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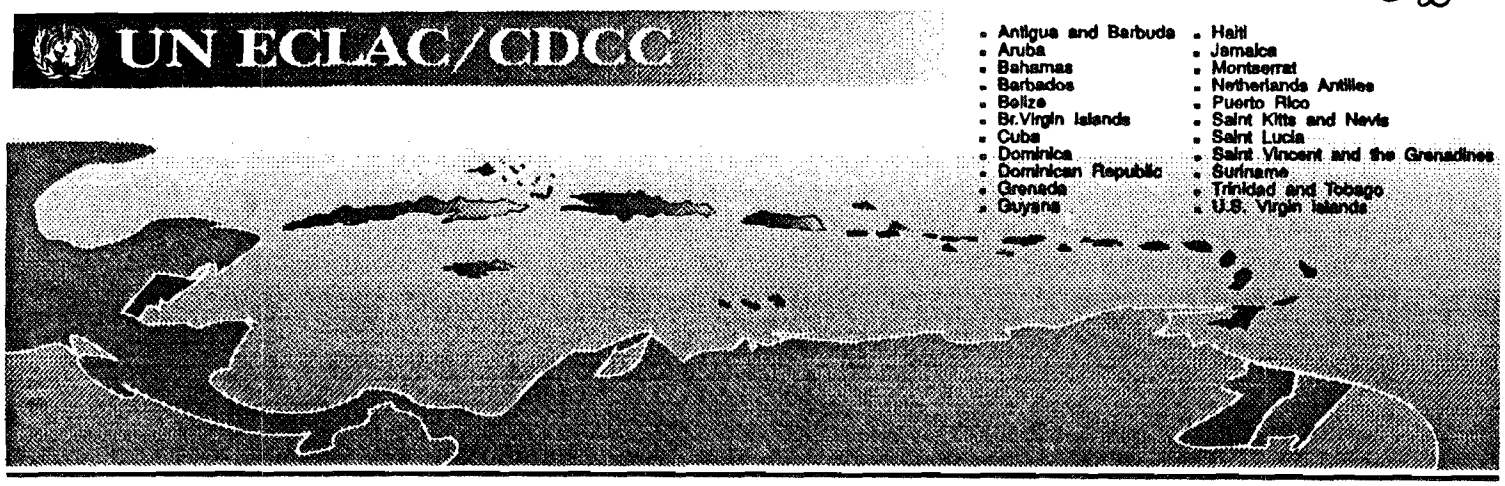

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THE CARIBBEAN AND THE OUTCOME OF THE URUGUAY ROUND IN THE CONTEXT OF NAFTA AND FTAA

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INTRODUCTION

The successful conclusion of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) negotiations is another indication of the continuation of the shift towards trade and economic liberalisation in the world and the commitment of GATT member countries to a more liberal trading system. A remarkable achievement of this new international trade agreement is the fact that it seeks to extend the rules and disciplines of multilateral trade to new areas, such as agriculture and textiles, which have been, up to now, the subject of highly restrictive trading practices.

The agreement also covers the new area of services which has assumed increasingly greater importance in both world trade and world production and the area of non tariff barriers which has increased substantially and is threatening to nullify the positive effects of earlier GATT rounds which had resulted in substantial tariff reductions. Other new areas covered by the new agreement includes trade related intellectual property rights and trade related investment measures which are important to the good conduct of international trade.

Another significant achievement of the Uruguay Round Agreement is the strengthening of the dispute settlement mechanism, whose new provisions prevent offending countries from blocking GATT dispute panel decisions and seek to discourage the use of unilateral trade sanctions which have recently become obstacles to the smooth functioning of the international trade system.

The latest round of multitateral trade negotiations also established the World Trade Organization (WTO) to succeed GATT. This new organization will have the task of supervising the implementation of the Uruguay Round Agreement and the responsibility to organize future trade negotiations which will not only include the further liberalisation of trade-in-services and agriculture, but also new issues such as trade and the environment.

Although GATT was based on the most favoured nation principle and the principles of reciprocity and transparency in international trade, it provided for some exceptions including those dealing with preferential free trade areas which were allowed under the provision of Article XXIV of GATT. It was under that article that the North American Free Trade Agreement (NAFTA), like many other free trade agreements around the world, was established.

It is significant that the NAFTA was signed in 1992 at a time when GATT negotiations were not making much progress and doubts were expressed with regard to the outcome of these negotiations. In those circumstances, NAFTA was seen as one of many free trade areas whose establishment was more likely to contribute to the achievement of the internationally shared objective of a more liberal world trade system. This was all the more so since the NAFTA accord is a comprehensive agreement which includes provisions which deal with issues such as agriculture, textiles, services and intellectual property rights which the GATT negotiators were trying to bring under the rules and disciplines of international trade. However, for the Caribbean, the significance

of NAFTA revolves around the potential effects that the new trading arrangement might have on trade and investment in the region. To ensure that those effects are as favourable as possible, Caribbean countries adopted essentially a dual track approach to NAFTA consisting of securing parity with Mexico in their access to the United States market, on one hand, while at the same time seeking membership in the free trade area, on the other hand. Countries, such as Jamaica and Trinidad and Tobago, were clearly favouring the accession to NAFTA approach.

Since the coming into effect of the NAFTA, the Summit of the Americas decided , in December 1994 to establish a Free Trade Area of the Americas (FTAA) by the year 2005. The Denver Ministerial Meeting, which was held subsequently, adopted a declaration which set out a work programme to prepare for the negotiations which will eventually lead to the establishment of the Free Trade Area of the Americas. Most CDCC member countries are participating in the various working groups dealing with the issues to be the subject of future negotiations for the FTAA.

This paper examines the eligibility criteria of NAFTA within the context of recent hemispheric and world trade developments. It then outlines some of the provisions of GATT and highlights its significance to CDCC member countries. In addition, it attempts to identify some of the differences and some of the similarities between selected provisions of GATT and those of NAFTA and draws some conclusions taking into consideration the preparation for the negotiations of the FTAA and the implementation of the Final Act of the Uruguay Round and the Marrakesh Agreement establishing the World Trade Organization.

I. NAFTA AND THE FTAA

The eligibility criteria for NAFTA include a stable macroeconomic environment, an open trading system in goods and services, more liberal foreign investment rules and regulations, a better protection and enforcement of intellectual property rights and a better protection of the environment. Although these criteria have not been defined with any measure of precision, it is usually accepted that their achievement requires the conduct of prudent fiscal, monetary and exchange rate policies, the liberalization of trade and investment and the establishment of a legislative framework and other policy instruments for the protection of intellectual property rights and the environment.

Most CDCC member countries have embarked on a number of policy initiatives including trade liberalization to adjust their economies to the evolving new world economic and trade environment[1]. It is generally believed that the continuation of these policies and their strengthening will not only improve their prospects for economic growth and development, but will also put them in a better position with regard to the eligibility criteria to negotiate entry into NAFTA, if they are invited to do so.

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[1] See LC/CAR/G.415: The North American Free Trade Agreement and the Question of Eligibility of Caribbean Countries.

Trinidad and Tobago and Jamaica are the two CDCC member countries which have taken steps towards seeking admission to NAFTA by signing bilateral investment and intellectual property agreements with the United States, these agreements being considered prerequisites to an invitation to negotiate entry into NAFTA. However, some significant world and hemispheric developments which may offer some possibilities and options to CDCC member countries in their efforts to define further their international trade relations have taken place since the coming into effect of NAFTA.

At the global level, the Final Act of the Uruguay Round and the Marrakesh Agreement establishing the World Trade Organization came into effect in 1995, at which time this organization started functioning. At the hemispheric level, preparatory meetings are ongoing to lead to the negotiation of the FTAA which is to be established by the year 2005.

With regard to the enlargement of NAFTA, there are ongoing negotiations to allow Chile to become a member of the free trade area. However, these negotiations do not appear to be moving as fast as expected. The United States Administration does not have fast track authority and may have difficulties in obtaining it. The Administration is also involved in preparations for the FTAA and is due to face a presidential election at the end of 1996. All these factors may slow down whatever enlargement, if any, is envisaged by the NAFTA partners. In addition, the approach to NAFTA membership is still open with some favouring negotiating entry as individual countries while others prefer the group approach. Whatever approach is actually taken will have as yet unknown consequences on trade and economic relations in the Caribbean. With regard to the fact that the NAFTA is already being implemented and that it may be eroding the preferences received so far by Caribbean exports, the NAFTA parity bill, if passed, will be quite adequate to ensure equal access for Caribbean exports to the North American market.

In the meantime, preparations for negotiation of a Free Trade Area of the Americas are advancing rapidly and most CDCC member countries are participating in these preparations. They will also undoubtedly participate in the actual negotiations of the FTAA and will get the opportunity to articulate their concerns and interests and make sure that these are taken into account in the final version of the free trade agreement. This participation in the actual process of the establishment of the FTAA which includes NAFTA member countries is a better arrangement for CDCC member countries than negotiations to accede to NAFTA which was finalized without their participation or input. In addition, the FTAA includes many more countries than NAFTA and is likely to cover all sectors and as such may be much less discriminatory. It is also clear from the declared principles on which the FTAA will be based that it will be outward looking and therefore more likely to be trade creating and more compatible with the generally shared goal of global free trade, especially when it is taken into account that most potential member countries of the proposed free trade area have already been implementing unilateral trade liberalization programmes.

The establishment of the World Trade Organization and the beginning of the implementation of the Final Act of the Uruguay Round constitute a revival of multilateral trade based on internationally accepted rules and principles which require the support of countries around the world to achieve a more liberal world trading order. This multilateral world trade agreement is widely recognized as the best approach to trade liberalization and the one most likely to result in increased welfare.

II. THE RESULTS OF THE URUGUAY ROUND OF TRADE NEGOTIATIONS

The Final Act of the Uruguay Round and the Marrakesh Agreement establishing the World Trade Organization were signed in April 1994 and came into effect in January 1995. The agreement seeks to strengthen multilateral trade rules and their enforcement and to bring a number of important new issues under these multilateral rules and disciplines. This section outlines some of the main provisions of the Uruguay Round of trade negotiations agreement.

(a) The reduction in tariffs

The Uruguay Round of trade negotiations achieved the further binding of tariffs on industrial products as well as reduction in tariffs and tariff escalation. The implementation of the Uruguay Round Agreement will result in the binding of tariffs covering 99 per cent of the value of all developed countries' imports from all sources. Before the Uruguay Round, 94 per cent of developed countries' imports were already bound. In addition, 18 per cent of industrial goods imported by developed countries were already bound at zero MFN tariff.

Table 1
Percentage of total imports under bound rates and of trade affected by bindings and tariff reductions in the Uruguay Round (UR) - Industrial and developing economies

	Industrial economies	Developing economies
Percentage of imports under bound rates pre-UR (%)	94	13
Percentage of imports under bound rates post-UR (%)	99	61
Outcome of UR:		
Already duty free (%)	18	1
Bindings with reductions (%)	64	32
Bindings without reductions (%)	3	26

Source: GATT (1994b) pp. 9 and 26.

Moreover, developed countries committed themselves to a 40 per cent reduction in their average tariffs on imports from all sources, and a 37 per cent reduction in their tariffs on imports from developing countries. The lower percentage reduction on imports from developing countries was due to the below average tariff cuts on textiles and apparels which represented a relatively higher

share of the exports of developing countries. Although average tariffs in developed countries were generally low (6.5 per cent for the United States, 7.5 per cent for the European Union and 4.8 per cent for Japan)[2], except for some sensitive products such as textiles, apparels and agricultural products, agreements were reached to reduce them further.

The highest tariff reduction to be applied as a result of the Uruguay Round to imports from developing countries will be that which relates to non-electric machinery which will be reduced by 66 per cent and that related to metals, mineral products and precious stones which will be reduced by 67 per cent and 69 per cent, respectively. Wood, pulp and furniture will benefit from a 63 per cent decrease in tariffs while electric machinery and manufactured products will benefit from 48 per cent and 52 per cent reductions, respectively. This will translate into a decrease of absolute tariffs for non-electric machinery from 4.7 per cent to 1.6 per cent, a decrease from 2.7 per cent to 0.9 per cent for metals and from 2.6 per cent to 0.8 per cent for mineral products and precious stones. The average absolute tariff on wood, pulp and furniture will move from 4.6 per cent to 1.7 per cent and that on electric machinery and manufactured products will move from 6.3 per cent to 3.3 per cent and from 6.5 to 3.1 per cent, respectively. On the other hand, textiles and clothing and leather, rubber and footwear will benefit from the lowest tariff reductions. Textiles and clothing will benefit from a 23 per cent reduction, moving from an average tariff of 14.6 per cent to one of 11.3 per cent while leather, rubber and footwear will benefit from a 19 per cent reduction and its average tariff will move from 8.1 per cent to 6.6 per cent.

Unlike the developed countries which had a high proportion of their tariffs bound before the Uruguay Round, developing countries' proportion of bound tariffs increased substantially as a result of the Round from 13 per cent to 61 per cent, but these tariffs were usually bound at higher levels than these countries' applied tariffs[3]. In addition, developing countries committed themselves to an average tariff reduction of 28 per cent on all industrial products excluding petroleum imported from developed countries and 29 per cent of all industrial products imported from other developing countries. Fish and fish products from developed countries will benefit from the highest reduction in tariffs (68 per cent), while chemicals and photographic supplies and electric machinery will benefit from a 34 per cent reduction in tariffs when exported to developing countries. Imports of fish from developing countries will also benefit from a 67 per cent reduction in tariffs and electric and non-electric machinery will benefit from 35 per cent and 34 per cent, respectively, when they are imported by developing countries from other developing countries.

These average tariffs are to be reduced in five equal annual reductions with some exceptions, starting in January 1995.

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[2] See Marcelo de Paiva Abreu: Trade in Manufactures: The Outcome of the Uruguay Round and Developing Country Interests, table 2.1, page 8.

[3] See R. Blackhurst, A. Enders and J. Francois: The Uruguay Round and Market Access: Opportunities and Challenges for Developing Countries, page 19.

Table 2
Developed country reductions in bound tariff rates
by major industrial product group
(Percentages)

Product category	Tariff averages weighted by:					
	Imports from all sources			Imports from developing economies		
	Pre-UR	Post-UR	% Red	Pre-UR	Post-UR	% Red
Industrial products	**6.3**	**3.8**	**40**	**6.8**	**4.3**	**37**
Fish & fish products	6.1	4.5	26	6.6	4.8	27
Wood, pulp, paper & furniture	3.5	1.1	69	4.6	1.7	63
Textiles and clothing	15.5	12.1	22	14.6	11.3	23
Leather, rubber, footwear	8.9	7.3	18	8.1	6.6	19
Metals	3.7	1.4	62	2.7	0.9	67
Chemicals & photographic supplies	6.7	3.7	45	7.2	3.8	47
Transport equipment	7.5	5.8	23	3.8	3.1	18
Non-electric machinery	4.8	1.9	60	4.7	1.6	66
Electric machinery	6.6	3.5	47	6.3	3.3	48
Mineral products & precious stones	2.3	1.1	52	2.6	0.8	69
Manufactured articles n.e.s.	5.5	2.4	56	6.5	3.1	52

Source: Taken from Richard Blackhursh, Alice Enders and Joseph Francois: "The U.R. and Market Access: Opportunities and Challenges for Developing Countries".

(b) Agreement on agriculture

The agreement on agriculture seeks the gradual liberalization of the sector over an initial period of six years for industrial countries and 10 years for developing countries. After this initial period of liberalization, negotiations are scheduled to start on the further reform of international trade in agriculture.

The agreement stipulates that all non-tariff measures related to agricultural trade and production, with few exceptions, (i.e.the use of quantitative restrictions under the balance of payments clause of GATT), have to be converted into tariffs at the start of the implementation period. This stipulation means that quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, State trading restrictions and voluntary export restraints must be replaced by tariffs immediately after the establishment of the WTO. The resulting tariffs must be reduced by an average of 36 per cent over a period of six years for industrial countries and by 24 per cent over a period of 10 years for developing countries. It was agreed that the period 1986-1988 would be used as a base period for the tariff reduction commitments. In addition, commitments were made to increase tariff bindings from 81 per cent to 100 per cent for industrial countries and from 25 per cent to 100 per cent for developing countries.

The agreement on agriculture also seeks to reduce the levels of domestic support as measured by the Aggregate Measurement of Support (AMS). Domestic support in industrial countries must be reduced by 20 per cent over the implementation period of six years and that in developing

countries must be reduced by 13 per cent over 10 years. Domestic support of less than 5 per cent is exempted from reduction commitments in industrial countries and that which is less than 10 per cent is exempted in the case of developing countries. Also, the so-called green box policies such as research and development including environmental and product specific programmes, pest and disease control measures, training services, domestic food aid, extension and advisory services, infrastructural services, decoupled income support, structural adjustment assistance, social safety net programmes, etc., are excluded from the calculation of the Aggregate Measurement of Support.

The agreement stipulates that export subsidies, i.e. payment related to export performance, prices of exports below domestic prices, marketing and transport subsidies, etc., must be reduced by 36 per cent in value and 21 per cent in volume for each product in the industrial countries over the implementation period. The equivalent commitments for the reductions of subsidies in developing countries are, respectively, 24 per cent and 14 per cent over 10 years. However, the agreement recognises that government support programmes to promote agriculture and rural development constitute an integral part of the developing countries' development programmes and should be exempted from AMS calculations. These support programmes include agricultural inputs subsidies, investment subsidies and measures aimed at crop subsititution for countries producing narcotic drug crops. Developing countries are also exempted from reducing subsidies which apply to marketing and transport of agricultural goods and the Least Developed Countries (LDCs) are exempted from all reduction commitments.

Closely related to agriculture is the agreement on sanitary and phytosanitary measures which gave member countries the right to apply measures intended to protect human, animal and plant life or health. It stipulated that these measures should be based on international standards, guidelines or recommendations but it allowed member countries to apply measures higher than the relevant international standards provided that these measures had scientific justification and were transparent.The agreement prohibited the use of these measures in a discriminatory manner or as disguised trade restrictive measures.

(c) Agreement on textiles and clothing

The agreement on textiles and clothing seeks to integrate the Multifiber Arrangement into GATT over a period of 10 years. The integration will take place in the following manner:

1. 16 per cent of the total volume of each country's imports in each of the following textiles and clothing categories - tops and yarns, fabrics, made up textile products and clothing - should be integrated into GATT 1994 as of the date of entry into force of the agreement. 1990 will serve as the base year for the calculation of the required 16 per cent.

2. 17 per cent of the 1990 volume of imports of each country will be integrated into GATT 1994, three years after the coming into effect of the agreement.

3. 18 per cent of the 1990 total import volume of each country will be integrated into GATT 1994, seven years after the coming into effect of the agreement.

4. 51 per cent of the total import volume of each country or whatever quantity of imports still under the MFA will be incorporated into GATT 1994, 10 years after the coming into effect of the agreement.

(d) **Agreement on trade related investment measures**

Trade related investment measures include those measures which are related to local content and balancing requirements as well as measures which are related to restrictions on imports for local production and those related to restrictions on access by enterprises to foreign exchange. All the trade related investment measures which are inconsistent with the agreement are to be notified to the Council for Trade in Goods of the WTO and eliminated within two years of the coming into effect of the WTO agreement for developed countries, five years in the case of developing countries and seven years in the case of least developing countries. In addition, the Council for Trade in Goods may extend the transition period for developing countries including LDCs, provided that they can demonstrate particular difficulties in implementing the agreement.

The agreement on trade related investment measures will be reviewed after five years and consideration for appropriate amendments will be made, including those related to investment and competition policies.

(e) **Agreement on trade related intellectual property rights**

The agreement on Trade Related Intellectual Property Rrights (TRIPs) provides for the protection of copyrights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits, trade secrets and the control of anti-competitive practices in contractual licenses. The agreement also calls for the enforcement of the protection of intellectual property rights under national laws in both civil and criminal cases.

The agreement provides for the protection of copyrights for a period of no less than 50 years from the date of publication of the work or the making of the work. This protection is extended to computer programmes, performers, producers of sound recordings and broadcasting organizations. Broadcast copyrights are protected for a minimum of 20 years. Initial registration of trademark and each renewal of registration of trademarks are protected for a term of no less than seven years. However, cancellation of the protection is allowed if the trademark has not been used for an uninterrupted period of three years. Patents which apply to both products and processes are protected under the agreement for a period of 20 years.

In addition, the agreement stipulates that most favoured nation and national treatment principles should be applied to the protection of intellectual property rights. It also includes provisions which are disigned to deal with any abusive practices by intellectual property rights holders, especially those which are likely to restrain trade or negatively affect the transfer of technology. It is also understood that the agreement will not affect members' obligations under the various international conventions such as the Berne Convention (1971) on artistic and literary works, the Paris Convention (1967) on industrial property, the Rome Treaty and the Treaty on Intellectual Property in respect of Integrated Circuits.

Developed countries are expected to implement this agreement one year after the establishment of the World Trade Organization (WTO). Developing countries are expected to implement the agreement four years later except for the national treatment and the most favoured nation commitments. They are also allowed five more years in the case where protection is called for in areas of technology not currently protected in their territories. The Least Developed Countries are expected to implement the agreement 10 years after the establishment of the WTO and that period could be further extended if there is a justification for such an extension.

(f) Agreement on subsidies, countervailing duties and safeguards

The agreement defines subsidies to include the direct transfer of funds from government or the potential transfer of funds or liabilities, i.e. loan guarantees, foregone revenues such as tax credits, government provision of goods or purchase guarantees, price or income support. Some subsidies such as those based on export performance, those related to the provision of inputs, tax concessions on export performance, indirect tax exemption for export products, preferential transport and freight costs for exports are prohibited under the agreement.

Other subsidies such as those which are related to expenses for environmental adaptation, fundamental research and development activities not directly linked to any commercial objectives are allowed; as are subsidies related to regional aid policies.

The agreement also stipulates that subsidies should not be used to affect adversely the trading interests of other GATT member countries and defines serious injury to other countries to occur when subsidies to a product exceed 5 per cent of its value, or when they are provided to cover operating losses of an industry except as one time aid for adjustment or when they are used to cancel corporate debts.

Least Developed Countries (LDCs) are allowed to maintain export subsidies while other developing countries are given eight years from the date of the establishment of the WTO to comply with the agreement on export subsidies. Prohibition of subsidies to promote the use of domestic over imported inputs does not apply to developing countries for five years and to LDCs for eight years from the date of the establishment of the WTO. However, developing countries must remove subsidies from a product if their exports of that product have constituted 3.25 per cent of world trade of that product for two consecutive years. Developed countries have three years from the date of the establishment of the WTO to conform to the agreement on subsidies. Countervailing duties should not last more than five years.

The agreement on safeguards stipulates that safeguards should be applied to a product irrespective of origin and that they should not last for more than four years. They could be extended for another four years provided that the protected industry is shown to be adjusting. All existing safeguards are to be eliminated within five years of the establishment of the WTO. Voluntary Exports Restraints (VERs) are to be eliminated within four years, but each member is allowed to keep one such measure until 1999.

(g) Agreement on trade in services

The General Agreement on Trade in Services (GATS) provides for the liberalization of trade in services through successive rounds of negotiations starting not later than five years after the establishment of the WTO. However, it was agreed that negotiations on issues such as financial services and government procurement should start earlier. The liberalization of trade in services defines four methods of supplying services, namely, cross border supply, consumption abroad, commercial presence and movement of natural persons.

The agreement also provides for the application of most favoured nation and national treatment principles in the conduct of trade in services, but allows for exceptions. However, these exceptions will have to be listed in the national schedules and are to be reviewed after five years. They should normally not apply for more than 10 years but can be extended for a longer period. GATT member countries are required to inform the Committee on Trade in Services of any changes in their laws related to services in an effort to bring more transparency to trade in services.

The agreement on services includes annexes on particular services, notably, air transport, financial services and telecommunications. The annex on financial services provides a framework for later negotiations, but allows for domestic regulations and controls; the one on air transport excludes traffic rights but includes maintenance and repairs and the marketing and selling of air transport services; that on telecommunications requires member countries to allow foreign companies to use their telecommunications network on the same terms as their own nationals but excludes cable or broadcast distribution of radio or television programmes. Government procurement is not included in the agreement but negotiations are scheduled to start on that subject within two years after the establishment of the WTO. Subsidies in services are to be negotiated later but developing countries' subsidies to their service sectors to facilitate their development are taken into account.

Unless specified in a member's national schedule, limits on market access commitments such as limits on the number of service suppliers, limits in the number of foreign nationals employed and limits on the participation of foreign capital are not allowed. Developing countries are to be allowed more flexibility in the liberalization of their markets, i.e. opening fewer sectors and liberalising fewer types of transactions.

(h) Agreement on dispute settlements

The agreement established a Dispute Settlement Body (DSB) to administer the rules, procedures, consultations and dispute settlements of the Uruguay Round. The DSB has the authority to establish panels and adopt panel and appelate body reports. It also has the responsibility to maintain surveillance of the implementation of the rulings and recommendations and can authorise the suspension of concessions and other obligations under the agreement.

Under the agreement, panels will be automatically established by the Dispute Settlement Body unless it is decided by consensus not to establish them. The reports of the panels or that of the appelate body, if there is an appeal, have to be adopted except if they are rejected by consensus. The agreement also puts a time limit on the adoption of the results of the panel reports. These have to be

adopted nine months from the date of the establishment of the panel, but can be extended to one year. Unilateral decisions by member countries are not allowed in relation to the violation of their rights under GATT.

Developing countries are given special consideration, such as more time to prepare their arguments in disputes and the panel reports are required to indicate the form in which account has been taken of relevant provisions on differential and more favourable treatment for developing countries.

(i) Establishment of a World Trade Organization

The World Trade Organization (WTO) was established in July 1995. It has a secretariat headed by a Director-General and a ministerial conference made up of all members of the organization which meets at least once every two years. It also has a General Council made up of all members which meets between the ministerial sessions and which is also entrusted with discharging the functions of the Dispute Settlement Body and the Trade Policy Review Body. The Trade Policy Review Body is responsible for frequent reviews of members' trade policies and practices. The four largest trading countries will be the subject of review every two years, the next 16 every four years and all the others every six years. Least Developed Countries' policies are subject to review at longer intervals.

Councils such as those on trade in goods and trade in services have been established under the General Council. In addition, the Ministerial Conference will establish committees in the following areas: trade and development, balance of payments restrictions, budget, finance and administration.

III. THE CARIBBEAN AND THE RESULTS OF THE URUGUAY ROUND

The bindings and reduction of tariffs agreed to in the Uruguay Round of trade talks have the potential of improving market access for all participating countries. The highest tariff cuts, which developed countries have committed themselves to, will take place in areas which already benefited from relatively low tariffs. These areas include wood, paper, pulp and furniture, metals and non electric machinery whose tariffs facing developing countries' importers will be reduced by 63 per cent, 67 per cent and 66 per cent, respectively. Also, tariffs facing chemicals and photographic supplies, mineral products and precious stones will be reduced by 47 per cent and 69 per cent, respectively. On the other hand, the lowest tariff reduction commitments are in the sectors which are considered sensitive in the developed countries. These include textile and clothing, leather, rubber and footwear whose tariffs are to be reduced by 23 per cent, 19 per cent and 18 per cent, respectively.

Caribbean exports generally face much lower tariffs than other developing countries in the markets of Europe and North America because of the fact that many of them benefit from a combination of MFN duty free tariffs, various GSP schemes and preferential treatment under special

arrangements. However, some of these sectors which are to benefit from bindings and reductions in tariffs are of special interest to countries in the Caribbean which will, therefore, have the opportunity to take advantage of the better market access afforded to them by these new measures to increase their exports of commodities in these product groups.

Since tariffs under GATT are going to be lowered on a most favoured nation basis, they are likely to result in the erosion of the margin of preferences from which a majority of Caribbean exports benefit. For example, 82 per cent of Antigua and Barbuda's exports to the United States do not face any tariffs, 75 per cent of those of the Dominican Republic, 66 per cent of those of Haiti and 73 per cent of those of Jamaica enter the United States with a zero tariff[4]. The lowering of tariffs could allow the non- preference receiving countries better access to previously restricted markets of interest to Caribbean countries. But since these preferences are threatened in any case because of the recent insistence of the preference giving countries on reciprocity, Caribbean countries will have to improve the competitiveness of their products on international markets to be able to take advantage of the improved market access which will result from the implementation of the Uruguay Round and lessen their dependence on preferential treatment.

In fact, many countries in the subregion have already started implementing strategies and policies, including trade liberalization, to improve the competitiveness of their exports and allow their imports to come from the most competitive sources. The results of the Uruguay Round in terms of market access can contribute to the success of these strategies. Countries such as Jamaica, Suriname and Trinidad and Tobago may have new opportunities in the chemicals and photographic supplies sectors. Other countries, such as Saint Kitts and Nevis, Saint Vincent and the Grenadines and Barbados, may benefit from the lowering of tariffs in the machinery sector and those like Trinidad and Tobago and Guyana may benefit from lower tariffs on metals. In addition, the countries of the subregion could take advantage of the improved market access to develop new export products. Better market access which is also likely to result from the implementation of the Uruguay Round in other developing countries, especially those in the Caribbean and Latin America, may present the countries of the region with new opportunities for both imports and exports.

Textiles, clothing and leather, rubber and footwear which constitute a significant proportion of the exports of Caribbean countries, such as the Dominican Republic, Jamaica, Haiti and Saint Lucia, will experience relatively lower tariff reductions as a result of the Uruguay Round Agreement. In the case of textiles and clothing, these tariff reductions are in addition to the agreement to phase out the restrictive trade practices of the MFA over a 10-year period. Caribbean exports in these sectors are mainly produced in offshore processing plants in special export processing zones which receive preferential treatment in both the countries where the production takes place and the country of destination of export, which is mainly the United States. Improved market access on a most favoured nation basis, which is the objective under GATT, may result in the displacement of Caribbean exports in these sectors by lower cost producers and cancel some of the incentives which attracted foreign investors to relocate their production in the Caribbean. However, during the transition period, Caribbean clothing exports to the United States will be preserved to some extent.

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[4] See World Bank Report 12821 LAC: Coping with Changes in the External Environment, Table 5.6., page 109.

Improved market access on a most favoured nation basis in the trade of leather, rubber and footwear may result in the displacement of some Caribbean exports of these products, which although excluded from the original Caribbean Basin Initiative (CBI) exemptions did receive relative preferential treatment under CBI II in the form of a 20 per cent reduction in tariffs.

The progressive elimination of non-tariff barriers which was agreed to under the Uruguay Round of trade talks will further improve market access. The quantification of trade barriers in agriculture and their progressive reductions, the phasing out of the MFA and other trade restrictive measures, such as Voluntary Exports Restraints will eventually contribute substantially to world-wide liberalization of trade. In addition, safeguard measures which are allowed under GATT have been made more transparent and subject to progressive liberalization. Also, antidumping measures which are sometimes used as barriers to trade have also been made more transparent and fairer. With regard to subsidies and countervailing duties, the agreement defines more clearly what constitutes a subsidy and what constitutes an injury due to subsidies and identifies those which are actionable and those which are not.

Although the liberalization of trade in agriculture and the phasing out of the MFA may have possible negative effects on Caribbean exports, the prohibition of restrictive trade measures such as VERs and the further clarification and strengthening of the subsidies and countervailing duties and the antidumping measures as well safeguard measures may be of benefit to some Caribbean exporters. This is especially true for those which had been subjected to these trade restrictive measures in the past, for example, Jamaica whose exports of oranges and mandarines are subject to reference prices in the European Union, and Barbados and Belize whose exports of sugar and molasses are subject to variable import levies in the European Union. Trinidad and Tobago's steel exports to the United States have also been subjected to voluntary export restraints.

The reduction in domestic support and export subsidies for agricultural products called for under the Uruguay Round's agreement on agriculture will eventually decrease distortions in agricultural markets and provide opportunities for efficient agricultural producers. It is generally believed that the implementation of the agreement on agriculture will result in higher prices for agricultural products. Commodities such as wheat, rice, meat, dairy products and sugar which were heavily subsidised will witness the highest price rises which are expected to be in the range of 4 to 10 per cent in the medium term[5]. These projected price increases may result in some welfare losses in Caribbean countries which are essentially net food importers.

The implementation of the agreement on agriculture will also result in the erosion of preferences given to Caribbean exports, such as bananas and sugar, mainly because quotas on agricultural products have to be transformed into tariffs and reduced progressively resulting in increased competition in the markets for these products. Since most Caribbean producers of these agricultural commodities are thought to be high cost producers, they will need to improve productivity to compete in liberalised markets.

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[5] See Brandao A.S.P. and W. Martin, Implications of Agricultural Trade Liberalization for Developing Countries (Washington, World Bank, 1993).

The agreement on Intellectual Property Rights which establishes standards for the acquisition and protection of intellectual property rights may increase the cost of technology transfer to developing countries, including those of the Caribbean, because of their status as importers of technology. It may also put extra burdens on these countries to establish the necessary machinery, i.e. laws to be in a position to implement the agreement. However, better protection called for under the agreement may provide incentives for research and development in technology and may in the long run reduce the costs of technology transfer which should benefit developing countries, including those of the Caribbean. In addition, stricter protection of artistic and literary works under the agreement will allow Caribbean artists and writers to benefit more fully from the proceeds of their work. Under the agreement, technical assistance is called for to assist those countries which need such assistance to implement the agreement on intellectual property rights.

The trade related investment measures which include, among others, local content requirements and restrictions on foreign exchange for the purchase of imports are prohibited under the agreement. These types of trade related investment measures are more frequently used by developing countries, including those of the Caribbean, than the developed countries. However, there is an indication that Caribbean countries are moving away from the use of these measures. For example, Guyana, Jamaica and Trinidad and Tobago which had maintained some of these measures for a long time have all liberalised their foreign exchange policies and eased substantially the foreign exchange restrictions previously imposed on firms operating in their territories. The local content requirements are still applied in the Caribbean mainly in accordance with the rules of origin of CARICOM. Rules of origin which exist in all the numerous preferential trade agreements around the world are to be considered by a technical committee under the guidance of the Customs Cooperation Council of GATT which is to make proposals three years after the establishment of the WTO.

The GATS provides a framework for multilateral negotiations for the progressive liberalization of trade in services based on most favoured nation and national treatment principles. Essentially, the present limits to market access on most favoured nation and national treatment bases remain as they are since most countries have offered these in their schedules of commitments on all subsectors of services.

The area of trade in services is of special importance to the countries of the Caribbean because of the importance of this sector in most of their economies. The further liberalization of this sector might, in time, contribute to the efficient production and competitiveness of Caribbean products through access to low cost foreign suppliers of services which enter the production and marketing process of their products, i.e. freight costs which are believed to be high for Caribbean products may go down. This may have positive effects on both imports and exports in the Caribbean. In addition, as barriers to trade in services are reduced progressively, new opportunities may arise for Caribbean service producers to enter new markets provided they are sufficiently competitive.They will also have opportunities to consolidate their competitive position in the provision of tourism services. Liberalization of financial services may provide improved access to finance for investment in the subregion.

IV. SOME OF THE PROVISIONS OF NAFTA COMPARED TO THOSE OF GATT

The NAFTA removed all tariffs and other restrictions on trade, among its member countries, in the majority of agricultural products when it came into effect in January 1994. Restrictions on most other products will be removed over five to ten years and the remainder over 15 years. NAFTA also stipulates that all quotas are to be converted into tariff rate quotas or tariffs upon the coming into effect of the Agreement. Although the maximum period of 15 years for the complete liberalization of trade in agriculture has been agreed to, the liberalization process in Mexico is to be implemented at a slower pace than in the United States and Canada. GATT also calls for the tariffication of quotas and the reduction of the resulting tariffs together with other tariffs which affected agricultural trade. GATT addresses the issue of domestic support to agriculture and calls for its progressive reduction. NAFTA, on the other hand, only refers to the member countries'obligations under GATT and exhorts the countries to work towards measures for domestic support which do not distort trade or affect production. The liberalization of agriculture under GATT is only a first step which should be completed within six years for developed countries and 10 years for developing countries, while NAFTA lays down a programme for the completion of the liberalization of agricultural trade among the three member countries within a period of 15 years. The provisions of both GATT and NAFTA with regard to sanitary and phytosanitary measures are essentially the same, stipulating transparency and standards based on scientific evidence.

On the liberalization of trade in textiles and clothing, NAFTA undertakes to phase out all tariffs and quotas on trade in textiles and clothing within a period of 10 years. The integration of the Multifiber Arrangement into GATT will also be completed within a period of 10 years, but one year later than NAFTA which came into effect a year earlier. In addition, NAFTA provides for the imposition of safeguards during the transition period and defines strict rules of origin requirements, which stipulate that apparel must be made in North America from fabric made in North America and yarn made also in North America. GATT, on the other hand, deals with transshipment, rerouting and false declarations of origin to ensure the proper implementation of the agreement on textiles and clothing to protect the restrictive nature of MFA during the transition period. GATT also allows for transitional safeguards, but stipulates that more favourable treatment should be given to Least Developed Countries and to those countries which account for a small percentage of a member country's imports.

The NAFTA provisions on investment give both national and MFN treatment to investors from the free trade area. The same provisions are included in the GATT agreement on Trade Related Investment Measures which prohibit the use of local content requirements, foreign exchange restrictions for the purchase of imports or the transfer of profits and dividends. In the case of NAFTA, the agreement on investment is qualified by a list of exceptions and transitional arrangements which, in the case of Mexico, will be phased out within a period of five to ten years. In addition, NAFTA adds export performance requirements, domestic sourcing requirements, product mandating and technology transfer requirements to the list of prohibited measures[6]. GATT stipulates

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[6] See G.C.Hufbauer, J.J.Scott assisted by D. Clarke, Western Hemisphere Economic Integration, Institute of International Economics, Washington D.C. July 1994.

that trade related investment measures which are inconsistent with the agreement are to be eliminated within two years, five years and seven years for developed countries, developing countries and least developed countries, respectively.

The provisions of NAFTA on intellectual property rights and those of GATT are basically the same, calling for the protection and the enforcement of protection of copyrights, trademarks, industrial designs of integrated circuits and trade secrets in accordance with relevant international conventions. In addition, GATT contains provisions which deal with cases of abuses by intellectual property rights holders especially those which are likely to restrict trade or impede the transfer of technology. NAFTA, on the other hand, only recognises that the provisions of the agreement on intellectual property rights should not constitute barriers to trade. GATT provisions on intellectual property rights are to be implemented within a year by developed countries, five years by developing countries and 10 years by the Least Developed Countries. NAFTA's intellectual property rights agreement was to be implemented with the coming into effect of the agreement, with few exceptions, i.e. Mexico will provide and enforce protection for layout designs no later than four years after the coming into effect of the agreement.

The liberalization of trade-in-services will take place in NAFTA in accordance with the principles of national treatment and non-discrimination. GATT also calls for the application of both national treatment and most favoured nation principles in the liberalization of trade-in-services. One of the key differences between NAFTA and GATT approaches to the liberalization of trade-in-services is that NAFTA presumes that all trade-in-services is unrestricted unless the agreement specifically exempts that service[7]; while under GATT only the services specifically identified will be liberalised. The NAFTA agreement on services provides for a number of exceptions to liberalization, which include most air services, maritime services and basic voice telecommunications services. However, the agreement provides for the progressive liberalization of services, such as financial services, road transport services and government procurement. While NAFTA provides a timetable for the liberalization of services within the free trade area, GATT essentially confirms the present state of trade-in-services liberalization in the world and puts it under the multilateral rules and disciplines of international trade. It also provides a framework for negotiations to further liberalise trade-in-services. GATT also stipulates that developing countries should be allowed to open fewer sectors and liberalise fewer types of service transactions and should receive assistance in the strengthening of their service sectors.

The dispute settlement mechanisms of NAFTA include the establishment of binational panels whose decisions are binding. The agreement also includes provisions designed to ensure that the panel decisions are complied with. The panel decisions could be challenged by a three-person extraordinary challenge committee. The dispute mechanisms extend to antidumping and countervailing duties and seek to prohibit unilateral remedial actions in trade disputes within the free trade area. The Dispute Settlement Body which was established under GATT also designates panels whose reports are adopted automatically unless they are rejected by consensus. There is a time limit to the adoption of panel reports and provisions are included to ensure the implementation of the panel

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[7] See Congressional Budget Office, A Budgetary and Economic Analysis of the North American Free Trade Agreement, July 1993, page 52.

decisions. GATT specifically prohibits its members from taking unilateral decisions with regard to the violation of their rights under the GATT. With regard to developing countries, GATT calls for them to be given special consideration and demands that the panels take account of the differential and more favourable treatment provided for them under GATT. It is also to be noted that NAFTA gives its members the option to use the GATT dispute settlement mechanism to settle their disputes[8].

NAFTA includes supplementary agreements which were negotiated after the signature of the agreement and which concern labour, the environment and import surges. Safeguard measures against import surges exist under GATT and are generally similar to those outlined in Chapter 8 of NAFTA which also states, in its Article 802, that NAFTA members retain their rights and obligations under Article 19 of GATT. Environment and labour issues are not the subject of any agreement under GATT. However, a ministerial decision was taken at the signing ceremony in Marrakesh to direct the first meeting of the General Council to establish a Committee on trade and the environment with terms of reference which incude the identification of the relationships between trade measures and environmental measures in order to promote sustainable development.[9]

CONCLUSION

The implementation of the Final Act of the Uruguay Round of Trade Negotiations will progressively improve market access on a world-wide basis and contribute to lessening the negative effects of the many distortions which have been present in the economies of both developed and developing countries, because of the long-standing and extensive use of a host of trade restrictive measures. One of the major achievements of the Uruguay Round is the extension of the coverage of multilateral trade rules and disciplines to the areas of trade-in-services, intellectual property rights and trade investment measures which have assumed increased importance in international trade over the years and whose liberalization will contribute significantly to a more liberal trade system. Also, multilateral trade rules are to be extended to the traditionally highly protected sectors of agriculture and trade in textiles and clothing. In addition, the strengthening of the multilateral dispute settlement mechanism will help to eliminate the unilateral approach to trade disputes which has been widely used over recent years. The establishment of the World Trade Organization will provide the necessary institutional structure to supervise the implementation of the results of the Uruguay Round of trade talks and organize future trade negotiations which will lead to further liberalization of world trade.

Like any trade liberalization process, the implementation of the results of the Uruguay Round will involve transitional costs which will include, for the countries of the Caribbean, a progressive erosion of preferences and higher costs of food imports. These costs will, however, be spread over a relatively long period of time to allow for adjustment to the new, more liberal world trade environment where it is increasingly understood that reliance on preference is no longer a viable

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[8] The NAFTA, Volume I, Article 2005:GATT Dispute Settlement.

[9] The Results of the Uruguay Round of Trade Negotiations, The Legal Texts, GATT Secretariat, Geneva, 1994.

option. In addition, better access to a wider market will present new opportunities to Caribbean exporters.

Even before the Uruguay Round was concluded, most Caribbean countries started implementing economic reform programmes, including trade liberalization, with a view to making their economies more efficient and better able to respond to the changing circumstances of the world economy and their effects on highly open economies, such as theirs. The results of the Uruguay Round of trade negotiations are likely to assist the countries of the subregion in their trade reform programmes. It is to be noted, however, that GATT still recognises the need for special and differential treatment for developing countries, but it is increasingly apparent that developing countries themselves are abandoning the concept of non-reciprocity of market access in favour gradual implementation of universally applied multilateral rules.

It was also justified to believe that at the time when multilateral liberalization efforts were not progressing satisfactorily, the objective of global free trade would be easier achieved through the establishment of outward-oriented free trade areas. NAFTA, which is based on the principle of reciprocity among its members but gives some concessions to Mexico, should be viewed in the context of the movement towards a more liberal trading system through the establishment of preferential free trade areas. Indeed, NAFTA sought to liberalise, among its members, trade in all the areas which were the subject of GATT negotiations, but included that element of preferential treatment which was reflected in the rules of origin requirements and other discriminatory trade barries applied to non members. The Free Trade Area of the Americas which will seek to extend trade liberalization to most of the countries of the western hemisphere, including NAFTA member countries, will clearly constitute a less discriminatory and superior arrangement to NAFTA[10]. The FTAA is also likely to better contribute to the achievement of a more liberal multilateral trade system provided that it adheres strictly to the multilateral rules governing preferential trading arrangements. Also, the fact that the Uruguay Round of multilateral trade negotiations has been successfully completed and the WTO is functioning is a clear testimony to the revival of efforts towards multilateral trade liberalization based on a most favoured nation basis. This constitutes a positive development for the countries of the Caribbean, since a well functioning liberalised world trading system is likely to be in the long-term interest of their highly open economies. However, their success will depend on their own economic and trading policies, their ability to adjust their trade and production patterns and increase productivity in their economies, as well as the successful implementation of the Final Act of the Uruguay Round Agreement.

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[10] Issues affecting the participation of the Caribbean countries of the Proposed FTAA are explored in the ECLAC paper "Factors affecting the participation of Caribbean countries in the Free Trade Area of the Americas" (LC/CAR/G.459).