of agricultural products proved to be an extremely delicate one. Since the offer on tropical products was the maximum the Community could offer (see the relevant section), it was scarcely possible to go beyond it to satisfy the developing countries' requests. In the case of a number of products, the difficulties the Community was encountering in negotiations with our developed partners made the Community chary of making the developing countries offers which could have benefited our developed partners. Lastly, most of the developing countries regarded these negotiations as simply an extension of those on tropical products and, to say the least, they showed very little inclination to make any contribution themselves, however modest.

Although the Community's final offer on agricultural products did not satisfy these countries, the fact remains that some of their requests were taken into consideration and they did derive additional benefit from the negotiations among developed countries. Several countries thus derived benefit from the EEC's offers on meat, tobacco, rice and preserved fruit. Seven countries in particular derived considerable additional benefit: Brazil, the Republic of Korea, Thailand, Mexico, Indonesia, India, the Philippines (especially from the offer on tobacco) and Uruguay (especially from the offers on bovine meat and rice).

In many cases the offers on agricultural products involve substituting an ad valorem duty for a variable additional duty on the sugar content or on specific maxima; hence it is difficult to calculate the average rate of reduction in the duties.

These offers are of course in addition to the improvements the Community has made to the GSP in order to help the least developed countries.

The following table gives a country-by-country summary of the volume of trade covered by the EEC's offer.

	Total imports into EEC	Dutiable imports into EEC	EEC offer	% EEC offer Dutiable imports	Rate of reduction
Romania			25		
Yugoslavia				6,9	13
Mexico	125,2	112,1	15,4	11	262
Brazil	1436	678	126,9	18,7	
Argentina	932		91,4		23,6
India	427,6	243	53,6	22,1	23
Sri Lanka	75,4	4,1	0,1	0,1	
Korea R	84,3	77	61,4	79,7	
Pakistan	41	26	1,8	6,9	
Indonesia	293,3	232	12,9	5.6	
Malaysia	219,7	202	0,3	0,1	
Philippines	243,1	64,8	10,2	15,7	
Thailand	336,5	326	28	8,6	
Singapore	27	21,3	1.3	6,1	
Colombia	390	381	1.2	0,3	
Venezuela	13,5	12,1	0,01	0,1	
Ecuador	101	70	0,02		
Peru	54	46,6	2,1		
Cuba				0,4	25
Uruguay	90,9	76	31,8	41,8	
Chile	95	85	10,4	12,2	21,7
Costa Rica	81,2	80,1	1,3	1,6	23,1
Guatemala	110,4	103,1	0,4	0,4	33,3
Honduras	55,1	54,1	2,7	5	20,3
Burma			6,7		
Panama			9,4		

3. Least developed countries

In accordance with paragraph 6 of the Tokyo Declaration, the Community paid special attention to the least developed countries. Given that many of these countries were not present in Geneva - plus the fact that 19 of them are ACP countries - specific bilateral negotiations mainly concerned Bangladesh.

The Community was anxious to introduce a general measure to help the countries in question by making them exempt under its GSP from any limitation, whether in the form of ceilings, maximum amounts or quotas. They enjoy these advantageous arrangements in respect of all GSP products except tobacco, preserved pineapples, cocoa butter and soluble coffee. The negotiations with Bangladesh in particular on replacing the Community's remaining restrictions on certain jute products by voluntary restraint could not be brought to a successful conclusion in time, but the EEC's offer remains a valid one and it will be put forward again when the bilateral agreements with Bangladesh and India, which expire on 31 December, are renegotiated.

4. Expedited implementation of the tariff concessions by the EEC

At the meeting of the TNC on 11 and 12 April, the EEC stated that so far as the Community was concerned the tariff negotiations had been completed and it was ready to consider, on the basis of specific requests, the prior implementation of certain concessions of interest to the developing countries. The EEC has received only a few requests, possible reasons for this being the adoption by the developing countries of a tactical position enabling them to avoid improving their own offers or a lack of interest on the part of those among them whose primary concern is the GSP.

The proposals concern (i) the expedited implementation of industrial tariff concessions by the EEC in respect of 19 headings, mainly to help Chile and the Philippines on account of their contribution to the MTNs, and (ii) the grant of initial negotiating rights to the Philippines, Chile, Colombia and Sri Lanka. The EEC was prepared to make the same gestures vis-à-vis other developing countries, subject to those countries improving their contribution, but this condition was not met.

5. Developing countries' contribution

Paragraph 5 of the Tokyo Declaration states that the developed countries "do not expect the developing countries, in the course of the trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs".

Although the principle of "non-reciprocity" was stated clearly, the developing countries nevertheless interpreted it widely, frequently to the point of not offering any contractual counter-concession. This attitude surfaced as early as 1976 when the United States requested partial but immediate reciprocity in the course of the negotiations on tropical products. For its part, the Community showed flexibility in the matter of reciprocity and on a number of occasions, in both bilateral and multilateral contexts, pointed out that it expected a partial but reasonable counter-concession from the developing countries in due course, to be determined in the light of their development levels and economic situations. With this in view, the Community submitted to the countries in question indicative lists of requests for tariff and non-tariff concessions in the agricultural and industrial fields, these lists having been drawn up with sufficient flexibility to allow the countries concerned the maximum degree of latitude in which to make a choice.

Initial or final offers started to come in from certain developing countries in April 1978. The Community received offers from 15 countries plus the members of the Andean Group and the Central American Common Market, making 24 countries in all. Only a few of these countries participated actively and systematically in the negotiations, as the others lacked the staff needed to ensure an effective full-time presence. Improvement of these initial offers proved difficult. Our requests for a contribution were generally followed by counter-requests going beyond the offers already made by the Community. In many cases these requests were found to be excessive or unacceptable to other developing countries benefiting under preferential agreements, or simply impossible to grant in view of the improvements or reductions made to our offer as a result of our negotiations with our developed partners. Moreover, our developing partners wilfully ignored

the gain resulting from the implementation of the offer on tropical products, which was worth nearly US $ 4 000 million and covered a substantial share of their exports to the Community. Some of them also refused to take into consideration the EEC's contributions in the form of the GSP. Improvements were nevertheless obtained in certain cases, but they often looked very unreasonable alongside the economic capacity of developing countries individually prepared to make commitments on bindings for 1986, when the transitional period ends, and also by comparison with their concessions to the United States in exchange for concessions on tropical products.

Examination shows that in most cases the developing countries' contributions fall short of the EEC's requests both qualitatively and quantitatively or meet those requests in minor respects only, and bear no relation to their capacity to contribute. The various kinds of contributions may be summarized as follows:

(a) Three countries - Colombia, the Philippines and Mexico - have started negotiations with a view to accession to GATT, and a fourth - Thailand - is considering provisional accession at this stage. This is in accordance with the wishes of the Community, which has repeatedly urged the countries in question to accede, as a practical expression of their willingness to accept certain disciplines and obligations - above all in terms of tariff bindings - compatible with their level of development and comparable to those undertaken by other developing countries which are at the same stage of development. At present only the Philippines and Colombia have successfully completed their accession negotiations, while the negotiations with Mexico are continuing. These three countries' contributions are as follows:

In the tariff field, Mexico offered 112 agricultural and industrial headings, the Philippines 62 and Colombia 30 (only in industry, however, for in agriculture this country offered only to consolidate unilateral tariff cuts). In many cases the bindings are at higher levels than existing duties

(which are often over 50%, notably in the case of Mexico). In terms of coverage of the EEC's exports to the countries concerned, the offers amount to only 2.3% in the case of Mexico and 5.5% in the case of Colombia, as against 20%, in the case of the Philippines. More often than not, these offers do not cover the positions requested by the Community, and in most cases the EEC is not the principal supplier.

Although the Philippines' tariff offers, and to a certain extent Colombia's, may be regarded as reasonable in relation to their respective levels of development, Mexico's current offer is low in GATT terms and insufficient by comparison with its offer to its other developed partners. Such an offer contrasts with those made by other developing countries at the time of their accession to GATT, when their level of development was no higher than Mexico's is now.

In the non-tariff field, Mexico, in addition to its tariff offer, is binding exemption from import licensing procedures in respect of each product. Exemption is subject in certain cases, however, to a delay in application (12 years). Colombia is consolidating autonomous measures introducing flexibility into its licensing procedures for around 20 agricultural products. These countries' intentions as regards acceptance of the Codes are not known at this stage.

(b) Two developing countries, Chile and South Korea, contributed in varying degree to the Tokyo Round.

By offering to bind its agricultural tariff in its entirety and virtually the whole of its industrial tariff at a ceiling of 40% (the level of the duties applied has been 10% since 1 June 1979), Chile has offered a more substantial contribution than the other developing countries. In the non-tariff field, this country's willingness to make a commitment took the form of simplifying its customs legislation.

South Korea made a contribution to the Tokyo Round in both the tariff and non-tariff fields. With regard to agricultural and industrial tariffs, its contribution vis-à-vis the EEC covered 36 headings offered for binding, corresponding to 7.5% of our total exports to the country in question. These bindings are offered at the level of the duties applied, which have, moreover, been appreciably reduced since 1977 through autonomous measures. Generally speaking, the bindings offered do not relate to the EEC's requests but cover products in respect of which the EEC is not South Korea's principal supplier.

In the non-tariff field, South Korea proposed as its contribution the liberalization of 171 tariff headings, some of which correspond to our requests. South Korea's offer represents a contribution which, though not insignificant, must be assessed in the light of the country's rapid economic progress and the fact that it takes effect in 1986, the final year of staging of tariff cuts.

(c) Ten or so developing countries, which are less advanced or in an intermediate position between the most developed and least developed (but closer to the latter), have either made no offers or only token ones. This group includes inter alia the Andean Group and the Central American Common Market (which are setting up common customs tariffs, the latter group having eliminated the fiscal components from its tariff protection mechanisms and adopted the Brussels Convention on the valuation of goods for customs purposes), Sri Lanka, which is abolishing non-tariff measures, and Pakistan, which is also abolishing non-tariff measures and making autonomous cuts in duties.

(d) A considerable number of other developing countries either made no contribution or one which can only be regarded as insufficient in relation to their economic capacity and given the extremely protective nature of their trade arrangements.

Singapore, for example, has justified this by pointing to the very low level of its present tariff (which is not bound - only one export duty is). This country has refused to offer the Community bindings even at ceiling rates.

Brazil's offer on industrial products covers only 1% of EEC exports; the effect of the offer is to lower by around 15% the average duty level of 37% on the headings covered. Brazil considers, however, that its offer is satisfactory in relation to its situation and its future participation in the various codes negotiated in the Tokyo Round. Our urging that Brazil should display a constructive attitude vis-à-vis GATT by offering ceiling bindings produced no response, despite the fact that our offers on agricultural and tropical products cover 53% of our dutiable imports from Brazil and our industrial offer nearly 91%.

Argentina's offer originally covered 86 agricultural and industrial headings (38 of which were of direct benefit to the EEC), equivalent to 5.2% of our exports. The bindings offered were accompanied by a 30% cut in duties, although their average level is still around 70%. In the non-tariff field, moreover, Argentina did not respond to requests for the liberalization of quantitative restrictions. Yet, at the end of the negotiations, Argentina modified its offer by reducing to three the number of headings of direct benefit to the EEC (alcohol); taking indirect benefits into account (concessions to the United States), Argentina's offer covers 4.3% of our exports. Argentina endeavoured to justify its attitude by the fact that the EEC had not taken its interests into account, and in particular had eroded its GSP margin by its concessions.

Indonesia's offer in both the tariff and the non-tariff fields was minimal. In the non-tariff field, the EEC's requests for liberalization drew no response. Indonesia's sole contribution in the non-tariff field was the abolition of certain registration charges on food products and beverages.

Malaysia's offer was limited to non-bound reductions of duty on 18 agricultural and industrial headings accounting for 1% of our total exports to that country, which explained its failure to offer bindings by referring to the fact that it had abolished its quantitative restrictions.

India's contribution, despite its currently favourable external, financial and trade situation, was very small. It made no offer on agricultural products in the tariff field. With regard to industrial products, India consolidated autonomous cuts in duties on 89 products. It backed up this contribution by offering bindings vis-à-vis the Community for 14 products, equivalent to 1.3% of our exports to India. Some of these bindings were offered at ceiling levels and others at existing duty levels. The level of binding offered is over 36%. In the non-tariff field, India presented as a general contribution to the MTNs a package of autonomous measures liberalizing or abolishing import embargoes. So far as the Community was concerned, India met only one of our requests for flexibility in its licensing procedures.

Yugoslavia, as its contribution to the MTNs, consolidated cuts of around 40-50% in six sections of its tariff; these reductions were implemented autonomously from 1 January 1978 onwards. Yugoslavia is offering to bind a number of headings which were the subject of unilateral cuts, corresponding to around 2% of our exports.

Romania, although it offered bindings in respect of over 150 products, did not meet our principal requests concerning its import arrangements. The E.E.C. reserved its position on tariff bindings in accordance with its previous attitude regarding the significance of this country's customs tariff.

Only Argentina, Jamaica, Romania and Yugoslavia have annexed their lists of concessions to the 1979 Geneva Protocol. At the appropriate time the other countries' lists will be annexed to an additional tariff protocol.

Korea and Uruguay have recently lodged lists of concessions.

Part III
Section 3

The following table gives an estimate of the overall value of the developing countries' offers on agricultural and industrial tariffs, broken down by main geo-political or geographical area. It is a provisional, summary estimate and should be regarded with caution. It is provisional inasmuch as the final contributions situation is not known in all cases, and because of the difficulty of assessing the value of developing countries' bindings (ceiling rates, supplementary charges, etc.). Lastly, the contribution of a group of countries may be gauged by the size of the contribution from only one of the members of the group. Comparison of this evaluation with the overall agricultural and industrial offers shows up fairly clearly just how small the developing countries' contribution is.

Imports from the EEC covered by developing countries' offers[3] (US$ million)

	Latin America			Asia			Europe		Total
	Andean Group	CACM	Other[1]	ASEAN	Indian sub-continent	South Korea	Yugoslavia	Romania[2]	
(a) Offers on binding									
agriculture	0	0	25	19	0	0,09	0		44.09
industry	25	0	311.6	97.6	13.7	52.6	60		560.5
total	25	0	336.6	116,6	13.7	52,69	60		604.6
% of total imports from the EEC	0,9	0	6.5	2.6	0.6	7.5	1,9	-	
(b) Autonomous offers									
agriculture	-	-	0	2	0	-	0		2
industry	-	-	0	9.6	16	-	466		551,6
total	-	-	0	11,6	16	-	466		493,6
% of total imports from the EEC				0,3	0,7		15		
Total	25	-	336,6	128,2	29,7	52.69	526		1 098.2

- Autonomous measures unsuitable for evaluation on account of their general scope or their non-tariff nature.

[1] Argentina, Brazil, Chile, Mexico.

[2] Romania's offer is not quantified by reason of the difficulty of assessing its significance.

[3] Situation at 18 July 1979.

AGREEMENT ON TECHNICAL BARRIERS TO TRADE

Well before the Multilateral Trade Negotiations were launched in Tokyo in 1973 the Committee on Industrial Products had started work on a draft agreement under GATT to make new technical regulations or standards formulated by the contracting parties more transparent. Once the MTNs had got under way the Non-Tariff Barriers Group quite naturally set up a specialized sub-group for the negotiation of a code on technical barriers to trade. The Community's objective in this field was twofold:

i. to ensure that its trading partners did not establish technical regulations or standards which might hamper Community exports or force Community industry to incur excessive expenditure in order to adapt to those new rules;

ii. to prevent, for very legitimate reasons, our trading partners from having an excessive right of inspection when the Community and the Member States were forced to create new technical rules or standards which in some cases had to be brought into force urgently, for instance when public health was at stake.

This twofold objective was achieved, after very lengthy negotiations, particularly with the United States and Japan, as obligations had to be balanced between countries where technical regulations and standards tend to be formulated by decentralized or private standards institutes and countries where state action predominates. In the end, the Agreement provides for two levels of obligation:

i. central and federal governments are directly responsible for the technical regulations and standards that they bring into force;

ii. federal and central governments are responsible for significant disturbances of international trade consequential upon new technical regulations or standards issued by decentralized standards institutes and non-governmental bodies.

One of the most intractable problems in the negotiations was that of certification systems and reciprocity as regards access to certification. The Commission feels that the solutions adopted make it possible to enter into bilateral consultations with trading partners to obtain true reciprocity, failing which sanctions would be applied under the Code itself in respect of any country or countries not granting reciprocity as regards access to certification. Any idea of automatic participation in certification systems was eliminated from the Agreement. This means that reciprocal recognition of certificates of conformity issued by public authorities or producers for a given type of product between two countries must be negotiated bilaterally between those two countries.

The Agreement also provides for special, differential treatment for the developing countries. Clearly, it was unacceptable that products exported by the developing countries should fail to comply with the technical regulations or standards imposed by the developed countries. Special, differential treatment therefore basically involves technical assistance to enable producers in the developing countries to come up to the standards of the developed countries.

The Agreement is of the evolutive type and is to be the subject of a general review after a trial period of three years.

There are special aspects to the dispute settlement machinery given the very technical, even scientific, nature of technical regulations or standards. Most disputes will therefore be brought before a group of technical experts prior to any decision by the Committee of Signatories or any meeting of a panel of trade experts.

In the developed countries hundreds or even thousands of technical regulations, standards or adjustments of existing technical regulations and standards in line with technical progress will be published. If our exporters are to derive real benefit from the Agreement the Member States and their Commercial Counsellors in the signatory countries must, in conjunction with industrialists and their trade associations, examine carefully the published drafts as the Commission cannot do this work in depth itself.

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The Commission is also submitting proposals to the Council for the implementation of this Agreement at Community level. As well as measures to ensure real reciprocity vis-à-vis the other parties in application of the agreement, these include provisions covering information on draft technical regulations and standards, and a Community procedure for recognition of the certification and checking systems of other parties to the Agreement.

PART III, Section 5

Government procurement

The search for an agreement on the progressive opening up of government procurement started within the OECD nearly ten years ago. The aim was to abolish laws or administrative practices, such as the Buy American Act in the United States, which reserve government contracts for national suppliers or give them a price preference.

In the Community a common policy on public supply contracts was adopted by the Council in December 1976. The directive for the harmonization of procedures for the award of public supply contracts did not enter into force until the middle of 1978. In adopting this directive the Council decided to seek, within the MTNs, an agreement for the progressive opening up of government procurement to the greatest number of partners possible.

The matter was studied by a special sub-group in which a number of developing countries participated alongside most of the developed countries. Indeed, one of the most intractable problems was that of the developing countries' participation in the Agreement. It was acknowledged that these countries might make an offer which was quantitatively and qualitatively inferior to that of the developed countries, and in addition certain measures for differential treatment were agreed (see below).

The Community's objective in the negotiations was to secure the abolition of all practices of reserving contracts for national suppliers and of price preferences in their favour. This objective has been achieved only partially because only central or federal government entities are entering into such a commitment vis-à-vis suppliers which are nationals of signatory countries. It has been impossible to find an equitable solution for decentralized entities or those which do not come directly under central or federal authorities. Thus the federated States in the United States, the provinces in Canada and the cantons in Switzerland are not covered by the Agreement. On the Community side the scope of the international Agreement covers only a small part of the field of application of the directive on public supply contracts: the Länder, regions, départments and municipalities are excluded.

Three major sectors of activity were also excluded from the scope of the Agreement by the Community by analogy with the directive. These were public transport, energy production and distribution services, and telecommunications services (the postal services are subject to the rights and obligations of the international Agreement).

The Community's trading partners exerted strong pressure for the scope of the Agreement to be extended to these three sectors and will continue to do so. Since the Agreement is of the evolutive type and provides for a general review after it has been applied for three years we must expect this question to remain open and pressure from the other signatory countries to remain very strong for the scope of the Agreement to be extended.

The Agreement provides for arrangements as regards procedures and the transparency of those procedures which are not very far removed from those adopted by the Council in the Community directive. Basically, invitations to tender are to be published in newspapers and after the contracts have been awarded information is to be provided at the request of the unsuccessful tenderers or the other signatory governments. The Agreement is scheduled to enter into force on 1 January 1981, as in many signatory countries it will be necessary to amend certain existing rules or laws. Many developed countries and a number of developing countries (such as Hong Kong, India, Israel, Jamaica, Nigeria, Singapore and South Korea) have stated that they intend to sign the Agreement.

In order to enable our suppliers to benefit fully from access to our trading partners' government contracts the Commercial Counsellors serving in the signatory countries and the chambers of commerce and industry or trade associations must be mobilized in order to publicize widely invitations to tender issued in third countries. Community exporters will themselves have to make an effort to lodge their tenders by the required dates and to have themselves included on the lists of approved suppliers whichmay exist in certain signatory countries such as Japan and Canada. This is necessary if the Agreement is to offer practical benefits.

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Special and differential treatment is accorded by the Code to the developing countries. The least developed countries, even if they are not signatories to the Agreement, and suppliers established in those countries may be accorded special treatment in respect of products originating in those countries. Moreover, signatory developing countries may negotiate with other signatories derogations from the Code's rules pertaining to both entities and products. This is what has been done for instance with India, Jamaica and Singapore; the same procedure will be possible after the Agreement enters into force.

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The Community legislation in force, namely the Council Directive of 21 December 1976 (77/62/EEC), only governs access to public contracts at intra-Community level, and does not apply to products originating in non-member countries supplied from those countries, as also transpires from the Council Resolution of 21 December 1976.

The implementation of this Agreement is not therefore in itself enough to change existing Community law.

However, the Directive cannot continue to apply as it stands to the purchasing entities covered both by it and by the Agreement without creating the possibility of their becoming subject to two sets of irreconcilable arrangements.

Accordingly, the Commission intends to submit to the Council a proposal for a directive amending the Directive of 21 December 1976 to bring it into line with the requirements of the Agreement with regard to the purchasing entities covered by the latter instrument.

Aircraft

The idea of seeking an arrangement on trade in civil aircraft has often been raised over the past few years. The Community's import arrangements were based largely on Protocol No XVII to the E.E.C. Treaty on List G (hence constituting an integral part of the Treaty of Rome) and on tariff suspensions or exemptions adopted each year or every six months on the basis of Article 28 of the Treaty of Rome.

The 1975 negotiating directives provided for the possibility of negotiating the elimination of customs duties in certain sectors. The aircraft sector was not cited as an example but it was agreed in the course of the discussions to seek an agreement with the main partners in that field.

The real negotiations with the Americans and Japanese got off to a late start, the arrangement on the aircraft sector being referred to for the first time in the July 1978 Agreement. In the autumn, proper negotiations began on the basis of a preliminary working paper presented by the United States and a counter-proposal presented immediately by the Community independently of any formal negotiating group; only certain partners participated (Canada, the Community, Japan, Sweden and the United States). Other countries whose intentions were sounded out - Brazil, Norway and Switzerland - decided not to take part in the negotiations.

In April, only a few days after the various agreements were initialled, the negotiating partners had the GATT Secretariat circulate what was virtually a final document open for all the negotiating parties to sign.

The Community's prime objective was the elimination of customs duties on the United States market, which absorbs more than half of world aircraft production; the second was to obtain the elimination of customs duties in Japan, whose intention to develop an aircraft industry behind high tariff walls (of the order of 12%) had just come to light.

These objectives have been attained and, under the Agreement on aircraft, all signatories will bind under GATT exemption from customs duties on all aircraft, helicopters, gliders, engines and main parts and on-board equipment intended for the manufacture, repair and maintenance of civil aircraft. Via the most-favoured-nation clause the elimination of customs duties will benefit non-signatory countries, including the developing countries, among which Brazil is at present developing a helicopter and light aircraft industry.

In the non-tariff field the signatories are committing themselves to limit compensation purchases and to prevent subsidies to industry from disturbing international trade. The Committee of Signatories will be able to deal with any problem in the aircraft sector. The Agreement also provides for the possibility of intervention, right from the start, in the event of any enquiry to determine the existence, degree and effect of any alleged subsidy, with the aim of seeking a mutually agreed solution which would obviate the need to resort to countervailing measures.

Finally, the Agreement is of the evolutive type in that it provides for the possibility of annual examination and a general review three years after its entry into force. In particular, the scope of the Agreement could be widened to include parts or sub-assemblies in respect of which customs duties have already been abolished.

The number of signatories is likely to be fairly small. So far Canada, the Community, Norway, Sweden, the United States and Japan have announced that they intend to sign the Agreement. Switzerland may well also sign and certain other countries such as Israel might be interested too.

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In the Commission's view, the implementation of this Agreement at internal level does not require any specific steps other than entering the tariff exemption in the Common Customs Tariff.

AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES

1. The Community's negotiating objectives

In this politically sensitive sector of the multilateral trade negotiations, the Community's negotiating objectives were relatively simple. In essence, these were to ensure the uniform application of the relevant GATT rules in this sector, and in particular GATT Article VI containing the "material injury" requirement, by all signatories and especially by the United States. In order to achieve this aim, the Community declared itself open to discussions on the possible up-dating of the 1960 GATT list of prohibited export subsidies on industrial products and on improving the existing GATT procedures for dealing with the trade effects of subsidies.

2. Evolution of the negotiations

It was clear from the outset that agreement would not be reached in this sector unless a number of major issues were settled between the two principal delegations involved - the Community and the United States. In particular, in return for U.S. acceptance of the material injury test, United States' negotiators insisted on the acceptance by the Community of :

a) an illustrative list of internal or domestic subsidies;

b) a new right of unilateral action against subsidised products, thus extending GATT Articles XVI and XXIII, and in advance of the outcome of the international dispute settlement procedure; and

c) a re-inforced international dispute settlement process in this field in particular.

During negotiations the Community's position in cpposing these United States demands was supported by all other major delegations and in particular by those from the Nordic countries, Canada and Japan.

Teh success with which the Community resisted the demands set out above is reflected in the terms of the Agreement, a synoptic analysis of which follows.

c) provisional measures - clear conditions are prescribed which must be set before such measures can be taken. In particular, the authorities imposing the duty must have made preliminary positive finding that a subsidy exists and must possess sufficient evidence of injury;

d) "material injury" - apart from the cardinal importance of the acceptance of a material injury test by the United States, a number of important refinements have been made to the concept of material injury as it has previously been applied by all other signatories. These are:

i. re-definition of causality - the 1968 Anti-dumping Code had required that dumping be the principal cause of injury. Henceforth, it must be demonstrated that the subsidised imports are, through the effects of the subsidy, causing injury. Injuries caused by other factors are not to be attributed to the subsidised imports;

ii) refinement of injury criteria - The determination of injury will now involve a two-tier examination of a) the volume of the subsidised imports and their effect on prices in the domestic market for like products and b) the consequent impact of these imports on domestic producers of such products;

iii) regional protection - Although the wording of the Code provisions relating to regional protection have been simplified, these provisions are not now more restrictive of the Community's power to take anti-dumping action on behalf of producers in a region than previously. On the contrary, they enable such protection to be applied in a more flexible manner.

e) Subsidies in general - the provisions of GATT Articles XVI and XXIII have been elaborated and set out in a more logical fashion, without altering in any way their legal nature;

f) subsidies on primary products - certain of the concepts already inherent in GATT Article XVI (3) have been spelt out in more detail and clarified in the new text;

3. Results of negotiations

I. Acceptance of the "material injury" test by the United States

The most positive benefit achieved for Community exporters in the Agreement is undoubtedly the full acceptance by the United States (and by all other signatories) of a well-articulated material injury test, which is a pre-condition to the imposition of countervailing duties against imports. This will provide a much-needed bulwark against protectionist trends in the United States. Naturally - and the Community has made sure that this is well-known by all concerned in the Administration Congress and industry in the United States - the greatest importance attaches to the full and accurate implementation and application of the Agreement's provisions by the Administration and the International Trade Commission.

II. Other features of the Agreement

Other important features of the Agreement are set out below. However, compared with the United States' application of the "material injury" test, the rest of the Agreement's provisions do no more than to build upon existing principles and rules inherent in GATT Articles VI, XVI and XXIII. So far as domestic procedures are concerned, considerable inspiration has been derived from the 1968 GATT Anti-dumping Code, which will itself be updated as a result of these negotiations (see Section 8).

a) domestic procedures - detailed procedural rules are laid down regarding the basis upon which an investigation may be opened and the procedure applicable to the conduct of cases. In particular evidence is to be provided on (i) the subsidy, (ii) injury and (iii) the causal link between them. Evidence provided on these points is to be considered simultaneously by the investigating authorities;

b) administrative discretion in the imposition of countervailing duties - the principle that such discretion is desirable is included in the Agreement, even if it is unlikely to be fully realised in practice, at least in the United States. Some de facto flexibility may arise, however, from the Agreement's provisions on the termination of cases on the grounds that satisfactory assurances have been obtained, either from the exporter of his government, such as to eliminate further injury;

g) subsidies on non-primary products - the 1960 GATT list of prohibited export subsidies on non-primary products has been updated with additional protection for the Community's particular interests being secured through a confirmation of the illegitimacy of the DISC legislation in the USA. This arrangement does not entail, however, a parallel affirmation of certain disputed GATT Panel findings concerning the tax- practices of certain Member States;

h) dispute settlement provisions - the Agreement's provisions on this subject have built on the existing law and practice of the GATT under Articles XXII and XXIII. Flexibility has been safeguarded, notwithstanding a certain tightening of the system by the inclusion of notional time limits;

i) developing country export-subsidy practices - sustained pressure by some of the participants on certain more industrialised developing countries (e.g. Brazil) produced a commitment by the latter to phase out certain of their more egregious export subsidy practices and thus to accept some discipline, although not the general prohibition on such subsidies which is observed by developed participants;

j) state-trading countries - considerable flexibility has been retained in order to deal equitably and reasonably with imports from those state-trading countries which adhere to the Agreement.

4. Implementation

The new code requires an adaptation of the Community legislation (Regulation EEC 459/68) the preparation of which is well under way and will shortly be submitted to the Council.

CONCLUSION

The Agreement provides a more rational set of procedural rules, which is in the interest of all participants, to accompany the elaboration of the principles contained in GATT Articles VI, XVI and XXIII. The imbalance in rights and obligations which existed before this Agreement has new been removed. The Commission considers that it would be in the Community's interest to accept the code.

PART III SECTION 8

ANTI-DUMPING

The Community's essential objective in the area of anti-dumping policy was to eliminate the imbalance which exists between contracting parties in the application of rights and obligations under Article VI of the GATT and the Anti-Dumping Code. There was a need, in particular, to ensure that American anti-dumping procedures reflected the obligations imposed by the Code.

This objective has been pursued in two stages.

In the first stage progress was made on the basis of an inventory of problems and issues in this field which had been prepared by the GATT Secretariat. From the inventory a priority list of eight topics was chosen on which papers were presented and in depth discussions were held. Fortunately, the views expressed in the papers presented by the Community were followed to a large extent by the major signatories and this enabled a common position to be adopted by them on the main problems involved.

The Community has already taken advantage of the common position reached in this stage by amending its basic anti-dumping regulation EEC N° 459/68 to reflect the principles agreed. The amendment, contained in Council Regulation N° 1681/79 makes fundamental changes in the rules to be followed. The main changes involved when establishing the extent of dumping relate to the treatment of the allowances to be made for sales on the home and export markets, the criteria to be applied to imports from state trading countries and the treatment of profits, especially when sales on the domestic market are made at a loss. The amendment also changes the criteria to be applied when assessing the injury caused and clarifies the Community's procedures concerning the disclosure of information obtained during an investigation.

The second stage consisted of a re-negotiation of the Anti-dumping Code, the need for which arose from the need for parity with similar provisions in the new Subsidies and Countervailing Code. In fact the Community negotiators in the subsidies field were able to influence the drafting of the new Code in a way which assisted the solution of the problems existing in the anti-dumping area.

The main improvement obtained in the re-negotiation of the Anti-dumping Code were :

Re-definition of Causality

The requirement in the 1968 Code that dumping had demonstrably to be the principal cause of injury before anti-dumping measures could be applied was the source of a fundamental disagreement between the USA and other signatories of the Code.
Whereas the requirement had to be strictly observed in Community procedures it had not been incorporated into US and Canadian law.
The revised requirement is that injury has to be caused by dumping and that injury caused by other factors should not be attributed to the dumped imports. This provides a more realistic balance in that it will impose a minimum constraint on the Community's trading partners while releasing the Community itself from the harsher constraint which had hitherto been observed.

Refinement of Injury Criteria

The determination of injury will now involve a two tier examination of (a) the volume of the dumped imports and their effect on prices in the domestic market of the importing country and (b) the consequent impact of these prices on the domestic industry in the importing country.

Simultaneity

The new rules require evidence of injury and dumping to be examined simultaneously at all stages of the investigation i.e. at the initiation stage, when provisional duties are imposed and when a final finding is made. This means that in future the USA will have to conduct meaningful examinations of the injury evidence from the very beginning of an investigation.

Regional protection

Although the wording of the Code provisions relating to regional protection have been simplified, these provisions are not now more restrictive of the Community's power to take anti-dumping action on behalf of producers in a region than previously ; on the contrary, they enable such protection to be applied in a more flexible manner.

Provisional Measures

Under the revised Code there must be a positive preliminary finding of dumping and consequent injury before provisional measures can be applied. This will remove a main bone of contention between the Community and the USA who, up to now, have taken provisional action after a most cursory investigation of injury.

Price Undertakings

The revised Code recognises the growing importance of price undertakings in the anti-dumping field. It lays down new rules for their acceptance, monitoring and review which puts them on a par with anti-dumping duties. These new rules reflect the flexible policy adopted by the Community in this area and will encourage Canada and the USA, who are beginning to see the value of undertakings, to overcome their refusal or reluctance to accept them.

Retroactivity

The new rules admit the retroactive application of an anti-dumping duty only in exceptional circumstances i.e. in case of sporadic dumping or the violation of an undertaking. This means that the USA has renounced its right to impose the duty retroactively to a period of 120 days before the application for anti-dumping action was made.

L.D.C.s

The L.D.C.s have considered that the new Antidumping Code as negotiated by the Signatories of the 1968 Code does not take sufficient care of their specific interests and they have proposed a different version of the Antidumping Code to the acceptance of Contracting Parties.
In order to solve this problem negotiations have been undertaken and still

Conclusion

The provisions of new code impose the need on all signatories to make their procedure more transparent, a change which is clearly desirable in general and which, for the Community, had also become necessary in view of recent opinions issued in the European Court of Justice. The new code therefore requires an adaptation of E.C. Antidumping regulation (EEC 459/68), the preparation of which is well advanced and will shortly be submitted to the Council.

PART III
Section 9

IMPORT LICENSING PROCEDURES

1. Background

Discussions on import licensing procedures started almost ten years ago, prior to the MTN, and the draft of an Agreement had been prepared by a GATT working party in 1972. This text however did not attempt to resolve extreme differences of view between delegations, in particular with regard to the substantive issue whether automatic licensing should be considered as a barrier to trade. At the beginning of the MTN the US and other participants took the extreme position that all automatic licensing systems should be eliminated from a certain date, and no substantive progress was made on this point until the final stage of the MTN in late 1978.

2. Negotiating objectives

Contrary to the US position, the Community's objective in the area of licensing was to preserve the status quo and in particular to oppose "procedural" requirements which would in fact have substantive consequences, e.g. if it were no longer possible to apply automatic licensing to selected sources only or if procedural provisions could be used to reinforce attacks in GATT on remaining discriminatory quantitative restrictions.

3. Results of the negotiations

The result of the negotiations is an Agreement which covers automatic and non automatic import licensing procedures. The Commission considers that this Agreement meets fully the Community objective and protects our interests.

In particular, the Agreement contains the following elements :

- The use of automatic licensing is recognized as being necessary in certain cases and the Agreement does not contain any procedural requirements which would go beyond Art. I or XIII of the General Agreement.

- The Agreement will bring benefits to traders in that adherents are subject to more precise disciplines in the licensing procedures which importers have to follow in obtaining a licence, and these procedures must be made public more fully than in the past.

- The Agreement, by its definition of automatic licensing, makes it clear that such systems should not have de facto restrictive effects.

- Finally, it is important to note that this Agreement contains a number of elements of differential treatment for developing countries, in particular a temporary derogation of two years for those developing countries which have particular difficulties to comply with substantive obligations in connection with applications for automatic licensing.

4. Implementation

The Commission has examined whether the existing Community regulations in the area of licensing, in particular regulation EEC No 926/79 and certain regulations in the agricultural sector, have to be adjusted. It has been concluded that no provision of the Agreement is incompatible with the regulations of the Community.

CUSTOMS VALUATION

Negotiating Objectives

1. The Community started the negotiations on customs valuation with a number of detailed objectives. The main aims were to eliminate certain specific and arbitrary protectionist features in the United States and Canadian valuation systems, including the "American Selling Price (ASP)" System; to limit the scope for "aggressive" valuation by third countries; to simplify and clarify the Community's own valuation laws in the context of the negotiations; and to bring about the maximum possible degree of international simplification and harmonization consistent with the other objectives.

Evolution of the negotiations

2. Initially, the United States was reluctant to negotiate on customs valuation because of the political sensitivity of its 'ASP' and 'Final List' provisions and its unfortunate experience in the Kennedy Round when the bargains which its negotiators had struck were not honoured by Congress. Canada was also unwilling to contemplate major changes in its system because of the political sensitivity of the subject and Japan was reluctant to negotiate in this field because of the difficulty of getting any necessary legislative changes through its parliament. The Nordic countries, on the other hand, adopted an open-minded approach from the start. Even within the Community, there was initially considerable reluctance in some sectors to contemplate any significant changes in the Community's valuation laws because of existing firm commitments to the Brussels Definition of Value (BDV).

3. Subsequently, the United States and Japan were persuaded of the benefits of trying to arrive at a new set of international valuation rules in the MTN and agreed to study Community proposals. The Nordic countries gave their active support to Community initiatives. Canada, however, remained on the sidelines.

4. After wide consultations with representatives of industry and commerce, it was recognised that the Community's negotiating objectives could best be met by moving away from the "notional" concepts of the BDV and introducing a "positive" international system of valuation. This implied redefining

the methods of valuation currently used within the Community, without substantially changing the basic methods themselves, and introducing greater discipline in their application. The Community presented to the GATT a draft reflecting its new approach and this was accepted as the basis for the negotiation of the valuation agreement.

5. Agreement was finally reached amongst developed countries on a valuation agreement which followed closely Community thinking. This Agreement was published in document MTN/NTM/W/229, rev. 1.

Results of the negotiations

6. It now seems likely that the Community's main developed trading partners, with the possible exclusion of South Africa, will be signatories of the Agreement. The Community and the United States will apply the Agreement with effect from 1.7.80. under a bilateral arrangement. Most other signatories are expected to apply the agreement from 1.1.81 although Canada is expected to defer its implementation until 1.1.85. As a result the ASP system and the US 'Final List' will be eliminated and the so called "Fair Market Value" (value based upon the sale price of goods on the domestic market of the country of exportation) will disappear from the Canadian and certain other valuation systems. Customs value will generally be based upon the quantities of goods actually imported rather than on "usual wholesale quantities", and, very importantly, arbitrary adjustments upwards of the invoice price to cover costs of advertising and "abnormal discounts" will no longer be possible. Furthermore, the Community's new valuation laws, based upon the Agreement, will be clearer and more precise and, as a result, should result in a greater uniformity in practice. The only one of the Community's initial specific objectives which it has not been possible to meet is the elimination of the use of "cost of production" as a normal basis of valuation. Even here, however, the method has been placed last in the sequence of normal methods and its use has been so constrained that it will, in practice, only be possible to apply the method with the full agreement of the producer of the goods.

Developing countries

7. The Valuation Agreement contains a section on 'special and differential treatment' for developing countries. This enables developing countries which sign the Agreement to delay implementing its main provisions for

five years, with the possibility of a delaying the implementation of the provisions relating to 'computed value' for a further three years. There is also provision for the developing countries to receive technical assistance with the implementation of the Agreement.

8. The Agreement is not at the moment completely acceptable to developing countries because they fear that, because of the generally high levels of their customs tariffs and the new disciplines imposed by the agreement on customs officials, its implementation could result in significant losses of customs revenues and also increase the scope for fraud on the revenue. They have, therefore, produced a modified version of the agreement which gives them the right to delay implementing the agreement for 10 years, gives them powers to include in the customs value certain elements which are not includible under the provisions of the version agreed amongst developed countries and generally gives greater flexibility to their customs. Discussions are being held with developing countries, however, in an attempt to find ways of making the Agreement acceptable to them. There are indications that a number of the more advanced ones will be able to accept the Agreement, subject to a limited number of technical reserves which are not contrary to its main concepts or its spirit. Discussions are still continuing,however, to see whether a compromise settlement can be reached which would enable a larger number of developing countries to become early signatories. Whatever the outcome of these further discussions, it seems unlikely that the developing countries will wish in the end to pursue the idea of a second GATT valuation agreement.

Implementation

9. The Commission is making proposals for a Council Regulation to implement the Agreement with effect from 1 July 1980, and replace Regulation EEC N° 803/68. In order that necessary application regulations can be adopted in time for the implementation of the Agreement by 1 July 1980, it is essential that the basic Council Regulation should be adopted with the utmost speed.

Conclusion

10. Given the initial difficulties and the political sensitivity of customs valuation in certain countries, the Commission considers that, overall, the negotiations in this area have been successful. All of its main objectives, except the elimination of cost of production as a basis of value, have been met so far as developed countries are concerned. The position of developing countries is less clear but it would not be unreasonable to except that the new GATT agreement will replace the Brussels Definition of Value (BDV) in the short or longer term as the basis of developing country valuation systems.

COMMERCIAL COUNTERFEITING

Negotiating Objectives

1. The conclusion of an agreement on measures to discourage the importation of counterfeit goods was not amongst the Community's initial negotiatin objectives. The subject was introduced at a very late stage in the MTN by the United States. The Community recognised, however, that it shared a common interest with the United States in the discouragement of such unfair practices and, accordingly, agreed to try to reach an agreement on this subject.

Evolution of the negotiations

2. The initial United States approach was, in effect, to require all imported counterfeit goods to be treated as contraband and to require their seizure by the customs authorities. Whilst such an approach was acceptable to some Member States, it was clearly unacceptable to others where protection of intellectual property rights was based upon complaint to, and action by, the judicial authorities. A similar situation applied in the case of other countries participating in the negotiations.

3. It was therefore necessary to agree with the United States that the counterfeit agreement would have to provide for two main, alternative methods of control - one based upon customs intervention, the other resulting from action in the courts. It was also agreed that the agreement should not modify substantive national or international laws on the protection of intellectual property rights as these were already the subject of negotiation in the World Intellectual Property Organisation (WIPO). It was further agreed that the agreement would initially cover only the counterfeiting of trade marks.

Results of negotiations

4. An agreement was reached with the United States on measures to discourage the importation of counterfeit goods. This was published by the GATT as document L 4817. Because the agreement adopts a flexible approach to the problem it is likely to be acceptable to other countries as well. Further discussions are currently under way in order to widen the acceptance of the agreement.

5. The results of the negotiations in this field are admittedly modest. Nevertheless, they do represent a useful step forward in direction of curbing unfair practices which prejudice the interests of Community producers both in home and export markets. The main benefits are as follows:

5.1 This is a new agreement in the international trade context which is designed to complement the obligations which many governments have already adopted in the intellectual property field. Given the right sort of publicity it should help to deter international trade in counterfeit goods.

5.2 The agreement is based on the principle that those involved in the importation of counterfeit goods should be deprived of the economic benefits of their transaction. It thus provides for action to be taken against counterfeit goods, either directly by customs services or through the courts and incorporates firm rules with regard to their subsequent disposal.

5.3 The agreement provides for closer cooperation between the responsible authorities and an exchange of information on specific cases of international trade in counterfeit goods and on new fraudulent techniques or practices. This should significantly help to improve control over international trade in counterfeit goods.

5.4 The agreement provides for consultations between signatories on matters affecting the operation of the agreement and a commitment to work towards mutually satisfactory solutions. This will enable the possibilities of strengthening controls to be explored in the longer term in cases where it can be shown that control systems are ineffecti and that, as a consequence, the objectives of the agreement are being prejudiced.

5.5 The agreement also has an evolutionary clause under which its provisio can be extended to other intellectual property rights.

Developing countries

6. The Agreement makes no provision for special and differential treatment for developing countries since derogations from its obligations would be inappropriate. Intellectual property rights are already protected by the Paris Convention, to which many developing countries have subscribed, and the main objective of the Agreement is to reinforce in the area of international trade the protection envisaged by that Convention. It is unlikely that many developing countries will have an interest in signing the Agreement but, on the other hand, they could not claim that their legitimate interests were being prejudiced.

Conclusion

7. Because of the late introduction of the subject into the MTN and of legal and institutional complexities, the results of the negotiation in this field have necessarily been modest. However, the agreement represents a useful step forward in the struggle against unfair commercial practices and will represent a worthwhile result if, in addition to the United States and the Community, other major trading powers decide to adopt it.

LEGAL FRAMEWORK

In 1976, in response to a Brazilian initiative backed by numerous developing countries and also several developed ones, a "Legal Framework" Group was set up. It has negotiated a number of adaptations of the rules of the General Agreement (see MTN/FR/6) which are, by and large, positive in impact and, in particular, answer a number of points of concern to the developing countries.

Despite initially wide differences of opinion as to the importance, value and significance of the points under discussion, agreement was reached on a paper (MTN/FR/6) representing the outcome of negotiations in this sector.

The negotiated texts in MTN/FR/6 cover the following points:

Differential and more favourable treatment (enabling clause), reciprocity and greater participation by developing countries (graduation clause)

The enabling clause accommodates a vital point of concern to the developing countries.

It incorporates in the General Agreement a legal basis for preferences, and thus makes it unnecessary to derogate in order to grant the developing countries differential treatment in the fields of: (i) GSP tariff preferences, (ii) non-tariff measures governed by the codes negotiated under GATT, (iii) the tariff and, in some circumstances, non-tariff preferences which developing countries grant each other under regional or general trade arrangements, which cannot come under Article XXIV, and (iv) preferences for the least developed countries.

The differential treatment accorded in the form of GSP preferences or under the codes can be modified to take account of the changing needs of the developing countries. The clause also provides for consultation procedures. A clause expressly allowing GSP benefits to be shared out equitably among the developing countries met with opposition from the most advanced developing countries, and was opposed by the Nordic countries as implying the acceptance of quantitative limits on the GSP.

The reciprocity provisions explicitly reaffirm the undertaking given by the developed countries in Part IV of GATT not to seek concessions, in the course of trade negotiations, that are inconsistent with the developing countries needs; this applies particularly to the least developed countries.

Linked to the enabling clause is its logical corollary, the "graduation" clause[1]. This issue posed major problems, as a number of developing countries, some of them among the most advanced economically, refused any formal

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[1] The clause reads as follows:
"The concessions and contributions made and the obligations assumed by developed and less-developed contracting parties under the provisions of the General Agreement should promote the basic objectives of the Agreement, including those embodied in the Preamble and in Article XXXVI. Less-developed contracting parties expect that their capacity to make contributions or negotiated concessions or take other mutually agreed action under the provisions and procedures of the General Agreement would improve with the progressive development of their economies and improvement in their trade situation and they would accordingly expect to participate more fully in the framework of rights and obligations under the General Agreement."

acknowledgement of this basic principle of equity and common sense. The clause states that developing countries would be expected to participate more fully in rights and obligations under the General Agreement as their capacity to contribute increased; the greater degree of participation would reflect the progressive development of their economies. Numerous developing countries other than the most advanced ones had no difficulty in accepting that principle, but a number of others, led by India, were opposed to the clause, which they felt would allow the developed countries to take arbitrary action against them and would weaken developing country solidarity.

Trade measures taken for balance-of-payments purposes

This issue was brought into the negotiations by the United States, supported by the GATT Secretatiat and some other developed countries.

The text sets out the principles and codifies the practices and procedures relating to the use of trade measures to maintain or restore balance-of-payments equilibrium. Special attention is paid to the situation of the developing countries and there are special procedures for dealing with measures adopted by them to safeguard their payments balances.

Restrictive trade measures are described as "in general an inefficient means" of resolving external equilibrium problems. It is recognized that the developed countries "should avoid the imposition of restrictive trade measures for such purposes to the maximum extent possible". This was the more flexible renunciation formula on which the developed countries managed to reach an agreement, although Japan and the United States, among others, would have preferred a stronger formula. Where a developed country is compelled to apply restrictive measures, it may exempt products of export interest to developing countries. The special needs of the developing countries are also taken into account with regard both to the application of these measures and to the type of measure selected (quantitative restrictions, import surcharges and deposits, etc.).

The procedures for the examination of quantitative restrictions applied for balance-of-payments purposes (stipulated by GATT Article XII and XVIII) and the conditions for the application of such measures will also cover all other balance-of-payments measures (surcharges and import deposits). The EEC opposed regulating measures other than quantitative restrictions in the GATT lest this encourage recourse to such measures, and secured the incorporation of the words "the provisions of this paragraph are not intended to modify the substantive provisions of the General Agreement". This means that measures other than quantitative restrictions remain strictly illegal under GATT rules.

With its acknowledgement of the developing countries' special balance-of-payments situation and its improvement of the procedures for examining any problems they may encounter in this field, (including external factors likely to contribute to imbalance), the text introduces an equitable basis for participation in the machinery for adjusting the General Agreement.

Safeguards for development purposes

This text offers the developing countries a broader legal basis than Article XVIII for derogations from other GATT provisions. It concerns Sections A (allowing developing countries to modify or withdraw tariff concessions) and C (allowing them to adopt measures not consistent with the GATT, e.g. quantitative restrictions) of Article XVIII. Whereas under present rules developing countries may only take measures aimed at promoting the establishment of a particular industry, they may now take action in support of wider development aims. In taking such action, the developing countries are required to have due regard to the objectives of the General Agreement and to the need to avoid unnecessary damage to the trade of other contracting parties.

Notification, consultation, dispute settlement and surveillance

Dispute settlement was one of the most controversial areas of the negotiations, because the attitude of the EEC (favouring the traditional GATT pragmatism and the practices which have made it possible for the conciliation machinery to develop successfully, given the level of international cooperation in trade relations) clashed with the general approach of most of our developed partners, which was to prefer a strict, quasi-jurisdictional codification of dispute settlement procedures.

The "agreed description" of past practice accompanying this text sets out the relevant GATT practices; this will make it easier to see in advance the implications of recourse to the procedures in question, and the parties' rights and obligations will be more clearly defined.

Traditional GATT practice will be maintained, but will be clarified on certain points:

i. The procedures for notification of trade measures and for consultations have been made more specific: in addition to their promise to respect existing obligations, the contracting parties undertake "to the maximum extent possible" to give notice of the adoption of trade measures affecting the operation of the General Agreement. The EEC is prepared to subscribe to this new undertaking and abide by it, provided it is accepted and observed by all the Contracting Parties.

ii. With regard to conciliation and dispute settlement, there are detailed provisions on the establishment of special panels to investigate complaints, and on the composition, prerogatives and function of those panels. In particular, with regard to the establishment of panels (our partners had wanted automatic recognition of the right to a panel) the text requires a positive decision by the contracting parties on its establishment "in accordance with standing practice" (on this point the "agreed description" notes that "Since 1952, panels have become the usual practice").

iii. There are also rules governing the submission of the panels' findings and the way they should be dealt with, and the action to be taken on their recommendations.

iv. A number of provisions are specially concerned with the problems and interests of the developing countries, which are to receive special attention during consultations; also, the procedures for the settlement of disputes between developing and developed countries are reaffirmed.

v. With regard to surveillance, the contracting parties agree to conduct a regular and systematic review of developments in the international trading system.

Export restrictions and charges

The results of negotiations in this field are modest. Throughout the talks Canada and Australia, for tactical reasons, made a close link between market access and access to resources. The developing countries, for their part, emphasized that it was necessary for them to use their resources in whatever way they felt was most appropriate for their development needs, with due regard for their sovereignty.

In the agreed text, the participants invite the GATT contracting parties, as a priority task to be taken up after the MTNs are concluded, to reassess the GATT provisions relating to export restrictions and charges in the light of the international trading system as a whole, taking into account the development needs of the developing countries. This text is supplemented by a statement of the existing GATT provisions in this field.

Further action and conclusions

The question of the status of the negotiated texts (decision or declaration by the contracting parties, memorandum, etc.) and their formal incorporation in the General Agreement will be discussed by the contracting parties at their annual session in November.

The Commission proposes that the Council agree to the texts approved by the Framework Group.