

exchange information within the GATT. The position of Canada, as stated by Trade Minister Gerald Regan, was to study the complexities of this area within the GATT, "without commitment as to what might follow." Canada's position probably reflects the middle ground on this issue. The GATT will not move quickly in this area, but in the long run it cannot afford to ignore the matter entirely. At this juncture the GATT Ministerial action appears similar to the early actions taken in the GATT on the whole subject of non-tariff barriers to international trade.

Investment control controversy

A third major concern of the Ministerial Meeting was investment. Since World War II, trade patterns have been increasingly influenced by the investment activities of multinational corporations, particularly American corporations. Largely as a result of market competition, there has been an enormous outpouring of international investment which by 1971 had produced a value of international production (i.e., the worldwide production of branch plants) that had surpassed the value of world exports in the same year. An important result of this investment is that a growing proportion of international trade is carried out between parent firms and their subsidiaries in foreign countries. Such intra-firm trade creates problems for trade policy, because the prices set on goods being traded across national boundaries may not conform to real values, but may simply be artificial prices (i.e., "transfer prices") manipulated to minimize the corporation's exposure to host country tariffs and other taxes.

The response of host governments has been to control foreign investment, not only to safeguard certain sensitive areas of the national economy from foreign domination, but also to insure that the host country receives a fair share of the benefits of the investment. One policy tool that is increasingly used by host governments is the "performance" requirement. Performance requirements are restrictions on the trading or other economic activities of foreign firms placed as a condition of foreign investment. For example, a firm seeking to establish a subsidiary in a foreign country might be required by the host government to purchase a certain proportion of raw material inputs for that subsidiary from host country suppliers. The United States, with some support from the EC, has been in the vanguard in opposing the use of performance requirements. On the other side, capital importers such as the developing countries and Canada, have resolutely defended the practice.

The "FIRA" case

Performance requirements are now an important issue in Canadian-American relations. They are the crux of the matter in the formal complaint the United States has lodged in GATT against Canada's foreign investment re-

view procedures (i.e., FIRA). The FIRA case has great importance for international trade and investment policy. The United States contends that performance requirements are a trade issue because they can shift international trading patterns as effectively as tariffs or quotas. Indeed, they can be used to nullify previous actions taken to liberalize trade, actions which may have been paid for in concessions received from other governments. Furthermore, American officials argue that performance requirements contravene GATT Article III requiring governments to extend equivalent "national treatment" to the foreign entities operating within their jurisdictions. For its part, Canada contends that foreign investment is a larger issue than international trade, and that controls over investment are a legitimate defence of economic sovereignty by a small nation in dealing with large international firms. From this viewpoint performance requirements are needed to insure that foreign investment operates to further host country interests. The Canadian Government has gone to great lengths to demonstrate that FIRA's screening procedures have not in fact turned back much foreign investment, but while this argument may have been useful in domestic politics, it has not been convincing to the US government. The latter is more concerned with performance requirements, and on this point the Canadian government has been unyielding.

In the preparations for the Ministerial Meeting, the United States had sought to commit the GATT to launch a formal study of trade-related performance requirements. This initiative was sharply resisted by the developing countries. The position of these countries, and Canada, is that international talks on investment policy should be broader than those the United States contemplated under the GATT. Furthermore, such talks should represent more fully the concerns of host countries, such as the transfer pricing practices of foreign firms. The Ministerial Meeting produced no resolution of this issue, and the subject of performance requirements was dropped from the final Declaration.

It is likely now that the GATT will do nothing further on investment until the report from the FIRA panel is received. In this regard, it is fortunate that the Declaration from the Ministerial Meeting contained a section strengthening and reaffirming the dispute settlement procedures of the GATT.

Large multilateral meetings of the sort held in November can only go so far in creating an orderly world trading system. The rest must be done through a step-by-step resolution of specific problems. One would hope that national governments will use the opportunity presented by the FIRA panel to narrow the differences between the exporters and importers of foreign direct investment in the future. □