

## STATEMENT

Ulrich MOHRMANN \*

Do existing multilateral instruments and national legislation adequately address the problems associated with countertrade? The answer depends on the way in which one characterizes the phenomenon of countertrade. While the practice does run against the principle of a multilateral trading system, it is not the only imperfection in that system and its present impact should not be overestimated.

Countertrade has long been a part of East–West trade. Although German exporters are by no means enthusiastic about countertrade, they often concede to such an arrangement when it is the only way to conclude a business deal with the East. For this reason, the German government has adopted a fairly neutral attitude toward individual countertrade contracts, allowing individual enterprises to determine whether to participate in such deals. As a matter of public policy, however, the German Government does not want countertrade to become a general principle of East–West trade and has repeatedly asked Eastern governments not to press for such arrangements.

To date, countertrade has not caused major problems for the German economy. In the future, however, if there is a sharp increase in countertrade and if countries outside the East–West context begin to engage in this practice, it might pose a more serious challenge to the multilateral world trading system.

In light of these considerations, intergovernmental countertrade deals between market economy countries would violate the basic principles of the General Agreement on Tariffs and Trade (the “GATT”). Generally, if governments of developing countries were to impose countertrade as a condition for imports, they would violate the GATT principles. The GATT, however, does include many provisions that allow developing countries to deviate from general GATT rules, and these may be applicable to countertrade.

Likewise, the protocols of accession of Eastern countries to the GATT should not be interpreted to prohibit them from practicing countertrade. If countertrade were prohibited for Eastern state trading countries, a significant amount of current East–West trade would be curtailed. The GATT should, however, be viewed as prohibiting extreme countertrade policies. For example,

\* Deputy Head of Section, Federal Economics Ministry, Federal Republic of Germany.

if an Eastern country made countertrade mandatory, as Romania did, this might be considered a violation of the GATT. Thus, while the GATT does not entirely prohibit countertrade, it does have the potential to curtail countertrade practices which reach too far.

Within the European Community, national legislation, such as antidumping regulations and import restrictions in cases of market disruption, appear to be flexible enough to deal with problems that may be caused by countertrade, because these problems are similar to those associated with regular imports. In fact, antidumping measures can be taken more easily against Eastern state trading countries than against market economy countries. In the absence of representative market prices in Eastern countries, dumping usually can be found as soon as an Eastern country offers its goods under the price of comparable market economy producers, provided there is serious injury to the industry of the importing country.

In conclusion, it appears that the existing GATT rules help to maintain countertrade at levels that will not endanger the multilateral trading system. At present, no modifications in the GATT rules appear to be necessary. Moreover, existing legislation of the European Community is flexible enough to handle any problems those countries might have as a result of countertrade imports.