

The Uruguay Round Deal: An Outline of the New Trading System*

The results of the Uruguay Round create a new multilateral trading system together with the biggest package of market access concessions ever negotiated. The deal will lead to the replacement of the General Agreement on Tariffs and Trade (GATT) by the World Trade Organization (WTO) in 1995. The WTO will oversee comprehensive rules and disciplines covering every aspect of world commerce to ensure adequate redress for bilateral trade problems.

The complete results of the Round, to be signed in Marrakesh, amount to 500 pages of legal text -- the Final Act -- and around 20,000 pages of individual national concessions on market access for goods and services.

Trade Liberalization and Rules for Services

The GATT at present applies to trade in goods but not to services. Services cover many activities from banking and insurance, transport tourism, consultancy, telecommunications, to construction, accountancy, films and TV, and the provision of labor. World trade in services reached

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some US\$900,000 million last year. However, this figure relates only to services — transport for instance — which actually cross borders. In fact, the General Agreement on Trade in Services (GATS) covers service companies which establish themselves and operate in overseas markets — banking services, for instance. This kind of commercial activity is worth up to US\$3,000,000 million a year.

Why create new rules for trade in services? First, experience with the GATT suggests that open trade rules and initial liberalization commitments should give a big boost to trade in services. Second, there is fear that governments will resort to protectionism if multilateral rules are not in place.

The GATS contains three elements: the framework agreement, which lays down the general rules and principles such as non-discrimination, national treatment, and progressive liberalization of access to service markets; the annexes, containing disciplines relating to particular services, e.g., telecommunications and financial services, and to the movement of personnel; and the schedules of national market access commitments.

Protection of Intellectual Property Rights

Why establish new rules for the protection of intellectual property? The value of the goods and services that countries trade increasingly resides in their intellectual content — the technology, research and development, and human creativity contained in them. This is what intellectual property rights protect.

Widely varying standards in the protection of patents, copyrights, trademarks, and so on — as well as the effectiveness of their enforcement at the national level — have been a growing source of tension in international economic relations. Moreover, trade in counterfeit goods has reached an alarming scale.

The Final Act contains the most extensive agreement on intellectual property ever negotiated, covering patents, copyright, the rights of performers and producers of sound recordings, trademarks, and geographical indications including appellations of origin, industrial designs, layout designs of integrated circuits, and trade secrets.

For these intellectual property rights, the agreement:

1. Establishes international standards of protection for the first time or standards that represent a significant advance on existing ones;

2. Sets out, for the first time in international law, the procedures and remedies that governments must provide under their domestic law so that rights can be effectively enforced; and,

3. Makes applicable, again for the first time, an effective mechanism for the settlement of disputes between countries.

Bringing Textiles and Clothing Back to the GATT

Since 1974, most industrialized countries have restricted imports of textiles and clothing through bilateral quotas negotiated under the Multi-Fiber Arrangement (MFA). Quotas would normally be illegal under GATT rules, but the MFA was a "temporary derogation" from those rules. In addition, many developed and developing countries have maintained high tariffs on import in this sector.

Quotas and high tariffs have not only failed to protect jobs, but have also inflated the price of clothing — one of the basic necessities for all consumers throughout the world.

The Uruguay Round agreement will dismantle the quotas progressively over a ten-year period and reduce tariffs. Trade in textiles and clothing will gradually become more transparent and predictable, and will be based on fairer competition. In short, this sector will be reintegrated into the mainstream WTO rules and disciplines.

The agreement will boost the economies of developing countries and put them in a position to buy more from developed countries. It should be remembered that some of these countries are already the fastest-growing markets for the industrial nations. At the same time, any developing countries will bring down their own trade barriers to textiles and clothing imports, thus, creating new opportunities for manufacturers elsewhere.

Putting Trade Rules in Order

In essence, the GATT — and the WTO in the future — is a rule-based system bringing transparency, predictability, and security to trade policies and trading conditions. At present, it is much the same as it was when drafted in the mid-1940s. The Uruguay Round will bring the rules up to date and ensure that they work effectively.

Each individual area of rule-making part of the package may seem obscure and complex. Yet, every one of them can affect the conditions

under which businesses operate, in their own market or overseas. Every one was a vital objective for at least some participants in the Uruguay Round.

Anti-Dumping Practices

Dumping occurs when goods are exported at prices lower than those charged in domestic markets. The importing country can -- in specific circumstances -- defend itself by imposing special duties on the 'dumped' products. The operation of anti-dumping laws and regulations has been the source of recent trade disputes in the GATT. In addition, more and more countries are now enacting anti-dumping legislation, in particular, those countries which have been liberalizing their trade regimes.

The Uruguay Round agreement adds more precision to the existing disciplines on the initiation and conduct of anti-dumping investigations; the criteria for determining dumping and injury to the domestic industry; the imposition and collection of duties; and the duration of anti-dumping measures.

Subsidies and Countervailing Measures

Subsidized exports, like 'dumped' products, can be countered with special duties or 'countervailing measures.' This area has also become a hot spot for trade tension. The new agreement improves on current rules by seeking to define more clearly which subsidies are legal and which are not. The new agreement establishes three categories of subsidies: 'prohibited' (based on export performance or favoring the use of domestic inputs); 'actionable' (harms the trade interests of another signatory); and 'non-actionable' (e.g., research, assistance to disadvantaged regions and some dealing with environmental concerns).

The agreement also establishes stricter disciplines on the initiation and conduct of countervailing duty investigations; the calculation of the amount of subsidy; determination of injury to the domestic industry; and the imposition and duration of countervailing duties. The agreement gives to developing countries more favorable treatment on both subsidies and countervailing duties.

Safeguards

A safeguard action is one taken to protect a specific domestic industry from an unexpected build-up of imports which is causing, or which is likely to cause, serious injury to the industry. Article XIX of the GATT (the safeguard clause) does, however, impose certain obligations on governments

which resort to its use. In recent years, the European Community and the United States, principally, have avoided those obligations by pressuring exporting countries to concede 'voluntary export restraint' arrangements. These 'grey area' measures (i.e., their GATT legality is in doubt) are prevalent in trade in automobiles, steel, video-tape recorders, and many other products. They have resulted in higher prices for the consumers (for both the imported and domestic goods) and have done little to aid the domestic industries in difficulties -- indeed, arguably they have made things worse. In addition, they have restricted the export opportunities for efficient producers in other sectors of the importing country.

The Uruguay Round agreement sets out requirements for the conduct of investigations and the criteria for establishing serious injury and the impact of imports. Important new disciplines provide that safeguard measures should not exceed four years, unless certain criteria for a final period of up to four years can be met; that they should be progressively liberalized while in operation; and their re-imposition once terminated should be limited. It will also require the phasing out of all existing 'grey area' measures and prohibits their future use.

Rules of Origin

Goods nowadays are often made from inputs coming from many countries. They may also be trans-shipped more than once. How then do customs authorities determine the country of origin of imports? Rules of origin often vary from one country to another. The Uruguay Round agreement will ensure that these rules do not themselves create unnecessary obstacles to trade and sets up a program for the harmonization of rules of origin, other than those applied for the purpose of granting trade preferences.

Preshipment Inspection

A number of governments of developing countries now use specialized private companies to check shipment details, in particular, the price, quantity, and quality of goods ordered overseas. While some industrialized countries have expressed concern at difficulties experienced with the activities of these companies, such as the price verification procedures and delays caused, many developing countries consider the system vital to safeguard their national financial interests and make up for their inadequate customs facilities.

The Uruguay Round agreement recognizes that certain GATT principles and obligations apply to the activities of preshipment inspection agencies and sets out obligations specific to preshipment inspection. It

establishes an independent review procedure to resolve disputes between an exporter and a preshipment inspection agency.

Customs Valuation

The agreement in the area of customs valuation enables customs administrations to request further information from importers when they have reason to doubt the accuracy of the declared value of imported goods. In addition, the agreement authorizes the rejection of this value if the information is not forthcoming or if doubts persist once it has been provided.

Import Licensing

For a variety of reasons, goods produced overseas sometimes require a license to be imported. The new agreement strengthens the disciplines on the users of import licensing systems and increases transparency and predictability. Traders will benefit from the requirement that authorities publish sufficient information on the basis of which licenses are granted. The agreement limits the administrative burden on traders applying for non-automatic licenses to only what is absolutely necessary, and sets a 60-day deadline for consideration of their applications.

Technical Barriers to Trade

Product regulations and standards are extensively used in many areas of domestic policy-making such as measures to ensure that products are safe for people to use and safe for the environment.

The current GATT agreement in this area will be extended and clarified to ensure that technical regulations and standards, as well as testing and certification procedures, do not create unnecessary obstacles to trade. The agreement fully recognizes the legitimate, non-trade objectives normally served by these measures.

Trade-Related Investment Measures

Recognizing that certain investment rules and regulations can restrict or distort trade, the Uruguay Round agreement in this area provides for the phasing-out of GATT-inconsistent investment measures such as requirements on particular levels of local procurement by enterprises or restrictions on the volume or value of their imports.

The agreement also provides for consideration, at a later date, of whether it should be complemented with broader provisions on investment and competition policy.

GATT Articles

In one way or another, almost all articles of the existing GATT have been subject to review and many to negotiation, clarification, or interpretation:

Article II (b) -- *Schedules of Concessions*. Agreement to record and bind in national schedules "other duties and charges" levied in addition to the recorded tariffs.

Article XVII -- *State-trading Enterprises*. Agreement enhancing transparency and surveillance of the activities of such enterprises.

Article XXIV -- *Customs Unions and Free Trade Areas*. Agreement clarifying procedures for the review of new or enlarged customs unions or free-trade areas, and the procedure for any necessary compensatory adjustment for members of a customs union seeking to increase a bound tariff. This also clarifies obligations of a contracting party in regard to measures taken by regional or local governments.

Article XXV:5 -- *Waivers*. Agreement on new procedures for granting waivers from GATT obligations and the fixing of expiry dates for existing and future waivers.

Article XXVIII -- *Modification of GATT Schedules*. Agreement establishing additional rules on the negotiation of compensation when tariff bindings are modified or withdrawn. This, in turn, increases the ability of smaller and developing countries to participate and benefit from this type of negotiation.

Article XXXV -- *Non-application of the General Agreement*. Agreement allowing a contracting party or a newly acceding country not to apply GATT provisions vis-a-vis the other party after having entered into tariff negotiations with each other.

Article XII and XVIII:B -- *Balance-of-Payments Provisions*. Agreements clarifying and strengthening both substantive disciplines on balance-of-payment measures and procedures for consultation about their use.

Reform of Trade in Agriculture

Agricultural protectionism is rampant in many countries. For many years, the European Community and the United States have been massively subsidizing exports of agricultural products, particularly cereals.

At the same time, they have built barriers to food imports -- thus, hitting consumers twice over high prices due to protection and high taxes due to subsidies. Other countries ban imports of some products altogether. Competitive farming nations have often been simply squeezed out of overseas markets by this mixture of trade barriers and subsidies.

The Uruguay Round agreement to reform trade in agriculture seeks to bring sense to this economically and politically important sector. The aim is to inject some fair competition in farm trade and discourage government support that distorts trade. How will this be carried out?

First, by opening of national markets to international competition through the replacement of non-tariff measures with normal customs duties that would be progressively reduced. Consumers will benefit from lower food prices.

Second, by progressively reducing government aids that encourage overproduction and, therefore, surpluses, which in turn, are either disposed of through export subsidies, or destroyed. Governments can continue to support farmers' incomes, but in a manner which does not stimulate overproduction.

Third, by imposing new disciplines on export competition. Progressive reductions in amounts governments pay for these subsidies and the volume of subsidized exports will bring fairness to the international markets and provide opportunities for competitive farm exporters.

A further agreement seeks to ensure that animal and plant health and safety measures do not serve as unwarranted trade barriers. That agreement encourages the use of international health and safety standards but permits governments to impose still higher standards.

Market Access: Lower Prices and More Efficient Industries

Tariff liberalization lowers prices for consumers and promotes the dynamic growth of competitive industries thus, creating higher paying jobs. For exporters, it means new market opportunities. The GATT has already secured overall reductions in tariffs on manufactures since the late 1940s from 40 percent to around five percent.

The overall objective for the Round was a one-third average reduction in tariffs as well as the removal of many non-tariff barriers. This overall target was surpassed, and the average reduction was nearer 40

percent. In a large number of sectors, tariffs will be reduced to zero or harmonized at low levels. For the most part, the tariff cuts will be staggered in five steps over a period of four years.

It should be kept in mind that since the beginning of the Round in 1986, more than 70 countries, which are mostly developing economies, have taken autonomous trade liberalization measures -- reduction of tariffs and reduction or elimination of non-tariff barriers. They have also offered to bind, i.e., freeze, their tariffs at rates which compare very favorably with previous levels. Overall, the levels of tariff bindings in the future by WTO members will be much higher than those for GATT members as they are now.

Strengthening and Expanding GATT

Two early results of the Uruguay Round have, for several years, been helping GATT in its two major functions: the settlement of trade disputes and the surveillance of trade policies and measures.

At the 1988 ministerial meeting, governments agreed to implement an interim package of reforms to the GATT dispute settlement mechanism. It established a stricter timetable and clear-cut procedures to accelerate panel proceedings, particularly in relation to getting panels up and running. The GATT panel process now moves faster than other comparable dispute settlement procedures, both within and between nations. The reforms and improvements in the Final Act will confirm the gains already achieved and would, through the provision of more automatic procedures, minimize the possibility of delays in the adoption and implementation of panel reports. The new provisions also include a new Appeals Body. All disputes, relating to any of the multilateral agreement in the Final Act, will be processed under the new dispute settlement mechanism of the WTO.

Another early result which is already proving its value is the Trade Policy Review Mechanism (TPRM). Its role is to examine, on a regular basis, the trade policies of individual GATT members and assess their impact on the multilateral trading system. The mechanism has encouraged governments to live up to their GATT obligations. National laws, policies and practices regarding trade have also become more transparent. Over 40 reviews have been completed so far by the GATT Council.