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LA RONDA URUGUAY DE NEGOCIACIONES COMERCIALES: UNA
EVALUACION PARA AMERICA LATINA Y EL CARIBE

**THE URUGUAY ROUND OF TRADE NEGOTIATIONS: AN EVALUATION
FOR LATIN AMERICA AND THE CARIBBEAN */**

EDITED ENGLISH VERSION OF THE EXECUTIVE SUMMARY
AND CHAPTER VIII: "LATIN AMERICA AND THE
URUGUAY ROUND: THE PENDING AGENDA"

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EXECUTIVE SUMMARY

The Uruguay Round represents the most comprehensive and ambitious multilateral negotiations process ever conducted within the framework of the General Agreement on Tariffs and Trade (GATT). The Uruguay Round was characterized by the inclusion of issues usually passed over, such as agriculture and textiles, as well as by the effort to incorporate areas that go beyond the normal sphere of trade, such as intellectual property, investments and services.

However, it should be pointed out that the major countries taking part in the negotiations have yet to complete the process of ratification of the Final Act, which contains the results of the Uruguay Round.

The aim of the present paper is to conduct a preliminary evaluation of the results of the Uruguay Round with emphasis on the Latin American countries. As a result of the large number of issues, together with their different degrees of importance and complexity for the countries of the region, this paper constitutes an initial and partial evaluation of the results of this round of negotiations.

According to available information, the percentage of exports from Latin America ^{1/} which will enter the markets of the United States, the European Union, Canada and Japan tariff-free as a result of access negotiations will increase from around 30% to around 47%. The number of tariff-free tariff lines will increase from 2,100 to 5,000, or in other words will rise from some 15% to some 34% of the total. Likewise exports to this group of countries with tariffs above 15% will drop in value from some 8.5% to some 6.4%. Tariff lines subject to tariffs above 15% will drop from about 11% to about 5% of the total.

There are a number of provisions regarding the use of non-tariff measures. Although these provisions do not guarantee the total elimination of such measures, they are designed to ensure greater monitoring of the use of the measures and to limit their scope. In the agricultural sector, the use of non-tariff measures is expressly prohibited; in the textile and apparel sector, in addition to tariff reductions, a schedule has been established for the dismantling within a period of 10 years of restrictions applied under the Multifibre Arrangement; new rules on safeguards prohibit the use of so-called "grey area" measures (voluntary restrictions on exports and other measures); and, lastly, changes in the balance-of-payments provisions also establish greater requirements with regard to the application of quantitative restrictions, and these are subject to multilateral surveillance.

Even though the results of the agricultural negotiations did not meet the goals set by all the participants in the Uruguay Round, the following points are worthy of note: i) agriculture is now definitively included in the multilateral trade issues agenda; ii) the rules put in place make the behaviour of trade flows more predictable; and iii) some improvements in conditions for

^{1/} Corresponds to states members of the Latin American Economic System.

access to major markets have been attained. In particular, there has been a consolidation of the majority of tariffs applicable in the case of agricultural trade.

As regards institutional issues, the Final Act of the Uruguay Round provides for the establishment of the World Trade Organization (WTO), which is to be responsible for the implementation and application of all the agreements and legal instruments negotiated. WTO will have legal capacity in its own right, which will put it on an equal footing with other international organizations.

The Agreement on Safeguards contains important changes with respect to article XIX of the General Agreement. The use of measures to cushion the effects of unforeseen increases in imports on the sectors concerned will need to be backed up by an investigation designed to provide information concerning injury or threat of injury resulting from the behaviour of imports. The measures must be temporary remaining in effect for four years, and may be extended for four more years. The elimination of all so-called "grey area" measures is stipulated.

With regard to subsidies and countervailing measures, three kinds of subsidies are defined: i) prohibited subsidies, which are linked to export performance or promote the use of domestic over imported goods. Developing countries will have a period of eight years within which eliminate this type of subsidy; ii) actionable subsidies, which cause injury to or nullification or impairment of a concession, and which cause serious prejudice to the interests of a country; and iii) non-actionable subsidies, which have no direct effect on trade, and consequently cannot be subject to countervailing measures.

Changes in the Anti-Dumping Code do not constitute progress towards limiting the use of this instrument as a trade barrier. In practice, a number of changes have represented an "internationalization" of certain domestic policies.

Lastly, the "Understanding on Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994" stipulates the obligation to announce publicly measures used to remedy balance-of-payments problems and the schedule for their elimination. In addition, the Understanding recommends the use of tariff measures in preference to measures of any other kind.

The changes in the procedure for the settlement of disputes mean that the establishment, terms of reference and composition of panel mechanisms are subject to clear-cut modalities and deadlines. As a result of the recent negotiations the automatic nature of the procedure for dispute settlement also applies to the adoption of panel results (recommendations). Therefore, the execution of the procedure is automatic and involves set deadlines and only a negative consensus can limit its effectiveness. Lastly, an appellate body has been established to review panels' conclusions.

In terms of the initial goals set by the developed countries with respect to trade-related investments, the progress made was very limited, since only one agreement was reached, which

provided for the elimination of measures inconsistent with articles III and XI of The General Agreement, dealing with national treatment and quantitative restrictions respectively.

The agreement on intellectual property is the most important and far-reaching agreement of its kind ever reached and will have the same kind of impact in the next century as the Paris Convention of 1883 had. The formal inclusion of this new aspect of trade in the multilateral system averts the possibility of unilateral reprisals for alleged "non-observance" of international agreements regarding intellectual property and, in addition, will oblige the majority of Latin American countries to modify their national legislation. The effects of this technological research and development policies, and on economic growth, are difficult to predict.

As regards trade in services, no major positive or negative effects on Latin America's balance of trade in services are predicted; such effects will arise when existing problems are overcome and when economic policies targeting the services sector are developed. None the less, this aspect of world trade should have been dealt with and incorporated into the multilateral trading system. Latin America, a region that has little ability to influence the course of multilateral trade negotiations, needs a legal framework that enables it to reach agreement with its main trade partners in the event of any dispute with them. A multilateral legal framework would provide a frame of reference for any intraregional trade negotiations, and would as a result greatly facilitate discussion of this issue. The development of trade in services within the region should be one of the issues included in the Latin American trade agenda, as this would provide certain advantages vis-a-vis the rest of the world.

The results of the Uruguay Round reflect a change in the importance accorded to the concept of special and differential treatment, and can be interpreted as meaning that this goal is now less important for the developing countries. A distinction is made between the developing countries and the least developed countries; the former group of countries will normally benefit from a period of grace, at the end of which they must meet the obligations provided for in the agreements. In market access negotiations, the developing countries kept the option of meeting lower levels of obligation by implementing consolidations above the tariffs applied, or negotiating reductions with respect to previous levels; in other words, there was no direct reciprocity in these negotiations. In services, in contrast, special and differential treatment was less important and agreement on this issue was reached in the access negotiations once the developing countries were given the option of taking on less extensive obligations in specified areas of interest. But the concerns of the developing countries with respect to services (access to information networks, restrictive trade practices, etc.) were not given specific and comprehensive consideration.

Upon conclusion of the Uruguay Round, a new multilateral agenda was outlined. The field of investments and tax-related aspects of trade clearly does not constitute a priority for multilateral discussion for the Latin American countries. It does, however, constitute a priority for bilateral discussion and in the sphere of integration.

The issue of the environment should be an area of great importance for the region. Special efforts need to be made, to ensure that the rules and guidelines adopted in this area do not

constitute a response to circumstances and problems other than those related to the environment. Consequently, it is not feasible to adopt a hostile stance to the treatment of this issue at a multilateral level; this would in any case be doomed to failure. Rather, an active approach must be taken towards defining regional and individual interests, so that a more uniform position can be adopted.

VIII. LATIN AMERICA AND THE URUGUAY ROUND: THE PENDING AGENDA

The extent to which Latin America participates in international negotiations determines, to a large degree, the advantages the region can obtain from these processes and the effectiveness of its linkages with the global economy. Furthermore, these initiatives can be complemented in the context of regional integration, which will need to be adjusted and will be greatly influenced by what occurs at the multilateral level. Further factors which need to be assessed are the issues of great importance for the region, as part of the international agenda at the international level.

1. Latin America and the multilateral trade negotiations

It is not feasible to conduct an overall evaluation of the results of the Uruguay Round of GATT as they affect the countries of Latin America as a whole. This is a consequence of the different interests of each of the countries in the region, as well as their different rates of progress in the field of reform and structure of foreign trade (in terms of export markets and the composition of trade).

A number of factors are responsible for the problems relating to coordination and formulation of a common regional position on the issues negotiated during the Uruguay Round of GATT.

The economic conditions originally facing the countries of the region when they signed the Punta del Este Declaration were different from those prevailing when they signed the Final Act at Marrakech. In 1986 the countries of the region were affected by the foreign debt crisis and faced severe economic imbalances. At the conclusion of the Uruguay Round the worst of this crisis had passed, and from the early 1990s the Latin American countries underwent changes in their trade policies, directed towards trade liberalization and a degree of economic deregulation that was without precedent since the Great Depression of the 1930s.

This is why the Latin American countries found it difficult to adopt consistent positions in the various negotiation groups. This also explains their difficulties in adopting a common approach, as the progress achieved in the liberalization process differed from one country to another. These problems relating to harmonization and common approaches surfaced even within groups of countries that form interregional blocks, even though they espoused shared economic integration aims.

Moreover, the countries of the region were pursuing different objectives in the Uruguay Round of trade negotiations. The countries involved in negotiating bilateral agreements modified their approaches in accordance with the progress accomplished in these initiatives. In contrast, other countries viewed the multilateral negotiations as an opportunity to consolidate their unilateral liberalization processes.

One further factor which explains the difficulties experienced by the Latin American countries in the Uruguay Round (and which can be widened to include the developing countries as a whole) is derived from the interest they show in "breaking up" the negotiations into different thematic groups. This reduces the influence of the developing countries, as not all share the same interest in the different groups (for example, tropical products, natural resources, textiles, etc.) and it is therefore not possible to maintain common approaches on a permanent basis. In addition, by seeking "segmented" treatment, the developing countries draw attention to their aims in the trade talks. As there are various groups, and as these countries lack the human and technical resources necessary to follow the overall course of the talks, they lose a balanced view of the negotiations, making their assessment in accordance with the results attained on a limited number of issues.

2. The multilateral trading system and the integration of Latin America

In recent years the multilateral trading system has undergone a fragmentation process with the institution of a significant number of initiatives whose purpose is the creation, expansion or consolidation of free trade areas, customs unions and common markets. At least two types of quandary (with the accompanying tension) have arisen as a result of this: i) how to ensure that these initiatives do not result in a loss of authority on the part of the multilateral organizations, and of their rules, which would endanger the functioning of such organizations; and ii) what course relations between the "blocs" will take over the long term.

One factor worthy of note is that regional initiatives -within the framework of GATT- have always existed; the 1970s were characterized by a series of attempts which met with varying degrees of success. A number of initiatives by the developing countries failed, while the European Union and EFTA gained strength. Why has the current process given rise to the above-mentioned fears? First, the United States has traditionally viewed this type of initiative with a great deal of scepticism. Beginning in the 1980s, the United States adopted unilateralism as an active tool of trade policy and subsequently changed its stance, adopting an active policy in favour of free trade agreements. Second, the strain on the multilateral trading system, demonstrated by slow and difficult multilateral negotiations and by the undermining of the adoption of rules and guidelines, has created incentives for the multiplication of such initiatives. Third, the consolidation of integration models in Europe has provided intellectual backing for these processes. Lastly, economic liberalization processes and greater confidence in market policies have provided the necessary political support.

Latin America has been influenced by these developments. At the beginning of the 1990s, a number of bilateral and plurilateral free trade agreements and even customs unions came into force. These events occurred within the framework of the Latin American Integration Association (LAIA), established in 1980 by the signing of the Montevideo Treaty.^{2/} GATT was notified

^{2/} An analysis of the recent integration experience in Latin America is available for consultation at ECLAC, "La nueva integración regional en el marco de la Asociación Latinoamericana de Integración (ALADI) (LC/R.1403), Santiago, Chile, 1994.

of the establishment of LAIA in 1982, within the framework of the provisions on special and differential treatment adopted in the Tokyo Round.

Regional integration processes may encounter a variety of difficulties in the future. First, the increasingly complex nature of the trade agenda contained in the results of the Uruguay Round, together with issues of the new trade agenda, will make it difficult to intensify regional integration. Second, this process is likely to be subject to increasing multilateral "surveillance". In fact, MERCOSUR's notification to GATT, although strongly supported by the contracting parties, has been carefully observed by the industrialized countries, especially the United States. Even though GATT received notification of MERCOSUR in the framework of the so-called "enabling clause", which defines special and differential treatment for the developing countries, the United States, with the support of other developed nations, repeatedly requested that this trade group be examined in the context of article XXIV of The General Agreement, concerning free trade areas and customs unions. These requests have been rejected by the developing countries.

In short, it is predicted that the process of integration in Latin America will receive more rigorous backing from the main trade partners, and will need to be restated in new areas of trade.^{3/} In fact, the General Agreement on Trade in Services (GATS) contains no escape valve equivalent to the enabling clause, and this means that integration processes in these areas will need to be more rigorous.

None the less, both the positive outcomes of recent regional integration and the growing complexity of multilateral trade talks constitute an incentive for the intensification of trade links within the region. The unilateral reforms undertaken by the Latin American countries may be complemented by bilateral or plurilateral initiatives which enable benefits of these policies to be reaped more quickly and allow costs to be reduced wherever possible.

3. Latin America and the international agenda

The multilateral trade agenda has historically been biased in favour of treatment of issues of most interest to the developed countries. In the negotiations prior to the launching of the Uruguay Round, the developing countries were successful in having a number of issues of special interest to them included in talks; the issues involved were agriculture, textiles and apparel, tropical products, natural resources and institutional matters. In addition, the Latin American countries generally participated actively in all aspects of the negotiations.

However, it is clear that in the future Latin America will need to insist on the liberalization of trade in agricultural products and, in particular, on stricter guidelines in the case of export subsidies and a reduction of still significant tariff barriers. This is not necessarily a North-South issue. Asian countries maintain very restrictive agricultural policies which have an

^{3/} The results of the Uruguay Round of GATT contained small changes which clarify the criteria contained in article XXIV regarding assessment of the practical results of the integration process. The use of trade-weighted tariff rates and customs duties is recommended in assessing possible effects.

impact on trade by Latin American countries. Efforts need to be made, not only with respect to the policies applied by the major trading partners of the industrialized world, but also those of other developing countries.

In the area of textiles and apparel, tariff barriers remain very high, even though the Multifibre Arrangement is certain to be phased out. This issue should be included in Latin America's thematic agenda.

In the institutional and trade regulation area, Latin America should insist on a reduction in the freedom to apply measures to combat "unfair" trade practices. Similarly, the countries of the region should complement their liberalization processes with the use of the sort of safeguard measures and mechanisms which make it possible to maintain the process of trade reform over time. Further, the countries of the region should be more prepared to use the dispute settlement mechanisms established by WTO, so as to assert more effectively their rights with respect to the practices and policies applied by other member States.

As regards the thematic agenda put forward by the major trading partners, it is worth noting that the area of least priority for the Latin American countries is that of competition policies, given that the current GATT rules serve as an appropriate basis on which to deal with any possible disputes that may arise in this area.

It is also clear that the area of investments and tax-related aspects of trade is not a priority area for multilateral discussion for the Latin American countries. However, this is a priority area for bilateral discussion and in the sphere of integration. In a similar vein, the area of services in the region must be dealt with as a matter of great concern. There are various factors which would facilitate agreements in the area of services, within the framework of GATS. As an example, in the area of professional services, university degrees have been dealt with previously at the regional level.

The issue of the environment should be an area of great importance for the region. Special efforts need to be made, to ensure that the rules and guidelines adopted in this area do not constitute a response to circumstances and problems other than those related to the environment. Consequently, it is not feasible to adopt a hostile stance to the treatment of this issue at a multilateral level; this would in any case be doomed to failure. Rather, an active approach must be taken towards defining regional and individual interests, so that a more uniform position can be adopted.