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# GATT in a Conceptual Vacuum

by Hugh Corbet, London \*

**Getting under way a seventh round of international trade negotiations within the framework of the General Agreement on Tariffs and Trade (GATT) has been a long and arduous process.<sup>1</sup> The nub of the problem is the failure of political thought to keep pace with the rapid integration and growing interdependence of the world economy.**

Essentially the negotiations will be between the USA, Japan and the European Community (EC)<sup>2</sup>. Other industrialised countries and some developing ones will be involved to varying degrees. Indeed, the roles of the smaller trading partners could be significant, if only they realised as much<sup>3</sup>. But the fact remains, if the big three cannot agree there will be no overall agreement worth mentioning.

The negotiations are being formally launched at a ministerial meeting in Tokyo this month (September). Nearly two years have elapsed since the governments of the major trading powers undertook a firm commitment, in the Smithsonian Accord, to join in another round of GATT negotiations.<sup>4</sup> What is therefore alarming is that in legal terms the commitment of governments to negotiate is likely to be no stronger after the Tokyo meeting than it was after the settlement of the 1971 monetary crisis.

Franco-British temporising and continuing monetary turmoil, never mind the debilitating consequences of the Watergate scandal, have combined to forestall progress in the preparations for negotiations. Only by a Brussels stretch of imagination can the initial bargaining position of the EC be seen, in the light of the fundamental problems confronting the international trading system, as an expression of constructive interest.<sup>5</sup> And the

position of the USA will be held in doubt until President Nixon's Trade Reform Act has been passed by Congress.<sup>6</sup>

## Differences from Previous GATT Rounds

When the GATT negotiations do begin in earnest, perhaps well into 1974, little should have been irretrievably lost by the political delays, provided the technical analysis of issues is allowed to proceed. For on this occasion the preparations for negotiations are almost as important as the negotiations themselves. In that sense the negotiations have already begun. It is by the same token though that they are expected to take a considerable while to acquire a momentum of their own. This is because the negotiations as such will be very different from previous GATT rounds.

□ Even on tariffs, it was agreed during and after the Kennedy Round marathon that the traditional mode of negotiation, based on reciprocal bargaining with "concessions" extended unconditionally to all GATT countries on a most-favoured-nation (MFN) basis, had been played out and would have to be replaced by a new approach.<sup>7</sup>

□ There will be a second major departure in that the next GATT round will focus in a concerted way on non-tariff interventions in international trade. By these are meant a wide variety of government measures which either by design or accident protect or favour domestic producers *vis-à-vis* foreign suppliers — at the expense of domestic consumers and taxpayers.<sup>8</sup>

□ On all sides it is recognised, although not necessarily accepted, that a serious attempt must be made to open trade in temperate-zone agricultural commodities. Neither in the Kennedy Round

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<sup>1</sup> Much of the political background is discussed in Hugh Corbet, "Australian Commercial Diplomacy in a New Era of Negotiation", *Australian Outlook*, Melbourne, April, 1972.

<sup>2</sup> In this connection, see European and American Interests in the Forthcoming International Negotiations on Industrial Trade, Staff Paper No. 1, London (Trade Policy Research Centre), 1973.

<sup>3</sup> The interests of developing countries are discussed in the author's written testimony to the Select Committee on Overseas Development, House of Commons, London, August, 1973.

<sup>4</sup> Following the commitment given at the ministerial meeting of the Group of Ten in Washington on December 18, 1971, the EC, Japan and the USA entered a further commitment in the Joint Declaration on International Trade Relations, lodged with the Gatt Secretariat on February 10, 1972.

<sup>5</sup> Document I/135/73 (COMER 42), agreed by the Council of Ministers of the EC, Luxembourg, June 26, 1973.

<sup>6</sup> The Trade Reform Act of 1973 was introduced to the United States Congress as H. R. 6767 on April 10, 1973.

<sup>7</sup> New approaches are analysed in Hugh Corbet and Harry G. Johnson, "Optional Negotiating Techniques on Industrial Tariffs", in: Frank McFadzean et al., *Towards an Open World Economy*, Report of an Advisory Group, London 1972.

<sup>8</sup> Robert E. Baldwin, *Non-tariff Distortions of International Trade*, Washington (Brookings Institution), 1971. Also see Gerard and Victoria Curzon, *Hidden Barriers to International Trade*, Thames Essay No. 1, London (Trade Policy Research Centre), 1971.

nor in earlier negotiations has any impact been made on the increasing isolation of high-cost farmers in industrialised countries from the competition of low-cost producers in established agricultural-exporting countries.<sup>9</sup>

□ Another important objective will be to improve the present arrangements which are meant to provide safeguards against "market disruption" caused by sudden surges of imports and yet provide security of access for new entrants to markets.<sup>10</sup>

### Non-tariff Interventions and Safeguards

On non-tariff interventions and "safeguards" it appears that governments are at least on the same wavelength. Major points of controversy arise in both areas. But they are not likely to cause a breakdown in the negotiations.

The former include *inter alia* quantitative import restrictions and export restraints, customs valuation procedures, industrial standards, official subsidies and public procurement policies. Since the trade effects of such forms of public assistance are difficult, and in many cases impossible, to quantify it is acknowledged that for the most part they cannot be modified by reciprocal bargaining, in the way that tariffs have been modified in the past.<sup>11</sup> Governments accordingly envisage the principle of reciprocity being satisfied in a broad context. Given the high degree of substitutability among the various types of non-tariff protection, negotiations on them will have to be conducted over a wide range, although objectives will differ from category to category. Some non-tariff devices could be eliminated altogether.<sup>12</sup> It should be possible with others to remove trade-distorting side-effects.

With many non-tariff interventions, however, only an incremental approach seems feasible, involving initially an equal commitment by governments to general principles or rules of international competition, followed by a process of more or less continuous consultation and negotiation on their implementation. Such codes of behaviour might

frequently amount to elaborations of existing GATT provisions. Codes have already been drafted on an *ad referendum* basis on industrial standards and customs valuation procedures. Work on further codes is proceeding.

Achieving the adherence of governments to rules of competition will be no mean task. The EC is worried that the Nixon Administration might not obtain from Congress sufficient authority to enable the USA to abide by negotiated agreements in the non-tariff field. On the other side American officials point out that the Brussels Commission, negotiating on behalf of the EC, does not have an authority to negotiate on the non-tariff interferences that bother the high-technology industry of the USA, especially public procurement policies and government subsidies. Industrial policy in the Common Market remains the prerogative of national governments.

In fact it is because non-tariff measures are instruments of industrial policy—some more so than others—that they are said to be intractable. But tariffs, too, are instruments of public assistance to industry. In domestic terms, commercial policy is concerned with the industrial structure of countries; internationally, it is concerned with the location of production where there are comparative cost advantages.<sup>13</sup>

### Adjustment Policies

The purpose of trade liberalisation is to bring about a better use of resources, both domestically and internationally, through greater specialisation on particular industries or on particular product lines within industries. Adjustment to changing market conditions, whether on the demand side or on the supply side, is a normal and continuous process in market-economy countries. It mostly takes place without the assistance of governments. But in certain circumstances governments intervene to help industries adjust or to alleviate, at any rate, the social consequences of adjustment.

Now that tariffs have been reduced to very low nominal levels, and non-tariff barriers are to be broached, it is widely argued that governments should put more emphasis on adjustment assistance.<sup>14</sup> If they do not it might be hard to induce support from firms and workers for further trade liberalisation. A distinction would need to be drawn, maybe in a separate code, between "fair"

<sup>9</sup> An extensive analysis of the issues in international agricultural trade is provided in D. Gale Johnson, *World Agriculture in Disarray*, London (Trade Policy Research Centre), 1973. See, in addition, Hermann Priebe, *Landwirtschaft in der Welt von morgen*, Düsseldorf 1970.

<sup>10</sup> On this subject see David Robertson, *Provision for Escape Clauses and Other Safeguards*, in: Frank McFadzean et al., op. cit.; Jan Tumlir, *Improvement of the Safeguard Mechanism*, in: *Journal of World Trade Law*, London, July-August 1973; and Jean Royer, *Trade Liberalisation Programme: Safeguard Clauses*, International Chamber of Commerce, Paris 1973.

<sup>11</sup> For an attempt to formulate a method of measuring the impact of non-tariff measures, see Hans Glismann and Axel Neu, *Towards New Agreements on International Trade Liberalisation — Methods and Examples of Measuring Non-tariff Trade Barriers*, in: *Weltwirtschaftliches Archiv*, Kiel, No. 2, 1971.

<sup>12</sup> It might be noted here that the gradual elimination of tariffs would remove para-tariff barriers.

<sup>13</sup> Geoffrey Denton and Seamus O'Cleiracain, *Subsidy Issues in International Commerce*, Thames Essay No. 5, London (Trade Policy Research Centre), 1972.

<sup>14</sup> See, for example, Presidential Commission on International Trade and Investment Policy: *United States International Economic Policy in an Interdependent World*, Williams Report, Washington 1971, pp. 45-64.

adjustment assistance and "unfair" feather-bedding.<sup>15</sup> Dealing with non-tariff distortions, expanding the use of adjustment assistance and improving the safeguard mechanism are all bound up with one another in discussions on the reform of the GATT system.

Governments are generally agreed that temporary safeguard protection against sharp increases in import competition should be degressive according to a definite timetable, allied with a complementary programme of adjustment assistance and subject to international surveillance.<sup>16</sup> The EC and the USA apparently favour "escape clause" action being taken on a discriminatory basis where only one or a few exporting countries are involved. Japan may use its understandable preference for a non-discriminatory course as a bargaining counter in ensuring that safeguards, while being made more liberally available, are applied under stricter conditions than before. There is a chance, too, that the same conditions might be applied to existing non-tariff devices, notably quantitative import restrictions and export restraints.

As governments, then, prepare to negotiate on non-tariff issues, adjustment assistance and safeguards it is curious to find the EC still setting store by tariffs. Japan and the USA have proposed as "a working hypothesis" that customs duties on industrial products traded among developed countries should be substantially eliminated over a ten-year period — with appropriate safeguards and strict provisions for "exceptions".<sup>17</sup>

In any attempt to put extant tariffs in perspective it is not enough to stress how low on average they are nowadays. Averaging tariffs conceals, it is true, the high rates payable on certain products in the American, Japanese and Canadian schedules. And low *nominal* tariffs, particularly on semi-manufactures, can represent high *effective* levels of protection. More plainly needs to be said.

### Disequilibrium and New Monetary Order

Political perceptions of economic needs tend inevitably to lag behind reality. Governments appear to be having much difficulty in placing what they perceive as commercial policy problems in an up-to-date context. For the way a problem is perceived and understood is influenced by past

experience. And the policy experience guiding governments as they prepare for the coming GATT round derives from years of trading in an international system characterised by acute and growing exchange-rate disequilibrium. It is thus understandable that countries hope, and will probably attempt, to resolve through the negotiations many problems which—although experienced as trade problems—have been a reflection of exchange-rate disequilibrium that is now being corrected in the reform of the international monetary system.

Flexible exchange rates — fixed but adjustable rather than floating — are being written into the new monetary order. They remove the balance-of-payments rationale for tariff protection. This is not to suggest though that tariffs no longer matter. Tariffs remain a distorting factor in the allocation of resources by affording domestic producers a price premium over foreign producers.

In this respect the tariffs of the EC do not present a serious obstacle to the low-priced (and high-quality) exports of Japan or to the high-technology exports of the USA. Tokyo and Washington are pressing for the phased elimination of substantially all tariffs as a means of overcoming the economic and political tensions being generated by the proliferation of the EC's discriminatory tariff arrangements around the Mediterranean, in Africa and even farther away.

### Ill-advised European Foreboding

But the prospect of phasing out the EC's common external tariff fills some Europeans with foreboding. The fear, somewhat ill-defined, is that the Common Market would fall apart and, of course, that feeling is exploited by others more concerned with maintaining protection.<sup>18</sup> If the common external tariff however, is really a major unifying force in the EC today, it says little for the spirit of European unity about which so much is made. It will say even less if tariff discrimination against the rest of the world is still a major unifying force in ten years time.

Part of the trouble is psychological in that the EC's common external tariff, its commercial agreements with "outside" countries and its common agricultural policy have come to be regarded as symbols of European unity, proof to the world of

<sup>15</sup> A code on adjustment assistance was proposed in Gerard and Victoria Curzon, *Global Assault on Non-tariff Trade Barriers*, Thames Essay No. 3, London (Trade Policy Research Centre), 1972.

<sup>16</sup> General agreement on safeguards was reflected in the report of the High-level Group on Trade and Related Problems: *Policy Perspectives on International Trade and Economic Relations*, Rey Report, Paris (OECD) 1972.

<sup>17</sup> This course was proposed by the USA and Japan, with the support of Sweden, at the 1972 ministerial meeting of the GATT.

<sup>18</sup> This "fear" seemed to be expressed in Günther Harkort, *A Concept for an Open World Economy*, *INTERECONOMICS*, Hamburg, No. 4, 1973, reviewing Frank McFadden et al., op. cit. The former State Secretary of the Ministry of Foreign Affairs in the Bonn Government wrote: "Nowhere [in the report] is it made clear that the EEC has been launched by a legal instrument containing important articles which for some time have to be left essentially unchanged if the existence of the EEC is not to be put at risk." Similarly, in the European Community's initial bargaining position, agreed on June 26, 1973, there is a statement that the customs union must not be put at risk.

the new Europe's virility. Any criticism of these policies, whether from inside or outside the Common Market, is interpreted by some as an attack on the Common Market itself. Yet the process of European integration must be pursued in harmony with the integration of the world economy as a whole if it is not to incur the hostility of countries which happen to be located elsewhere.

### Constructive Approach to European Unity

That is the spirit in which the European idea should be pursued in the 1970s and 80s. Policies must adjust to circumstances which have greatly changed since the 1950s. This means that Europeans must find a more constructive approach to unity than what is tantamount, in an age of increasing interdependence, to provoking economic conflict with the rest of the world. Such a Bismarkian approach to unity is something which Europe is meant to have learnt something about over the last hundred years.

There is thus a need in the EC to develop a political consensus on the maintenance of international economic order that is responsive to the issues facing the world economy. Little headway will be made in that direction, however, if the Commission persists in its obsessive and un-

founded belief that tariff-free trade is impossible unless all conditions of competition are equalised.<sup>19</sup>

No trade can take place if all competitive conditions are equalised. This is easily explained. International trade is based on cost differences. There is a wide gulf conceptually between (a) ruling out distortions to competitive conditions resulting from government interventions, which would come under the heading of one non-tariff measure or another, and (b) ruling out differences in competitive conditions resulting from varying taxation, social benefits and company laws. The first is a feasible and necessary part of any attempt to liberalise international trade. The second is neither feasible nor necessary among countries not aspiring to economic and political union.<sup>20</sup>

<sup>19</sup> In its first draft of the EC's initial bargaining position for the GATT negotiations, the Commission asserted that tariff-free trade is impossible without "international organisation and harmonisation of national policy considerations — for instance, taxation, social legislation and measures to stimulate economic development". See Document COMM (73) 556. (The passage was among those eliminated from the document finally agreed by the Council of Ministers.) Such Commission, or "European", thinking is also reflected in Günther Harkort, *op. cit.*, in the words "the EEC could not join [the USA] in a free trade zone without insisting on moves for the harmonisation of economic policies".

<sup>20</sup> The extent to which it is necessary to harmonise policies in order to preserve the economic benefits of tariff-free trade is explored, both theoretically and empirically, in Victoria Curzon, *The Essentials of Economic Integration: Lessons of EFTA Experience*, London (Trade Policy Research Centre), forthcoming.

## Trade Liberalisation Round 1973

by Manfred Holthus, Hamburg \*

**The GATT Minister Conference to be held in Tokyo from September 12 to 14 will be the prelude to a new round of international negotiations about further liberalisation of world trade. Preparatory work of some six years thus comes to its conclusion.**

**T**he factual problems to be discussed at the Conference have their background in the actual change of the structure of world trade that has occurred in the late fifties and during subsequent years. Between 1957, the last year prior to the inauguration of the EEC, and 1970 the international flow of goods and merchandise has almost trebled. The distribution of this growth has however been extremely unequal among the various trade partners:

□ as far as the EEC-countries and Japan are concerned, their export has been stepped-up

above average. Both were able substantially to increase their share in world trade;

□ thereagainst, the US have had to face a considerable decline of its share, about equally so as the bulk of the LDCs;

□ the Eastern bloc has about managed to hold its own.

These trends have led to growing tension in the sphere of world trade. Within the group of indus-

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