

Guth, Eckart; Pankopf, Tonia

**Article — Digitized Version**

## The US-EC confrontation in the GATT from an EC perspective

Intereconomics

*Suggested Citation:* Guth, Eckart; Pankopf, Tonia (1993) : The US-EC confrontation in the GATT from an EC perspective, Intereconomics, ISSN 0020-5346, Nomos Verlagsgesellschaft, Baden-Baden, Vol. 28, Iss. 5, pp. 207-214,  
<https://doi.org/10.1007/BF02926204>

This Version is available at:

<https://hdl.handle.net/10419/140414>

### Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

### Terms of use:

*Documents in EconStor may be saved and copied for your personal and scholarly purposes.*

*You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.*

*If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.*

Eckart Guth and Tonia Pankopf\*

## The US-EC Confrontation in the GATT from an EC Perspective

*Negotiations on agriculture have for a long time been the centre piece and the stumbling block of the Uruguay Round. While the EC has had to bear the brunt of public criticism, the US has clearly contributed its fair share to bringing about the present unsatisfactory state of affairs. This article focuses on the latter's role in international agricultural trade.*

There is a good chance that the Uruguay Round will be successfully concluded by the end of 1993. Negotiations on agriculture have for a long time been the centre piece and the stumbling block of the whole Round. With the breakthrough achieved by the Blair House agreement, the prospects are good for the process of bringing agriculture fully into the GATT. This could herald the end of a period during which agriculture and its trade were not considered suitable for GATT rules and disciplines applicable to other goods.

Although the Uruguay Round negotiations are about the future, it is worthwhile to look into the past and to analyse what has brought the EC and the US to their present day situation. One should not throw stones if sitting in a glass house; therefore, some windows in the EC glass house should be opened by admitting that things have gone wrong in the CAP as well as in US agricultural policy. Six theses describe from an EC perspective the role which the US has played in international agricultural trade.

### Mutual Dependence

1. *The overall trade relationship between the EC and the US has always been prosperous and balanced.*

Traditionally, the EC and the US have been each other's largest trading partners. Last year, the overall bilateral trade flow was substantial, amounting to approximately \$200 billion, with \$95.9 billion of EC exports to the US and \$102.8 billion of US exports to the EC. With respect to agricultural trade, US farm exports to the EC amounted to

\$6.9 billion while EC farm exports to the US totalled \$4.7 billion. It is a relatively small amount of trade, and yet, unfortunately, it constitutes a large percentage of trade disputes between the EC and the US.

For the past forty years, the transatlantic partnership has been based upon mutual dependence. Europe recognised the role which the US played in its security. In the US view, the economic well-being and security of Western Europe was intertwined with and could not be divorced from its own security. This led to a large degree of similarity in US and European security and economic agendas. The US was convinced that the economic health of the Community was an essential component in the struggle against communism. With the Marshall Plan, the US undertook a long-term programme to assist economic recovery and political integration in Europe. As the creation of a common market for industrial goods in the Community was not possible without at the same time creating a common market for agricultural goods, the US had also to accept the establishment of a common agricultural policy.

Thanks to the fast growing demand and some basic inconsistencies (disharmonies) in the Community's external and internal protection (zero protection for oilseeds and cereal substitutes and high internal prices for competing products such as cereal and butter), the Community remained a net importer for two decades. As a result, the full extent of the basic inconsistencies of the CAP was neither seen nor felt by the US for a long time.

On the contrary, the US benefited to a large extent from the CAP, exporting more cereals and cereal substitutes than a more market-oriented CAP would have allowed. The more negative aspects of the CAP, in the form of a

\* Both Commission of the European Communities, Brussels, Belgium. The views expressed in the article do not represent the official position of the EC Commission but are the personal opinions of the authors.

growing export potential and the Community's increasing share of world markets for major agricultural products, materialised only at a later stage in the early 1980s. It was then that the Community changed from a net importer into a net exporter, becoming the second largest exporter of food after the US.

With both partners together occupying one half or more of the world market for major agricultural products, it is evident that the respective agricultural policies affect one another considerably. It is not surprising that on occasion agricultural trade disputes overshadow to a large extent the good political relationship between the EC and the US, starting with the so-called "chicken war" in the 1960s and culminating in the recently resolved oilseeds dispute.

### **"Food for the Hungry World"**

*2. The US (and others) have carried out an agricultural policy which best suited the development of their agriculture.*

In the early 1930s after the Great Depression, the US introduced internal price support mechanisms and the concept of an equitable income for the family farm to restore the farm economy and discourage migration. At that time, it was clearly felt that the prevailing world market prices were not sufficient to maintain adequate internal farm incomes. The concepts of price support and equitable income later served as a model, in particular in Europe for the CAP, as a means to support farm incomes.

After the Second World War, US farm policy started to become export-oriented for the first time by introducing "food for the hungry world" policies. This phase went along with the introduction of further instruments of internal and external price stabilisation. By the middle of the 1970s, the arsenal of instruments was nearly complete, with the existence of target prices, loan rates, deficiency payments, export credits and food aid. These instruments were mainly deployed for products for which the US thought it had a certain comparative advantage (cereals, oilseeds, poultry and citrus fruit). Not surprisingly, this "arms race" resulted in rapidly expanding US agricultural exports. The US thus became acquainted with the idea that it alone was responsible for feeding the world and tried to instill in its farmers and the world the belief that its export performance in agriculture was solely the product of its higher productivity and competitiveness.

The US also introduced export promotion programmes, subsidising the disposal of its surplus production with aid/assistance programmes and credit guarantee programmes, then later introducing such programmes as the Export Enhancement Programme (EEP) and the Targeted Export Assistance Programme (TEA). Unlike the

direct export subsidies in the EC, US export subsidies are concealed and more difficult to quantify. Soon after World War II, when production controls failed to hold supplies in balance with demand, the US Congress passed the Agriculture and Trade Development and Assistance Act, Public Law 480, or Food for Peace. Conceived for altruistic purposes, P.L. 480 also served to increase foreign demand and dispose of surplus commodity stocks. During the late 1950s and early 1960s, food aid under P.L. 480 accounted for between one quarter and one half the value of all agricultural exports. The credit programmes, Export Credit Guarantee programme (GSM-102), one of the largest US export promotion programmes, and the Intermediate Export Credit Guarantee programme (GSM-103), have allowed countries to repay loans at subsidised rates. In 1983, for example, the US sold one million tonnes of subsidised wheat to Egypt under a credit guarantee programme.

### **Externalisation of Internal Problems**

The Food Security Act of 1985 introduced an export subsidy programme to recapture lost markets. The Export Enhancement Programme required the USDA to use Commodity Credit Corporation stocks to subsidise exports of US wheat to a number of countries, targeting in particular Mediterranean rim markets (Algeria and Egypt) which were traditional EC markets. Such a programme, however, hurts not only the EC but other cereal exporters, such as Canada, Australia and Argentina. In order to capture market shares, the US not only targeted their exports at specific markets, but also pursued a policy of price undercutting. As the Community responded to this policy by matching US prices, the other wheat exporting countries were most concerned by the downward spiral which this "catch-as-catch-can" policy caused.

In parallel to export-oriented policy instruments, in the early 1950s the US developed the necessary protectionist tools to insulate certain agricultural sectors against imported products by applying quantitative import restrictions (Section 22 products). Against this historical background, the US should not be surprised when other countries, in the face of similar economic and social problems, have been inspired to some extent by American agricultural and trade policy to develop similar agricultural instruments and policies.

In fact, state intervention in agriculture is nothing new or novel. As Socrates, the Greek philosopher, observed, "Nobody is qualified to become a statesman who is entirely ignorant of wheat." The US, together with other industrialised countries, has developed during this century a panoply of government intervention

mechanisms bringing politicians more than ever into agricultural trade. Unfortunately, most of the agricultural policy devices try to externalise internal problems, in other words, to off-load domestic surplus problems onto world markets.

### **Securement of Special Privileges**

*3. The failure of the GATT to deal effectively with agricultural trade stems to a large extent from the exceptions requested by and granted to the US.*

Professor Gale Johnson said in this respect, "The unwillingness of the US in the late 1940s and early 1950s to subject its domestic farm programmes to the disciplines of international trade resulted in the inclusion in GATT of exemptions for agriculture with respect to subsidies, including export subsidies."

Unlike the trade in textiles, which for the time being is still exempted from the GATT rules, agriculture forms part of the GATT. Thirty-eight articles of the GATT apply to agriculture; only four GATT articles (VI, XI, XVI and XX) specifically mention agricultural products.

In general terms, the problem of agricultural trade is therefore not that it is excluded from the GATT, but rather that the rules are often

- ☐ not applied because derogations have been asked for by contracting parties (waivers, protocols of accession),
- ☐ not operational, lacking clear guidelines for dispute settlement (export subsidisation, import restrictions),
- ☐ circumvented by state trading (boards) and grey area measures (such as self-restraint agreements).

GATT's leading player did not resist the temptation to secure special privileges. Fearing free trade might interfere with its domestic price support programmes, the US insisted on exemptions to the absolute prohibition of quantitative restrictions and subsidies, including export subsidies. The US received exemptions on export subsidies for primary products under Article XVI.

Article XI, designed by the US, exempted import restrictions on agricultural products under certain specific conditions. It took several GATT panels to demonstrate that Article XI left too much room for interpretation and was therefore not operationally effective in practice. However, the US was unwilling to abide even by this exemption. In 1951 the contracting parties found US import restrictions on dairy products an infringement of Article XI since the US had not restricted its domestic production. In addition, the US had enacted legislation inconsistent with Article XI. Section 22 of the Agricultural Adjustment Act of 1933

authorised the US to impose quantitative restrictions or special fees whenever a foreign import substantially hindered the implementation of a US farm programme. This required the US in 1955 to obtain a waiver concerning Article XI 2.c for their quantitative restrictions on agricultural products. Interestingly enough this waiver is still in force today.

### **Negative Fallout**

The short-sightedness of US agricultural trade policy in the early 1950s clearly enabled the proliferation of export subsidies and quantitative restrictions in other industrialised countries (EC, Scandinavia, Japan, Canada, Austria and Switzerland). A close look at the agricultural trade policies applied by most industrialised countries clearly shows that the US is not solely responsible for today's situation. The least one can say, however, is that the US underestimated the long term negative impact of the protectionist instruments of their agricultural policy (waiver, Article XI) on the development of agricultural trade policies in third countries. The same holds true for the ambiguities which were allowed to slip into the formulation of Articles XI and XVI. It took years and several Panels to demonstrate that Article XVI is not operational for dispute settlement and therefore needs to be reviewed or replaced by other disciplines. In this context, it is worth noting that the US was not prepared to pursue an offer tabled by the Community in the early 1980s to restrict its wheat exports to a world market share of 14% in exchange for a commitment by the US not to increase exports of corn gluten feed (CGF). Interestingly, CGF exports thereafter did not increase very much, while the EC substantially gained world market shares in wheat, up to 20%.

The countries hit hardest by the world agricultural market situation have been thinly populated industrial and agricultural countries where domestic demand is low and dependence on exports accordingly high. Australia may serve as an example: it exports 60% of its wheat, 50% of its beef and 90% of its sugar output. Although countries such as Australia, New Zealand, Canada and Argentina do not entirely renounce the provision of state support, the farmers in these countries do have to rely more on their own competitiveness as regards the major export products, which they have to be able to offer at prices close to world market levels.

Contrary to the view expressed by the former US Secretary of Agriculture, Block, "What went wrong in the 1980s?", things were already starting to go awry in the 1950s and 1960s. However, the negative fallout for the US really came to the forefront in the 1980s, when the Community changed from a net importer to a net exporter

in the absence of international rules and disciplines obliging the Community to adapt its export policy instruments to this fundamental change.

### **Infringement of GATT Rules**

4. *The US settles agricultural disputes outside the bounds of the GATT rules.*

Neither unilateral interpretation of rights and obligations nor unilateral action by one party to coerce another to comply with the rules is permitted in the GATT. Through dispute settlement procedures, GATT aims to preserve the balance of concessions and obligations between contracting parties and not to resort to unilateral sanctions against a party in breach of the rules. In contradiction of these GATT tenets, the US employs Section 301 of the 1974 Trade Act to enforce rights under international trade agreements and to counteract foreign trade practices which burden or restrict US trade. The former Super 301 of the 1988 Omnibus Trade and Competitiveness Act included stricter time-limits to the Section 301 process making retaliation mandatory when US trade was adversely affected by a policy or alleged trade agreement violation. Today legislation is pending in the US Congress to reactivate Super 301.

The so-called "chicken war" in 1962-63 represents an exception insofar as it was possible in this case to resolve the dispute fully within the framework of the dispute settlement procedures of the GATT. It is worth noting that to offset the losses the US incurred as a result of the Common Customs Tariff, the GATT authorised the US in this case to

withdraw tariff concessions. The US thereafter increased tariffs for trucks to 25%. The implication of this decision is still being felt today, in the dispute over attempts by the US government to reclassify multipurpose passenger vehicles (minivans and sport-utility vehicles) as trucks in order to secure a higher degree of protection for respective US automobile makers.

In most later agricultural trade disputes, the US either referred to or threatened to use trade sanctions against the Community in order to make its view prevail. One such example was the dispute on EC tariff preferences on imports of lemons and oranges from Mediterranean countries. The pasta-citrus war escalated in November 1985, when the US threatened to apply a 40% ad valorem duty on pasta products not containing egg and a 25% ad valorem duty on pasta products containing egg; Community pasta trade worth \$29 million was concerned. Thus the US clearly breached the GATT dispute settlement procedure and weakened the credibility of the GATT. Only when the Community drew up a list of counter-retaliation measures worth an equivalent value of trade by increasing duties on US exports of lemons and walnuts into the EC, did a negotiated settlement become possible.

It is worth noting that the Community was confident of its ground in the citrus as well as in the pasta case, not so much because the relevant GATT rules left enough room for interpretation, but more so because the Community relied on two political agreements with the US. After resolving a previous disagreement on citrus products, the US and the EC had reached an understanding in the Casey-Soames agreement of 1973. The US would not

Winfried Schmähl (Ed.)

## **The Future of Basic and Supplementary Pension Schemes in the European Community – 1992 and beyond**

Concerning the future of old-age protection in Western Europe, basic statutory pension schemes are in the centre of most debates today. This volume focuses on the various types of supplementary pension schemes, especially occupational pensions, in the European Community. Two complex issues are discussed. What will be the role of supplementary pension schemes in the face of structural changes in demography, economy and society? Will e.g. tendencies to reduce replacement rates in statutory pension schemes increase the importance of occupational provision? Considering the completion of the Single European Market and the international mobility of labour, the question arises whether certain structural elements of supplementary schemes may impede the freedom of movement of workers. Does this field require harmonization or coordination at the Community level? Which ways could be taken without impeding the development of national supplementary schemes? Which influence has taxation of contributions, benefits and pension plan assets? These are some of the questions discussed in the contributions of scientists as well as experts from ministries, associations, industry and consultancies.

1991, 269 S., broch., 58,- DM, ISBN 3-7890-2491-0



NOMOS VERLAGSGESELLSCHAFT  
Postfach 610 • 7570 Baden-Baden



challenge the Community preferential agreements as long as they were non-reciprocal and did not extend further concessions. Moreover, the US agreed in an exchange of letters between USTR Strauss and Commissioner Gundelach during the Tokyo Round not to undermine the basic instruments of the CAP, among which the right to provide export refunds for agricultural raw materials was of primary importance for the Community.

### **Pick-and-Choose Approach**

Later on there were three other agricultural disputes in which the US deliberately departed from the normal GATT dispute settlement procedures. Following the accession of Spain and Portugal, the Community negotiated with the US and other contracting parties under Article XXIV para. 6 to compensate for any overall trade loss resulting from the enlargement of the customs union. Because of differences over the interpretation of Article XXIV para. 6 and exaggerated requests from the US for tariff compensation, mainly for losses of corn and sorghum exports to Spain and Portugal, neither side could agree on a mutually satisfactory solution. The main area of disagreement concerned the unwillingness of the US to recognise the benefits resulting from the reduction in industrial tariffs from an average of 15% to 5% as compensation for losses in the agricultural sector. In this situation, the US relied again on unilateral trade measures and threatened to invoke retaliatory measures by applying 200% duties on such products as white wine, brandy and gin, approximately \$400 million worth of EC exports.

Only afterwards, when the US reduced considerably its compensation request under Article XXIV para. 6, was a temporary arrangement achieved between the US and the EC. The main component of this agreement was the commitment by the Community to import annually up to 2.0 million tonnes of maize and 300,000 tonnes of sorghum into Spain until 1990. Thereafter the arrangement has regularly been rolled over and may finally be settled within the framework of the Uruguay Round.

The most recent case of US unilateralism concerns the oilseed dispute where the US threatened to introduce trade sanctions against the Community three times, initially after the first GATT panel report in January 1990. More recently, after the GATT panel's second report in June 1992, the US threatened to retaliate by imposing punitive levies on approximately \$1 billion worth of EC imports. The third time occurred last November during negotiations to compensate the US for the negative consequences of the EC oilseed regime. Unsatisfied with the process of negotiations, the US announced its

intention to impose 200% punitive levies on white wine, wheat, gluten and rape seed oil, amounting to \$300 million worth of EC imports. Finally a solution was reached in the so-called Blair House agreement.

The hormones dispute represents the most serious infringement of GATT rules in that it has been the only time that the US has carried through the Section 301 process to implementation. In 1989 the US imposed 100% tariffs on EC agricultural imports totalling \$97 million after neither side could agree on the legal basis for the dispute settlement procedure concerning the EC prohibition of artificial hormones in beef production.

The US approach of employing unilateral measures whenever it considers its rights to be infringed by a third country is in line with its reluctance when it comes to the implementation of GATT panels which ruled against it (tuna panel, sugar-Nicaragua, Section 337).

It appears obvious that US unilateralism against other contracting parties and the pick-and-choose approach toward unfavourable GATT panel rulings damage the GATT dispute settlement procedure considerably and explain why substantial progress in this domain is essential for many contracting parties in the Uruguay Round negotiations.

### **Scapegoat CAP**

*5. The US employs agricultural trade instruments to pursue other political objectives.*

Another characteristic of US agricultural trade policy is that its instruments have, on a number of occasions, been used for reasons other than agriculture. The most striking examples are the US export embargo on oilseeds following a production shortfall in the US in the mid 1970s and the export embargo for cereals to the former Soviet Union, following the invasion of Afghanistan by Soviet troops. The first case was used by the Community as an example that the US is not a reliable supplier and that it would therefore be better to build up its own oilseed production. As explained earlier, the shock waves of this decision were felt until very recently in the form of the oilseed dispute. The second embargo led to considerable losses of market shares of wheat and coarse grain in the former Soviet Union and allowed the Community to gain correspondingly on this market. Later on, it took the US the conclusion of rather favourable long-term contracts with the Soviet Union and an aggressive price policy to recuperate lost terrain.

The combined effects of the above-mentioned politically motivated decisions, the volatility of the US dollar and the rigidity of the internal agricultural price

support in the US explain to a large extent why in the 1980s the US lost world market shares for cereals, oilseeds, poultry and eggs, not only to the Community, but also to more competitive and commercially more reliable trading partners like Brazil and Argentina.

Nevertheless, for a long time the US used the CAP as the major scapegoat to explain all its agricultural trade problems. To a certain extent, this attitude may also have distracted the US for quite some time from an in-depth analysis of the major flaws inherent in the GATT rules and disciplines on agricultural trade, and even more so of the inconsistencies in US agricultural policy.

### All-or-Nothing Attitude

*6. The US is willing to learn from the past and is prepared to accept compromises in order to enable progress in the Uruguay Round.*

Due to its hypocrisy in the early years of the GATT, the US is to some degree responsible for the disarray prevailing in today's agricultural trade situation. To its credit, the US has tried hard to rectify earlier mistakes by bringing agriculture fully into the GATT. The first serious attempt in the Kennedy Round failed, however, because the US was not satisfied with the Community's offer to bind its degree of self-sufficiency at 90%. With hindsight, such a compromise, it appears, would have eliminated much of the potential for later trade disputes, in light of the fact that today EC self-sufficiency is significantly higher.

This "all-or-nothing" attitude reappeared when the US made its first proposal in the Uruguay Round to eliminate all subsidies and non-tariff barriers by the year 2000, allowing only decoupled income support and tariff protection. The prolonged insistence of the US on this negotiating stance was partly responsible for the lack of overall progress in the initial stage. Other contracting parties argued rightly that the US was overkill and not even capable of delivering at home what it was proposing within the GATT.

The fact that other contracting parties, including the Community, did not call its bluff shows that the risk involved in accepting such a strategy was rather greater than other contracting parties could accept. In retrospect, the initial US proposal was nevertheless beneficial to some extent, for it set the tone for the whole Uruguay Round negotiations by making it clearly understood that the objective was the liberalisation of agricultural trade and the integration of agriculture into the general GATT rules. The US, supported mainly by the Cairns Group, counterbalanced all attempts to build the negotiations on the idea of the "specificity" of agricultural trade.

### Search for a Reasonable Compromise

The willingness of the major protagonists to negotiate mutually acceptable solutions in the framework of the objectives set by the Punta del Este declaration can best be illustrated by a review of their negotiating positions since 1986. At the Ministerial meeting of Punta del Este in September 1986, all participants agreed to embark on the challenging process of bringing agriculture into the GATT.

The Ministers agreed that there is an urgent need to bring more discipline and predictability to world agricultural trade by correcting and preventing restrictions and distortions including those related to structural surpluses so as to reduce the uncertainty, imbalances and instability on world agricultural markets. It was agreed that negotiations should aim to achieve greater liberalisation of trade in agriculture and bring all measures affecting import access and export competition under strengthened and more operationally effective GATT rules and disciplines.

While the US proposed the elimination of all subsidies and access restrictions by the year 2000, allowing only provisions for direct income aid (decoupled from production) and food aid, other countries and groups of countries were less rigorous and more realistic on the formulation of a long-term objective. The Community proposed reducing government support for agriculture in a progressive and substantial way. The Community's proposal supported the use of a PSE (Producer Subsidy Equivalent) based measurement tool for negotiating a concerted reduction in support and protection (Aggregate Measure of Support, AMS). The Community's approach was centred very much on reducing internal support and improving disciplines on export subsidies and market access concomitantly. The more the Community weakened the AMS approach, however, the more obvious the need became to take specific binding commitments on market access and export subsidisation.

The initial Cairns Group proposal was viewed by many observers as a compromise between the US and the EC proposals in addressing both the long-term concerns of the United States and the short-term concerns of the Community. Other industrial countries like the EFTA countries and Japan made efforts to contribute to the liberalisation of agricultural trade; however, they did so by proposing better disciplines in areas such as export subsidisation which, as net importing countries, would not affect them much.

At the Mid-Term Review of the GATT in Montreal, the US had given up its extremist and unrealistic position; the deadlock ended and the path cleared to find a reasonable compromise for a framework agreement to guide the

agricultural trade negotiations. All participants agreed on an overall objective: substantial progressive reductions in agricultural support and protection over an agreed period of time. In order to realise this objective, strengthened and more operationally effective GATT rules and disciplines should be negotiated, encompassing all measures directly and indirectly affecting import access and export competition.

### The Dunkel Paper

Thereafter it took the failure of the Brussels Conference and a long period of technical and political discussions on the bilateral and multilateral level to allow the Director General of GATT, Mr. Dunkel, to come forward with his Final Draft Agreement (FDA) on 20 December 1991.

The Dunkel paper was not acceptable to the Community and some other contracting parties. It was, however, accepted as a basis mainly for bilateral negotiations between the EC and the US. The Dunkel paper made specific proposals in four areas, which can be summarised as follows:

(a) *Domestic support*: The disciplines on internal support are based on the Aggregate Measure of Support (AMS), which is a figure that allows one to express and compare different kinds of support policies (price support, deficiency payments, input subsidies, etc. considered as having an effect on production and trade). The Dunkel compromise suggested the following:

- ☐ base period 1986-1988;
- ☐ credit from 1986 for reduction of AMS;
- ☐ 20% reduction commitment;
- ☐ duration 1993-1999.

Although the Community endorsed the general idea concerning internal support, it was unable to accept that the income compensation introduced under the CAP reform should be subject to a reduction commitment.

(b) *Market Access*: The discipline on market access is mainly based on the concept of tariffication. All non-tariff barriers (quotas, waivers, variable levies, etc.) on agricultural products should be transformed into a tariff equivalent (TE) and be reduced over time:

- ☐ base period 1986-1988;
- ☐ average 36% reduction for each tariff line with a minimum of 15%;
- ☐ duration 1993-1999.

On insistence from the Community, special safeguard mechanisms form an integral part of tariffication. Furthermore, the following is proposed:

- ☐ current access is maintained; and
- ☐ in cases where imports are less than 3% of domestic

consumption in the base period 1986-1988, in the first year of implementation and less than 5% in the last year of implementation, steps shall be taken to allow imports up to the minimum access level.

Although the Community could accept the overall orientation of tariffication, it was unacceptable that the Dunkel paper contained no provisions concerning rebalancing (i.e., measures necessary to stabilise EC imports of cereal substitutes).

(c) *Export competition*: The discipline on export competition is composed of two commitments, one concerning budgetary outlays, the other concerning subsidised export quantities:

- ☐ base period average 1986-1990;
- ☐ duration 1993-1999;
- ☐ 36% reduction in the budget;
- ☐ 24% reduction in quantities.

The Community was ready to make a specific commitment on subsidised exports but considered the reduction figure of 24% as too high.

(d) *Sanitary and phytosanitary measures*: An integral part of the Dunkel text concerns sanitary and phytosanitary measures. It endorses the principle that sanitary and phytosanitary measures should be based on scientific evidence, and it recognises the principle of equivalence and regionalisation.

### Settlement of the Oilseed Dispute

Furthermore, the Community considered it necessary to take up the following points which were not dealt within the FDA:

1. *Peace clause*: For the Community it is essential that the use of the different instruments of the CAP cannot be challenged under the GATT once an agreement on the three agricultural negotiating areas has been achieved. This assurance was not given under the Dunkel proposal.

2. *Oilseed dispute*: The Community considered it essential that the dispute over the Community's oilseed regime should be settled in the framework of the bilateral discussions between the US and the Community in the Uruguay Round.

The oilseed dispute started in 1988 when the US challenged the Community's aid for oilseeds in a GATT Panel on the grounds that the production aid granted to EC oilseed producers nullified and impaired the tariff concessions (zero tariff for oilseeds) which the Community had agreed upon in 1962 (Dillon Round). Because the US considered the subsequent reform of the



Community's oilseed regime in 1991 as being insufficient to remove the nullification and impairment, the US asked to reconvene the same Panel in order to re-examine the oilseed issue. The reconvened Panel recommended that the Community remove the nullification and impairment by either further modifying the oilseed regime or entering into negotiations under Article XXVIII of the GATT (renegotiation of tariff binding).

In June 1992 the GATT Council authorised the Community to enter into negotiations with all interested countries on the basis of GATT Article XXVIII para. 4. The US also agreed to this approach but insisted that, from its point of view, some modifications in the existing oilseed regime would be needed to find a mutually satisfactory solution to the dispute.

### The Blair House Agreement

The Agreement between the Community and the US reached on 20 November 1992 allows for the continuation of multilateral trade negotiations in the Uruguay Round, and thus paves the way for a possible conclusion of the Round. The substance of the agreement can be summarised as follows:

(a) *Internal support*: It has been agreed to exempt the type of income payments which the Community applies under the reformed CAP from the reduction commitment under the AMS. It is thus possible to compensate EC farmers fully for the income losses resulting from price reductions.

(b) *Market Access (rebalancing)*: Both sides agreed to enter into consultations if the imports of cereal substitutes increase to such an extent that they undermine the results of the reform of the cereals market.

(c) *Export competition*: It was agreed to apply a figure of 21% for the quantitative export commitments instead of the 24% foreseen in the Dunkel paper. The figure of 36% for budget reduction was confirmed. It will thus be possible to respect commitments resulting from a possible conclusion of the Uruguay Round within the framework of the agreed CAP reform. It was further agreed to confirm the commitment made by the Community in 1985 not to subsidise beef exports to the Far Eastern market (Japan, Taiwan, Malaysia, Singapore and South Korea).

(d) *Peace clause*: Both sides agreed on a text which ensures that the agricultural policy instruments applied will not be challenged under Articles XVI and XXIII (nullification and impairment) of the GATT, as long as the disciplines resulting from the Uruguay Round in the three negotiating areas are fully respected. This implies that the instruments of the CAP, including internal aid measures

and export refunds, are for the first time fully recognised in the GATT.

(e) *Oilseeds*: In the light of the conclusions of the two Panels in the oilseed dispute, it was agreed that the Community shall apply the set-aside level resulting from the annual decision of the Community in this respect on a base acreage limited to 5,128,000 hectares. The set-aside for oilseeds can, however, in no case be less than 10%. Contrary to the initial US request, there will be no supplementary ceiling in terms of tonnage on total production.

The Community will provide a tariff concession for the import of 500,000 tonnes of maize. The production of oilseeds for non-food production (bio-ethanol, for example) on set-aside land will be possible up to a certain level corresponding to a maximum by-product level of oilseed meal (one million tonnes of meal expressed in terms of soya meal equivalents, which is the traditional formula used to compare the fodder resulting from different oilseeds). It was thus possible to terminate a dispute which overshadowed the Uruguay Round for four years and which in its last phase brought the US and the EC to the brink of a trade war.

The Agreement reached in the bilateral discussions between the US and the Community on several outstanding negotiating issues, including the settlement of the oilseeds dispute, makes it possible to resume the multilateral negotiations of the Uruguay Round in Geneva. The Agreement now needs to be discussed further with all other participants in the Uruguay Round negotiations. If it is finally accepted along the agreed lines, it will impose concrete disciplines on the use of agricultural trade policy instruments in all countries of the world and make sure that all participants contribute in a balanced way to the improvement of trade in agricultural products.

### Conclusion

The process of the Uruguay Round negotiations as described above underlines the thesis that the US (as well as the Community) was willing to learn from the past and to make compromises to achieve the long-term objective of liberalisation of agricultural trade. It is, however, a great success for the GATT in general, and agricultural trade in particular. The EC and the US have agreed for the first time on a process which over time should lead to less and less state intervention in agricultural trade, allowing Heads of State to concentrate on other even more important issues of world politics than agriculture. It appears as if the negotiators have combined the wisdom of two great US statesmen, John F. Kennedy and Benjamin Franklin, "Never fear to negotiate..." because "no nation was ever ruined by trade."