

Informational Report of the Committee on International Economic Organizations

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The Council for Mutual Economic Assistance (CMEA)

The proposed agreement on economic cooperation between the Council for Mutual Economic Assistance (CMEA) and the European Economic Community (EEC) was discussed in some detail in the fall issue. It is presently under consideration by the EEC Council. While no action has been taken at this writing, Council press releases indicate that, as anticipated, the EEC finds CMEA's proposal of February, 1976 largely unacceptable. The CMEA proposal did not recognize the competence and unity of the EEC with respect to state-trading countries, but interposed the CMEA between the EEC and the countries of Eastern Europe, precluding conclusion of bilateral treaties between the EEC and the various Eastern European countries. The releases suggest that the EEC's reply will conform to its earlier position; namely, that it can envision the negotiation and conclusion of an EEC-CMEA "umbrella" collaboration agreement and bilateral trade agreements between the EEC and the various member nations of CMEA.

While it is expected that the EEC's response will be phrased as a counterproposal, not a rejection in principle of any collaboration agreement, the EEC and the CMEA in fact continue to hold diametrically opposed positions on the nature of the principles of collaboration. Furthermore, detailed counterproposals concerning specific legal, economic and political problems raised by the CMEA proposal are expected to follow the preliminary reply. These problems include:

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the possibility that the Final Act of the Helsinki Conference might attain legally compelling effect, thereby giving priority to certain aspects of the Conference; the scope of "most favored nation" treatment; the lack of equivalent reciprocity for grant of even limited MFN treatment by market countries to state-trading countries; non-recognition of the exclusive competence of the Community in the field of trade; limitation of Community autonomy in dealing with market disturbance; obligatory extension of "generalized preferences" by the EEC to additional CMEA members at a level of economic development justifying such treatment; and various technical, credit and monetary problems. In sum, prospects for an EEC-CMEA collaboration agreement in the near future appear remote.

On the eve of expected Council action, Tass issued a statement emphasizing the political aspect of economic cooperation between CMEA and the West (establishment of a "material basis" for peaceful cooperation) while minimizing the significance of East-West economic cooperation to the development of the socialist economies. According to the Tass release, the main international source contributing to the economic development of CMEA is the progress of economic integration within that organization. Ten major joint construction projects within CMEA are planned for the period 1976-1980, eight of them within the USSR. However, even these projects contemplate import of Western technology, and the rate of growth of importation by the CMEA member countries of producer goods from the West undermines the Tass assertion that economic cooperation with the West is not an essential element in the economic development plans of the CMEA countries.

Also on the eve of the Council meeting, the *Polish Review* proposed that a European Development Bank be jointly organized by the EEC and CMEA members to provide Euro-currency financing for pan-European development projects and to reinforce cooperation between the EEC and CMEA. In view of the drain on Europe's money markets that such a bank would induce, the present balance of payments difficulties of certain Western European countries and the staggering total debt of the CMEA members to the West, this Polish proposal probably strengthened the determination of the EEC to move slowly, if at all, toward compromise on a collaboration agreement with CMEA.

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General Agreement on Tariffs and Trade

Multilateral Trade Negotiations

1. *Agricultural Issue in the MTN*

In remarks before the Advisory Committee for Trade Negotiations (ACTN) on September 9, 1976, Ambassador Frederick B. Dent, the President's Special Trade Representative, reviewed the agricultural products situation in the MTN and noted that the key issue remains whether an accommodation can be reached between the United States and European Community positions. The United States considers that agricultural and industrial products should be treated together in the negotiations, while the European Community takes the view that agriculture is an area requiring its own trading rules. The European Community also insists that its variable tariff levies on agricultural imports and subsidies on exports are non-negotiable, while the U⁰⁰⁰ States places great importance on reducing barriers to agricultural trade.

2. *Tariff Negotiations*

The Multilateral Trade Negotiations (MTN) Tariffs Group is scheduled to receive tariff reduction formula presentations from Japan and Switzerland and possibly other delegations during the fall session. The Japanese have indicated to United States negotiators that their formula would probably be somewhere between the linear approach proposed by the United States and the European Community's harmonization approach. There is hope that a formula can be settled on early next year.

Also unresolved in the tariff negotiations are the rules and procedures for exceptions to whatever tariff reduction formula is agreed upon. To date, discussion in this area has been limited, although the consensus of the negotiators is that the countries should show "great restraint" in excepting products from the tariff cutting formula.

Rules for exceptions during the Kennedy round of GATT Negotiations (1962-67) included holding exceptions "to a bare minimum" and taking exceptions only in case of "overriding national interest." During the Kennedy round, a formula country proposing exceptions was confronted by other formula countries and required to justify the proposed exceptions. This then was followed by bilateral negotiations among all the participants. It has not yet been decided whether the rules developed during the Kennedy round will be applied in the MTN.

3. *LDCs Seek Creation of Reform Group*

Brazil has proposed that a GATT Reform Group within the MTN be set up to examine selected aspects of the GATT not being otherwise discussed. The

goal of such a group, as proposed, would be the inclusion of special and more favorable treatment provisions for less developed countries (LDCs) in all aspects of the GATT.

The United States has indicated that it could support the proposal only if the scope of the group was not limited to matters strictly of interest to LDCs and the group did not involve itself in issues already under discussion in the MTN.

4. MTN 1977 Goal Reaffirmed

Ambassador Dent reaffirmed, in his remarks to the ACTN, that the goal of a 1977 year-end conclusion to the Geneva phase of the MTN remains a prime United States objective. Other participants in the MTN also view the end of 1977 as the target date for completing the negotiations.

Bilateral GATT Issues

1. GATT Panel Rules on DISC

A special panel of experts convened by GATT has found that tax benefits accruing to DISCs in the United States constitute export subsidies and thus violate GATT rules if any trade advantages are gained from them. The action of the panel came in response to a complaint made by the European Community challenging the legality of DISC.

In related actions, three other special panels found that certain income tax breaks for exporters in France, Belgium, and the Netherlands similarly violate Article XVI of the GATT. The United States had complained against the three European Community member state tax practices in 1974, in response to the European Community complaint against DISC.

In commenting on the GATT panel findings, Ambassador Dent indicated his intention to propose consultations with interested governments to achieve "a mutually satisfactory solution to the problem of the trade distortive effects of tax practices."

The findings of the panels will be presented to the GATT Council for further action.

2. European Community Ends Milk Powder Scheme

The regulatory scheme imposed last spring by the European Community to reduce the Community's huge surpluses of milk powder was ended October 31, following a decision by the European Community Council of Ministers not to extend it beyond the scheduled expiration date.

Under the European Community regulation, feed compounders were required to put down a deposit when importing soybeans, to insure that they

bought a corresponding amount of milk powder, to be mixed into livestock feeds. The GATT does not permit a tariff on oilseeds, and the United States vigorously protested the dry milk scheme, charging that the required deposit constituted a tariff on soybeans and that the scheme severely affected United States soybean exports.

A United States request to establish a panel of experts to determine the extent of damage to United States exports by the dry milk scheme and the extent of compensation required was agreed to by the GATT Council in mid-September. These compensation proceedings will continue notwithstanding the decision of the European Community Council of Ministers.

3. GATT Article XXIII Invoked by United States

In response to a petition under Section 301 of the 1974 Trade Act by the National Canners Association protesting European Community import restrictions on canned fruits, juices and vegetables, the United States requested negotiations with the Community within the GATT framework. The United States and the Community were unable to reach agreement during the bilateral consultations, and the United States now has requested an investigation under the dispute settlement provisions of GATT Article XXIII. Further Section 301 activity has been postponed until a GATT decision is reached.

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The International Atomic Energy Agency

In the midst of a continuing national debate regarding appropriate future nuclear weapons nonproliferation strategy, one point of consensus has appeared—the central role of the International Atomic Energy Agency (the IAEA or the Agency) in any effective policy. Since its formation in 1957, the Agency had become most identified with its international safeguards responsibilities. Although this activity relative to nuclear reactors around the world continues to receive the major emphasis in both international discussions of the role of the IAEA, as at the London Supplier's Conferences, and in congressional legislative proposals, a broader role for the Agency is now considered which could potentially equal its invaluable contribution to nonproliferation objectives

through its present safeguards functions. The new functions under discussion for the Agency go beyond its traditional safeguards activities to include Agency management and operation of multinational fuel cycle centers.

Each of the comprehensive bills considered in the 94th Congress endorses the IAEA in its application of safeguards systems in non-weapon states receiving nuclear exports, including facilities and materials, from the United States. There are two safeguards systems being applied by the Agency today, depending upon whether the concerned state is a party to the Non-Proliferation Treaty (NPT). These systems differ in scope and to a limited extent in the technical aspects of their application. Under the NPT, IAEA safeguards are applied to all peaceful nuclear activities in a state which is a non-weapon state; whereas non-NPT states need only agree to accept IAEA safeguards on certain non-military nuclear activities, as specified for example in a trilateral agreement between the Agency, the supplier state and the recipient state. The gap between the NPT and the non-NPT type safeguards agreements was dramatically illustrated by the Indian development and test of a "peaceful" nuclear explosive (PNE) in 1974. India is not a party to the NPT and has agreed to the application of IAEA safeguards only to certain facilities and materials obtained from supplier states. Aside from a consideration of the actual merits of India's arguments in justification of its right to develop a PNE, the explosion triggered a series of shock waves still felt in supplier states such as the United States. It has been suggested in the United States that all nuclear exports be conditioned upon the recipient state's acceptance of NPT type of IAEA safeguards.

Besides the application of safeguards in national facilities and materials, however, the concept of IAEA management of multinational fuel cycle centers has received widespread endorsement. One of the greatest threats of proliferation is now perceived in the spread of national capacities for enrichment and reprocessing of nuclear fuel. To forestall the need for development by individual states of facilities to supply these services, multinational fuel cycle centers have been proposed which will be beyond the control of any one state or group of states, subject primarily to the authority of the IAEA.

The advantage offered by increased reliance upon the IAEA is its international character and its established relationship with both developed and developing states. As the need for increased capacity for nuclear fuel services becomes more acute, the multinational fuel cycle center concept may become the solution most acceptable to both the supplier and recipient states. In the supplier states, such centers, operated under IAEA auspices, would restrict quantitatively states' access to enrichment and reprocessing technology and facilities substituting the expertise and authority of the IAEA for ultimately unaccountable sovereign state control. From the recipient states' viewpoint, the multinational centers would be a preferable alternative to continued reliance

upon the supplier states' individual national facilities for these critical services and an economically rational route to development of the necessary facilities.

The IAEA is presently conducting a study of the multinational fuel cycle center alternative. The United States contributed financially to the study and sent experts to assist the Agency. The results of the study are expected during the first half of 1977. Preliminary review indicated that the IAEA Statute gives the Agency authority to operate such facilities. Whether this potential role of the IAEA in relation to these multinational centers will become a reality must be determined soon to obtain their full benefit.

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Recent Developments in the OECD

During 1975 and 1976, the OECD Committee of Experts on Restrictive Business Practices supervised the drafting of a "Report on the Restrictive Business Practices of Multinational Enterprises." The Report, as drafted by its working committees, was approved by the Committee on December 16, 1976.

The Report is divided into three parts. Part I contains an economic and empirical analysis of the effects of multinational enterprises on competition. Part II contains a study of the application of national legislation on restrictive business practices to the activities of multinational enterprises. Part III is a "Foreword and Conclusion" to the Report. It includes a number of observations, conclusions, and recommendations which may influence future international agreements and perhaps even national legislation.

The "Foreword and Conclusion" expresses the view that it would be counter-productive to develop different antitrust laws for local or national enterprises as opposed to multinational enterprises. It concludes that the development of an antitrust law common to the OECD members is not realistically achievable; nevertheless, it points to the Restrictive Practices Section of the OECD Guidelines for Multinational Enterprises as providing useful guidance for the development of national legislation.

The Report also contains recommendations encouraging national legislation or regulations to expedite international document production and the exchange

of information, to prevent inter- and intra-company abuses of power, to provide for merger control, and to lessen restrictive business practices with respect to the sale and licensing of intellectual property rights.

The Report will now be forwarded to the OECD Council of Ministers with a request that it be approved for publication. It is expected that the Council will not review or approve the Report until its next meeting in May, 1977.

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