

**LINKING
THE
WORLD**

Trade Policies for the Future

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Trade Policies for the Future

Edited by

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ABBREVIATIONS AND ACRONYMS

CAP	Common Agricultural Policy of the European Community
CFF	[IMF] Compensatory Financing Facility
CP	(GATT) Contracting Parry
CVD	Countervailing duty
ECLA	Economic Commission for Latin America
GATT	General Agreement on Tariffs and Trade
GNG	Group of Negotiations on Goods
GNS	Group of Negotiations on Services
GSP	Generalized System of Preferences
ICAO	international Civil Aviation Organization
IMO	International Maritime Organization
ICU	International Telecommunications Union
MFA	Multiform Arrangement
MFN	Most-favored nation
MIN	Multilateral trade negotiations

NTB	No tariff barrier
OMA	Orderly marketing arrangement
RBP	Restrictive business practices
SOT	Special and differential treatment
TIS	Trade in services
TNC	Trade Negotiations Committee
TNC	Transnational corporation
TOT	Transfer of technology
UNCTAD	United Nations Conference on Trade and Development
UNCTC	United Nations Commission on Transnational Corporations
UNSO	United Nations Statistical Organization
VER	Voluntary export restraint

PREFACE

Over the next decade, no global economic issue is perhaps as important as the liberalization of world trade. A sustained world economic recovery depends on a progressive freeing of the world markets from the protectionism and trade constraints which became the unfortunate distinction of the 1970s. For the developing world, a more liberal trading environment is likely to confer better and more permanent benefits than progress on any other global issue - say, for instance, an increase in foreign assistance. For indebted economies, an increase in trade is the only feasible way of repaying their mounting debts.

There are some recent indications that national and international decision makers are finally catching up with the central importance of global trade issues. Progress made at the Punta del Ester deliberations in September 1986 is indeed encouraging. There is a commitment to a Uruguay Round of global trade talks, to be completed within the next four years.

However, the difficult journey has just begun. It is going to be an enormously complicated task to harmonize the conflicting interests of over 150 nations of the world and to reach sensible compromises which advance global interests while at the same time protecting some of the entrenched bilateral interests. Global negotiations are generally successful when they set out to seek not the ideal, or even the optimum, solutions but the most feasible and accepted ones.

The North South Trade Roundtable

It is in this spirit that the North South Roundtable decided to organize a special Roundtable so that elements of a global consensus can be identified through a process of progressive dialogue in this vital field, in much the same way as the NSRT succeeded earlier in forging an unofficial global consensus in the fields of energy, food, adjustment with growth and human development, and the African problem. Leading personalities and prominent experts having knowledge and experience in trade issues and broadly representative of the countries of the North and the South were invited by the Chairman of the North South Roundtable to become members of the Trade Roundtable.

A preparatory meeting was held in Geneva on July 4-5, 1986 to decide on the agenda and the work program of the Trade Roundtable over the following two years. The first substantive meeting of the Trade Roundtable, held in London in cooperation with the Commonwealth Secretariat on December 14-16, 1986, held a candid discussion of "traditional" GATT issues, which included reestablishment of GATT principles with special reference to the export trade of developing countries; differential and more

favorable treatment for developing countries; and improving monitoring, surveillance and dispute settlement. The Roundtable's second substantive session, held in Geneva on November 6-7, 1987, focused on the negotiations on trade in services.

The present volume is thus divided into two parts. Part I contributors address goods trade issues, while Part II contributors focus on trade in services. Both parts open with overview chapters based on published statements issued by the NSRT at the conclusion of the London and Geneva meetings.

Policy Issues on Trade in Goods

In its statement after the London meeting, the Trade Roundtable welcomed the Punta del Ester decision to launch a new Round of trade negotiations amid an atmosphere of confusion in the international trading system. Noting with concern the erosion of multilateralism, the rise of protectionism and the increasing incidence of departures from GATT principles, the Roundtable stressed the need for early action in the Uruguay Round, recommending a confidence building package including the clarification of the precise definition of standstill and rollback, an early agreement on safeguards, and the establishment of high-level monitoring and surveillance mechanisms, both nationally and internationally. The Roundtable observed that progress could be made in the Uruguay Round only by ensuring a reasonable balance of advantages for all the participating countries.

According to C. Michael Aho, integrating the LDCs more fully into the international trading system over the next decade could stimulate the flagging growth of the world economy. He summarizes what LDCs and industrial countries want from each other in the Uruguay Round and outlines the shape of a possible bargain, stressing that success in the new Round will depend upon high-level political involvement and active private-sector support in all countries.

Winston Fritsch identifies the major stumbling blocks to an effective launching of the new Round as the severe current account imbalances among the world's largest economies, reluctance of these countries to move on agricultural protection and safeguards, and the theoretical and political challenge of strengthening the GATT. He goes on to list LDC targets in the negotiations vis-à-vis tariffs, subsidies, safeguards and agricultural protection and analyzes the chances of these targets being met.

Henry R. Nau recaps the history of the world trading system since the 1950s and lists the policy options in the new Round from both the U.S. and the NIC perspectives. For the U.S., he says, the choice is to order its priorities among domestic macroeconomic adjustment, international financial and monetary reform, and multilateral trade liberalization. For NICs, the policy choice is between continuing and extending their trade-restricting policies of the last four decades or liberalizing imports in exchange for better access to industrial-country markets. He concludes by analyzing the possibilities for expanding and strengthening the GATT.

Finally, Philip Ndegwa, focusing on departures from GATT principles, doubts whether "any mere tinkering with GATT rules" can provide a durable solution to trade policy problems. Pointing out how trade policies are intertwined with other policies, he recommends a "back to basics" movement in trade policy, coupled with a greater emphasis on making sustainable policy choices in other areas. Trade is an important engine of growth for both North and South, he notes, but the South cannot move until LDC debt problems are resolved.

Policy Issues on Trade in Services

The Geneva meeting of the Trade Roundtable was devoted exclusively to a review of the general issues of international trade in services and of the specific progress to date of the Uruguay Round's Group of Negotiations on Services (GNS). These issues proved to be so contentious that the NSRT issued a summary of the discussions prepared by Gerald K. Hellenic rather than a definitive statement.

This summary, which provides an overview of services trade issues, identified seven major ones: (i) definition and measurement; (ii) new issues raised by the peculiar character of services trade, such as international factor movement and the international distribution of gains; (iii) the relevance of GATT principles and experience to services trade; (iv) the potential contribution of services to development; (v) the possibility of pursuing country-specific approaches within the framework of general policy guidelines rather than prescribing uniform international rights and obligations; (vi) the imperative of considering sector-specific approaches simultaneously with a general framework agreement; and (vii) ensuring that any framework agreement will yield a reasonable balance of advantages among all trading partners.

Deepak Nayyar argues that the GNS Agenda at present tipped in favor of the developed countries, such as right of establishment for labor service. He enumerates conflicting North-South interpretations of many of the terms under discussion and upholds the rights of developing-country governments to intervene in their services sector in order to claim their share of gains from international trade and to protect national economic and cultural sovereignty.

Tradeoffs between goods and service concessions are inevitable, reasons Gerald K. Helleiner; the developing countries, choice is between multilateral rules and bilateral bullying and anarchy." He upholds the applicability of GATT principles to services trade and identifies some aspects of the recent U.S.-Canadian bilateral agreement which demonstrate how bilateral deals on trade in service are being negotiated between countries.

Anthony Hill presents a review of the progress of GNS negotiations in the initial phase, outlining some possible next steps in each area and summarizing the overall problems in pursuing a framework agreement. Paul Stratten sets the U.S. interest in free trade in service against developing-country fear that a liberalized service regime would work to their disadvantage. He goes on to enumerate what developing countries stand to gain from such a regime, provide that their concerns for maintaining GATT discipline in goods trade, protecting their infant industries and ensuring an equitable distribution of the gain from free trade are addressed.

In his second contribution to his volume, Winston Fritsch identifies some peculiarities of service transactions which make it difficult to assess the impact of their liberalization. He strongly urges the developing countries to develop their telemetric capability, whether by importing or producing the necessary technology, if they are to remain competitive internationally.

Noting that developing countries expect only \$0.78 in service for every \$ 1.00 they import, Murray Cobban nonetheless reports that developing-country services export are growing at a faster rate than those of the developed countries. He goes on to review the history, content, progress and implications for developing countries of services trade negotiations in the GATT context, asserting that these countries must move rapidly to identify their interests if these are to be reflected in the debate. A GATT staff paper also summarizes the history and progress of GNS negotiations thus far, identifies some unresolved issues and concludes by saying that the discussions are still at a preliminary stage, with some concepts as yet unaddressed.

Kenneth K.S. Dadzie suggests ways in which developing countries could take services more effectively into account in designing their development strategies, exploring the implications of such an objective for the Uruguay Round negotiations. He rejects the "comparative advantage" concept of choosing between goods and services, asserting that strength in one is a condition for competitiveness in the other.

Sidney Dell winds up the services trade discussion with a stern rebuke to the U.S. and other developed countries which are trying to force developing countries to offer them concessions in exchange for not violating the GATT in letter and spirit. "The incentive to further violations is obvious," he states. He argues that, rather than attempting to "reinvent the wheel" in the Uruguay Round, GATT negotiators should build upon relevant work done in such forums as UNCTC and UNCTAD.

The GATT press release containing the text of the Ministerial Declaration on the

Uruguay Round and a GATT information note on certain important terms and issues are appended to this volume.

Future Plans

The analyses and deliberations of the North South Roundtable on Trade will continue when the Roundtable meets in early 1989 in Geneva to assess the Mid-Term Review of the Uruguay Round in December 1988 in Montreal by the Trade Ministers and to make suggestions for the future course of the negotiations.

In connection with the London meeting, The North South Roundtable wishes to express its grateful thanks to the Commonwealth Secretariat, particularly to its Secretary General, Sriate Ramphal, for so graciously hosting this meeting; to Deputy Secretary General Peter Marshall and Economic Affairs Director Vishnu Persuade for their substantive contributions; and to the Commonwealth Secretariat's staff for the superb organizational support which they provided for the meeting. All the participants, especially the chairmen of the various sessions and the reporters, deserve special thanks for making this Roundtable a truly meaningful initiative.

For the Geneva meeting, the North South Roundtable wishes to express its grateful thanks to the GATT Secretariat, especially Mr. M.G. Mother, for providing the conference facilities, and to the GATT staff for organizing the meeting so efficiently. Our heartfelt thanks go to Professor Gerry Helleiner and his distinguished team of reporters. We are most grateful to the participating ambassadors to the U.N. and to the GATT in Geneva, who brought to the meeting their practical negotiating experience. The interaction between them and the academics led to a very rich and exciting debate.

Finally, we thank all the participants and observers for attending the Trade Roundtable meetings and contributing to their success. The intellectual effort of all of them is our only permanent renewable resource.

Khadija
Islamabad
October 8, 1988

Haq

PART I POLICY ISSUES ON TRADE IN GOODS

CHAPTER 1

Overview: Seizing the Trade Chance at the Uruguay Round

An increasingly interdependent world has transformed what were formerly national policy issues into international ones. The policies of other nations - both at the micro level in industry, agriculture, investment and a host of other areas, and at the macro level of fiscal and monetary affairs - have become much more important influences upon national economic performance.

The machinery of international economic consultation and cooperation has not evolved as quickly at these developments required. In particular, the General Agreement on Tariffs and Trade (GATT) - the principal pillar of the international trading regime since the late 1940s - was not granted the strength to respond to them and has come under heavy pressure. International trading frictions increased as global growth slowed and unemployment rose in many OECD countries in the 1980s. Balance-of-payments crises and severe debt problems in many developing countries created further international trading difficulties and disagreements. An unfortunate dimension of these changing circumstances has been growing protectionism. It has taken many forms and has typically involved disregard of GATT principles and rules, the deployment of new instruments of domestic and economic policy not covered by the GATT, and discrimination and bilateralism in trading relationships.

Discussion of the prospects for the GATT is sometimes conducted as if the main issues related exclusively to the policies of the major industrial powers, notably the U.S., the EEC and Japan. These powers indeed bear a disproportionate responsibility for the success or failure of multilateral negotiations, but the developing countries have a potentially significant role and a major interest in these.

This slightly revised version of the summary of discussions of the North South Trade Roundtable held in London on December 14-16, 1986 was drafted by Gerald K. Helleiner with assistance from reporters Winston Fritsch, Deepak Nayyar and Horst Schulman and was published by the NSRT in 1987 under the title *Seizing the Dade Chance* in '87. - ED. matters as well. The success of the Uruguay Round and, more generally, the strengthening of the multilateral trading system are objectives of profound importance to the developing countries; nor are they likely to be achieved without their support.

The Uruguay Round encompasses a much more diverse and complex agenda than was agreed upon at the outset of previous GATT bargaining rounds. The broad range of these objectives reflects the increased complexity of the channels of economic interdependence in the modern trading world and the fact that there has been considerable progress on many of the easier tasks, such as industrial tariff cuts. Inevitably, individual issues are at different stages of political and technical preparation on the part of those who agreed on the overall agenda. Yet there must be early and continuing evidence of forward motion. Difficult as it *may* be, it is important to initiate early concrete action in specific spheres of the Uruguay agenda. Otherwise, the enthusiasm engendered for the launching of the Round risks dissipation in mutual suspicion, hesitation and eventual paralysis.

An Early Action Package

Ultimately, progress toward a liberal and, more importantly, a nondiscriminatory trade regime must rest upon the perception of national governments that such a regime is in their own interests and in the interest of the world as a whole. The Uruguay Round can achieve only partial success if the Contracting Parties retain serious doubts about the efficacy of the stated objectives. Individual governments' perceptions of the value of these objectives are influenced by the degree to which they are shared - indeed, promoted - by other governments. There is thus joint strength in mutual signals of determination and good faith in pursuit of the objectives agreed at Punta del Este. It is important to build confidence by concrete and tangible demonstrations that progress is under way in the Uruguay Round.

If progress is to be made - either in the short or the long run - there must be a reasonable balance of advantages for all the participating countries. No doubt, there is an infinite variety of packages that might be put together during the Uruguay Round negotiations to ensure a reasonable balance of advantages. The members of the Trade Roundtable discussed and agreed on proposals for "early action" in the areas of: standstill and rollback; safeguards; monitoring, surveillance and dispute settlement; agricultural trade; tropical products and natural resource-based products; subsidies and countervailing duties; differential and more favorable treatment for developing countries; and "graduation" and related issues.

Standstill and Rollback

In the initial phases of the new Round, it is crucial that all countries adhere to the trade barrier *standstill* agreement of the Punta del Este Declaration. No other action affects the psychology and political climate of the early negotiations more. Unfortunately, there is now some doubt as to the precise coverage of the standstill and rollback agreement, and there are already accusations of its breach. Some have interpreted the standstill and rollback provisions as permitting continued deployment of discriminatory measures. But the standstill and rollback carry little meaning if they are interpreted as excluding the Multifiber Arrangement (MFA), "voluntary" export restraints (VERB) and other so-called "grey-area" measures.

Some Trade Roundtable participants argued that it would be helpful for the key industrial and developing countries to issue a joint declaration reaffirming their adherence to the nondiscrimination principle of the GATT and its practical pursuit in the standstill. Since differences of view continue to influence precise definitions of the actions to which the standstill applies, such a high-level joint declaration of countries of the North and South could favorably influence the political will to refrain from unacceptable unilateral actions and to reach more precise agreements on the scope and surveillance of the standstill commitment. Others argued that developing countries do not generally discriminate in their trading policies at present, so their contribution to such a declaration would not imply any change in their policies. More importantly, such a declaration would seem to imply a much stronger commitment to standstill than some countries were willing to accept at Punta del Este. In the view of these participants, however desirable it might be to have a more effective standstill, no more than an appeal for an observance of the "spirit" - of the standstill commitment would be realistic.

There was agreement that, at the minimum, a declaration clarifying the application of the standstill and rollback agreements is required, and that these agreements should be strictly monitored. Roundtable members urged that the fullest interpretation of these agreements be promoted.

Safeguards

It is essential that there be an early and appropriate agreement on safeguards. The issues - relating to the circumstances in which countries may resort to emergency trade barriers and to the reform of the relevant, but much evaded, GATT Article XIX - have been thoroughly canvassed at the technical level. What remains is the necessary political compromise; with appropriate quid pro quo, it must at last be possible to move. Certainly there could be no better signal of "early success" in the Uruguay Round. Any such agreements on safeguards must incorporate compulsory notification of actions under Article XIX, nondiscriminatory and time bound applications of such actions, and again, a commitment that there will be no new actions outside Article XIX. While compromises in other areas may be necessary to secure agreement, these should be nonnegotiable.

Monitoring, Surveillance and Dispute Settlement

There is a widespread feeling among developing countries that international surveillance mechanisms, whether in finance or in trade, are focused effectively upon them. If this perceived asymmetry is to be overcome, the existing machinery for multilateral surveillance (and dispute settlement) will have to be strengthened and improved.

While the Punta del Este Declaration states firmly that the implementation of commitments on standstill and rollback is subject to multilateral surveillance, to date, the mechanisms for such surveillance are not in place. The Contracting Parties should put in place effective machinery for multilateral surveillance of the commitment on standstill at the earliest possible date and machinery for surveillance of the rollback commitment as soon as possible thereafter. The GATT Secretariat should be given all support necessary in order to accomplish the goal of effective multilateral surveillance of these commitments.

No less important is the need for effective monitoring and surveillance of trade policies at the national level. Confidence and credibility in the multilateral system would be furthered if congruence between national-level laws, procedures and approaches and multilateral commitments were pursued more actively, together with national-level measures to increase transparency.

Agricultural Trade

Disagreements in the sphere of agricultural trade are major sources of tension among the main GATT Contracting Parties and between them and other countries affected by their policies. In agricultural trade, measures to defuse current tension and high-level political initiatives could be of signal importance in developing credibility and momentum for the Uruguay Round.

Sufficient technical progress in the GATT Committee on Agriculture and recent pronouncements of high-level political will, such as the statement of the heads of state and governments of the major industrial countries in Tokyo in May 1986,

suggest the possibility of early progress on some aspects of the agricultural issue. Most Trade Roundtable members agreed that what was necessary was an immediate freeze and, eventually, elimination of export and related subsidies; promotion of domestic policy reform to prevent the reconstitution of surpluses beyond storable levels; progressive lowering of the costs of agricultural programs; and improved access to agricultural markets. There was total agreement that an early, even if partial, agreement in this area would produce tangible benefits for many developing countries and contribute to the generation of political momentum for the new Round in important agricultural exporting nations.

Tropical and Natural Resource-based Products

A "framework" agreement (or agreements) providing for mutual concessions (tariff disarmament) in the sphere of tropical and natural resource product processing could also be an early achievement in the Uruguay Round. Insofar as primary product exports are taxed to provide incentives for local preemptor processing, and at the same time, importers impose escalated duties on processed products, exporter and importer policies are mutually offsetting; both should simultaneously cease their interventions. Agreement in principle to address these cases in a systematic manner could be quickly reached. The details of product- and country-specific agreements in this *area* will take longer to negotiate.

Subsidies and Countervailing Duties

The treatment of subsidies and countervailing duties in the GATT is of fundamental importance not only to the large countries.

but also - indeed,, to an even greater degree - to the developing countries and many other smaller exporting countries. The issues are difficult and will not be resolved quickly in the negotiating group established to improve on existing codes in this sphere. But there may be other highly relevant developments in the near future. If the trend toward bilateralism in these and other trade policies of the major industrial countries cannot for the present be arrested, its potential for eroding the multilateral trading system must at least be minimized.

Bilateral discussions between the governments of the U.S. and Canada are addressing the subsidy/countervailing duty issue and *may* culminate in an agreement during 1987. It is crucial to the prospects *for* a successful multilateral agreement on these matters in the Uruguay Round that any major new bilateral agreement *not* now be built upon discriminatory arrangements. A closed and discriminatory bilateral U.S.: Canadian agreement must be avoided at all costs. Instead, by improving procedures for determination of "fairness" in trade, causality and degrees in respect of "injury" determination, dispute settlement and the like, the U.S. and Canada could provide a useful model for wider multilateral agreement and inject new enthusiasm for liberally-oriented trade negotiations into the U.S. Congress.

Differential and More Favorable Treatment

There was agreement in Punta del Ester that, consistent with Part IV of the GATT, there is to be differential and more favorable treatment for developing countries in the Uruguay Round of trade negotiations. The expansion of trading opportunities for the least developed countries is to be accorded special attention. At the same time, however, the industrial countries continue to insist that the more advanced developing countries participate more fully and more "normally" within the GATT system. The terms and modalities for developing countries' participation in the GATT, whether in the early stages of the Uruguay Round, in the Uruguay Round as a whole or in the longer run, evidently remain controversial. Trade Roundtable discussion on these issues was intense and not wholly conclusive.

There is widespread agreement that the developing countries have thus far derived only

limited gains from Part IV of the GATT and from the Generalized System of Preferences (GSP) - and some doubt whether it was ever anticipated or intended by the OECD

countries that they would. On the contrary, the developing countries' problem has more typically been the negative discrimination they face in OECD trade policies. In the light of this experience, it seems unlikely that "stronger teeth" for Part IV or the GSP can be agreed upon. Some argue that developing countries' prospects for realizing most-favored-nation (MFN), i.e., nondiscriminatory, treatment for their exports in textiles, clothing and other sectors in which they face adverse discrimination via "voluntary" export restraints (VERs), orderly marketing agreements (OMAs) and the like would improve if they, or at least their industrially more advanced members, agreed to abandon or "graduate" from differential and more favorable treatment. But others respond that such improved treatment is far from an assured developed-country response; that the basic logic of Part IV and GSP remains valid; and that in any case, developing countries should not be expected or required to drop their GATT rights to seek to induce others who have abandoned basic GATT principles to restore them.

Trade Roundtable members agreed that any acceptance of "graduation" should be matched by a firm commitment to return to - nondiscrimination in all countries' trade policies. There was also full agreement that the principles, terms and modalities for "graduation," which is inevitable in the longer term, should be multilaterally discussed and agreed upon. The more advanced developing countries are understandably concerned that they will be expected to undertake the obligations of developed countries while still being subject to adverse discriminatory treatment. The willingness of the developed countries to agree to a rollback of discriminatory restrictions against the developing countries would be a powerful inducement for the more advanced developing countries to consider fuller participation in the GATT system.

In the Uruguay Round it will be important to work out means of assuring differential and more favorable treatment for developing countries, especially the least developed, on an issue-by-issue basis. The GATT articles and codes relating to infant industry protection, measures relating to the management of the balance of payments, export subsidies and economic integration are particularly relevant to the developing countries in this regard.

One issue of particular concern to developing countries can and should be resolved quickly. There should be early action to ensure that developing countries are "credited" in the GATT negotiations for unilateral liberalizations undertaken independently of GATT bargaining activities.

Conclusions

Success in the Uruguay Round is likely to be crucial to the prospects for a stable and growing global economy in the 1990s and beyond. The Round is scheduled to extend for several years, but in order for it to function effectively, it must get off to a running start. The stakes are too high for the risks of lost momentum and diminished credibility for the GATT process to be acceptable.

The North South Roundtable on trade urged that a series of actions - both political and technical - be taken during the initial phase of the Round to assure the world of forward motion in trade negotiations. These actions are, at the minimum:

a) A joint declaration which both reaffirms the "spirit" of the standstill and rollback agreements and clarifies their coverage. The Roundtable believes they should be interpreted as covering all discriminatory restrictive measures.

b) An early agreement on safeguards incorporating compulsory notification, nondiscrimination and time binding for Article XIX actions and a commitment that there will be no new actions outside Article XIX.

c) Creation at the earliest possible date of effective mechanisms for monitoring and surveillance of the standstill and rollback agreements; strengthening of the GATT Secretariat; and development of national-level transparency and other appropriate

procedures in support of this goal.

d) An early, even if only partial, agreement on agricultural subsidies and trade.

e) Ensuring that new bilateral agreements on subsidies and countervailing duties be constructed so as to further the prospects for wider multilateral agreements rather than in a discriminatory fashion.

f) A "framework" agreement providing for mutual concessions on export duties and escalating import duties on tropical and natural resource-based products.

g) Early action to ensure that developing countries are "credited" in GATT negotiations for unilateral liberalizations undertaken independently of GATT bargaining.

This proposed package of pronouncements and measures may not be the only one that can achieve the early momentum that is 'sought. But it is one on which the Trade Roundtable's diverse membership - from most of the key countries involved- have been able to agree.

CHAPTER 2

The Uruguay Round: What It Might Accomplish

C. Michael Aho

The world trading system has received some good news for a change. The ninety-two nations that are Contracting Parties to the General Agreement on Tariffs and Trade (GATT) agreed at Punta del Este, Uruguay in September 1986 to launch a new Round of multilateral trade negotiations. The new talks, which will be known as the Uruguay Round, will be the eighth since the GATT was established in 1947. But how long will the good news last? New negotiations could increase worldwide economic growth and restore confidence in the trading system, or they could contribute further to the disintegration of the system. Which will it be? Much will depend upon the strength of the U.S. commitment to trade liberalization and upon the willingness of the other major countries to join in efforts to achieve major breakthroughs.

The setting in Uruguay was symbolic - the first Ministerial Meeting of the GATT to be held in a developing country since the early years of its existence - because many of the agenda issues are of great importance to the developing countries. They include textiles, emergency protection in import-sensitive industries, tropical products and agriculture. One major aim of the new Round will be to integrate the developing countries more fully into the trading system.

The agenda is also crowded with several new issues being championed by the U.S. which have never before been negotiated at the international level. These are trade in services, intellectual property and trade-distorting investment practices. Another priority item is the institutional strengthening of the GATT. Compared with the other two international economic agencies (the IMF and the World Bank), the GATT has less than one-tenth the personnel and is reliant upon the cooperation of member countries to uphold its rules.

The most controversial issues at the Ministerial Meeting centered on agriculture and on whether services ought to be included on the agenda. The European Community and the United States disagreed

over the timetable for addressing agriculture and over the types of agricultural policies to be included in the negotiation. A group of other agricultural producers (the "Cairns Group"), led by Australia and including Canada and Argentina, pushed for faster resolution of all outstanding agricultural issues. In the end, a compromise was struck to put all agricultural policies on the table, but with no specific time frame. On services, a Group of 10 developing countries led by Brazil and India adamantly opposed the inclusion of services on the agenda. A compromise was fashioned that allowed services to be negotiated on a separate but equal track under the overall framework of a single negotiating committee. Such an arrangement would allow for tradeoffs between

goods and services, but the Contracting Parties are reserving judgment on whether services will be included in the GATT system until the completion of the negotiation. These disputes presaged what will certainly be protracted disagreements over these issues during the course of the actual talks.

From the perspective of those interested in more open trade, the Punta del Este meeting resulted in a remarkably clean launch of negotiations. The U.S. negotiators were quite pleased to have entered into the negotiation with their bottom line on the table (as represented in the draft consensus declaration) and emerged with it intact. But the U.S. negotiators should not let their success at Punta del Este impair their judgment. After all, this was a negotiation to set the agenda for the negotiations, and it took four years to get this far. The major work lies ahead.

In order to assess what these talks could accomplish and whether they can be successful, it is best to examine the context.

The Global Economic Context

As the Uruguay Round begins, pessimists question whether the time is auspicious for bold initiatives. The U.S. does not have its own house in order: the trade deficit is at record levels, the budget deficit looms large, and an economic downturn is likely. Support for new negotiations among traditional U.S. business proponents of freer trade is lukewarm at best. The halls of the U.S. Congress, where enabling legislation must pass, echo with protectionist speeches. The present administration is still vague about what it hopes will emerge from the negotiations.

These problems bedevil the U.S., the staunchest supporter of new negotiations. Other governments have even more doubts. Europe, enduring record unemployment, supports negotiations with an air of resignation, but with no visible enthusiasm. Japan favors multilateral negotiations because they will be long and complex and might divert attention from its bilateral trade tensions. *Many* LDCs, especially those working their way out of their debt problems, believe they will gain little from a new multilateral exercise.

But most countries agree that the trading system is in disarray. International cooperation is at its lowest point since World War II. With discipline lacking, a full-scale trade war is a distinct possibility. Pressures for trade restrictions abound because of current unemployment problems and will increase because of the labor adjustment problems inherent in heightened international competition and in the transition from old to new technologies. The record trade deficit also increases the pressure for protection in the U.S.

Yet, even as the trading system faces great dangers, opportunities are evident as well. The developing countries, the fastest-growing markets for industrial-country exports, still have vast pools of unemployed or underutilized resources. Integrating the LDCs more fully into the trading system will be the greatest challenge of the coming decade. If this could be accomplished, the world economy would get a sorely needed stimulus to growth comparable to the stimulus it enjoyed after World War II, when the U.S. used its dominant economic power to promote trade liberalization in a series of trade negotiating rounds. For over a generation, from 1950 to 1973, the world economy experienced unprecedented growth, averaging 3.3 percent per annum. Trade liberalization was a major factor in creating that growth and in helping to spread it around the world.

But those real income gains gave way to stagnation and unemployment in the mid-1970s. Now the trading system, from which all countries have benefited, is under severe pressure. Countries are pursuing more nationalistic trade policies, and some are on the verge of adopting the "beggar-thy-neighbor" policies which characterized the Great Depression of the 1930s. In the words of the GATT "wiremen's" group assembled to study the trading system, "Today the world market is not opening up; it is being choked by a growing accumulation of restrictive measures. Demands for protection are heard in *every* country, and from one industry after another."

But trade is a complex policy issue, standing as it does at the intersection of foreign policy and domestic economic policy. Although nations as a whole gain from freer trade, the gains are net gains. Trade creates domestic conflicts of interest, even though freer

trade increases overall income and welfare. Domestic adjustment is painful. Mobility is not

perfect. Firms and their workers do not move effortlessly into sectors favored by comparative advantage. Together with community representatives, firms and workers adversely affected by import competition lobby their elected representatives to protect their interests. Politicians are easily tempted to buy political support from vocal minorities even if the overall good of the silent majority suffers. What is needed, but often lacking, is an effective countervailing force comprised of the stakeholders in open trade - the exporters, retailers and consumers - because trade policy is at its heart an internal distributional issue.

The GATT system provides the rules and discipline under which trade is conducted. When that discipline is followed, uncertainty is reduced, which allows international investment, trade and growth to expand. However, the GATT was designed in the 1940s to deal with trade in goods at a time when such trade dominated the world economy. Certain sectors, such as services, were never covered by the GATT, and over time other sectors, prominently agriculture and textiles, became exceptions in the system. Although the GATT system changed somewhat in response to new realities, it has not kept pace with the rate of change in the world economy. New trade talks could update the GATT.

Without a doubt, the upcoming talks will be different, more complicated and probably more prolonged than any that preceded them. At least ten significant developments will challenge the ingenuity and determination of the negotiators.'

a) **The world has become more interdependent.** Individual economies are much more sensitive to foreign interventions, and their integration into a unified global economy has rendered the distinction between domestic and foreign economic policies obsolete. Internal economic conditions are quickly transmitted across national boundaries through trade, technology and financial flows. Ostensibly domestic policies directed at taxes, agriculture, regional development or investment have as much of an impact on trade flows as tariffs or quotas. Attempts to deal with the trade effects of domestic policies are viewed as infringements of sovereignty and quickly become politicized. If the domestic policies of one country injure firms and workers in another country, unfairness is claimed and redress is sought. Multilateral agreement on which practices are fair and which are not is absent.

Furthermore, many transactions today do not cross borders in the traditional way, but instead are carried over telephone lines and beamed by satellites. Distinctions and data are not as clear as they once were, which makes regulation and negotiation much more difficult.

b) Relative U.S. dominance has declined sharply, even though the U.S. economy is still the strongest in the world. It can no longer defend the trading system alone. Joint leadership will be necessary to move ahead. The European Community (E.C.) has a combined GNP and volume of trade comparable to the U.S. Japan is closing the gap and ranks as the third pillar. While the E.C. and Japan have an abiding interest in and commitment to the principle of free trade, they have not taken the lead in defending it.

Even if it could still dictate terms to the rest of the world, the U.S. is no longer willing to lead alone. International economic integration has provoked a strong domestic reaction. Domestic political forces have mobilized to resist internationally induced change as never before. When trade played a relatively small role in the U.S. economy, there was little domestic opposition to trade liberalization. Now, achieving consensus in support of liberalization is extremely difficult.

c) A related development which complicates decision making is the increased pluralism in the trading system. More countries will play a critical role in the negotiations. The GATT had twenty-two original signatories. Today, ninety-two countries are full signatories, and thirty more apply its rules de facto. Although the role of such new actors as the newly industrializing countries (NICs), OPEC members and China is growing in international trade, they have no deep-rooted commitment to free markets.

Bargaining diplomacy has replaced power diplomacy as the mode of operation. But the trading system's rules and procedures are public goods. In a bargaining context, it pays for each country to understate the benefits it receives from the system. This greatly complicates the negotiations, unless new means are found to put pressure on free riders and foot draggers.

d) The world has entered an era of slower economic growth and higher unemployment. Adjustments to changes in trade or trade liberalization are easier when economies are expanding and unemployment is low. In the OECD areas, growth rates have decreased and unemployment rates have increased over time. The OECD unemployment rate when the Kennedy Round was completed in 1967 was about 3 percent. Growth at that time was proceeding at an annual rate of over 5 percent. When the Tokyo Round ended in 1979, the unemployment rate was 5 percent and growth was 4 percent. Today, unemployment is 8-1/2 percent (over 11 percent in Europe) and growth is less than 3 percent. The future does not look much better. The economic outlook is for continued slow growth - less than 3 percent through

1987, with unemployment rising slightly. The pace of structural change will not slacken and could accelerate during the rest of the 1980s. When significant worker displacements are occurring, workers and their elected representatives are more reluctant to support policy changes (like trade liberalization) which could lead to more displacements. The conflict between the need for economic adjustment to increase growth and the political pressure to erect obstacles to adjustment will continue and probably intensify in the future. e) The easy things have all been done. Except for politically sensitive industries like textiles, tariffs have been reduced significantly for most industries during the previous seven negotiations. Those negotiations were relatively straightforward, because tariffs are transparent and easy for policy makers to follow and understand. But as tariffs were lowered, many countries switched to subsidies and nontariff barriers (NTBs) to keep products out. These new obstacles hampering international trade are just as effective as tariffs at preventing imports while being less transparent and more difficult to remove. GATT rules on subsidies and other NTBs are not as explicit or as fully accepted as the rules on tariffs. The Tokyo Round did address NTBs in a series of codes, but these codes have been found wanting, particularly the Subsidy Code. When a country feels damaged by another country's subsidies, it claims unfair trade, retaliates and resists further reduction of its own trade barriers. To proceed in this fashion undermines the GATT system.

f) Excess capacity is a growing problem. In sector after sector, the world can grow, build and produce more than it can sell, deliver and consume. The challenge is to allocate production and to assure distribution. Markets could do both, if only governments would let them. LDCs eager to industrialize insist that they must have textile, steel and chemical industries. Any country with the capacity to buy and run automobile, airplane or electronics industries wants them. Meanwhile, industrial countries are intervening to protect basic industries. The GATT has not been able to address problems of excess capacity on a multilateral basis, as countries have resorted increasingly to bilateral circumventions, the logical conclusion of which is a cartelization of the industry.

g) Today, many countries are using industrial policies to create competitive advantage for their industries. In a rapidly changing world economy in which technological advance can alter the conditions of competition almost overnight, new theories of trade based upon learning curves and dynamic economies of scale have been put forward. These theories stress government intervention and commitment and have little in common with traditional trade theory. Japan, France and several LDCs have instituted policies to foster technologically advanced industries. The U.S. officially deplores such industrial policies, but its heavy spending in the security area is an indirect form of industrial policy.

There is no agreement on what constitutes legitimate support for the development of an industry. Explicit subsidies can be countervailed against, but government procurement policies and subsidies for research and development at the outset of industrial development can bestow advantages which last for years. In the absence of a multilateral agreement on which policies are acceptable, internationally inconsistent industrial policies will heighten trade conflict.

h) Sectoral distinctions are breaking down. For example, financial supermarkets are replacing separate banking, insurance, brokerage and securities industries. Similarly, the merging telecommunication, computer and broadcasting technologies are creating a world

information economy. The service input into manufactured products is increasing. A growing percentage of the revenues and profits of manufacturing firms come from services they sell in association with their products or independent of them. As a result, interests are more difficult to identify.

i) Another significant development is the changing *shape* of global competition. Firms from different countries are forging complex alliances across sectors. Joint venture strategies and cooperative arrangements have divided the world market among coalitions of competing internationally based alliances. Multinational corporations are planning and operating on a global basis, yet negotiators continue to view the world in terms of competing economies. The discontinuity between the way corporations see the world and the *way* governments are structured to deal with trade problems is widening.

Will multinational corporations continue to support efforts to liberalize trade? Firms planning on a global basis may want strictly enforced international rules, because that would reduce the uncertainty and the cost of doing business. But corporations grandfathered in countries behind trade barriers or investment distortions have learned to live with them. In some cases, existing restrictions serve as barriers to entry to potential competitors and allow the firms to make oligopoly profits.

j) A final complicating factor is time. In many areas, the time between the introduction of new generations of products and services has shortened. As a result, the shape of competition in the world economy is changing at a faster pace. Negotiators will need to make sure that the results of negotiations that could continue until the mid-1990s are relevant to the world economy that is coming, not just the one that exists today.

With all these complicating factors, how can the trading system move forward? One way is if countries contemplate the alternative - the disintegration of the trading system. If the open trading system were to disintegrate, would the indebted developing countries and the U.S. be able to generate current account surpluses to service their mounting debts? Would Japan and the newly industrialized countries be able to sustain their impressive economic performance? Probably not. Before the trading system self-destructs, efforts to strike a multilateral bargain should be redoubled.

A multilateral bargain would touch deep-seated domestic interests in all countries. Each country will have contributions to make.

The Negotiating Issues

My charge in writing this brief paper was to discuss what the industrial countries are looking for from the developing countries (LDCs) in the negotiations. A more detailed discussion follows later, but here, in starkest fusion, is what the industrial countries want LDCs to do.

a) **On trade:** Reform LOC freedom to protect for balance-of

payments reasons; limit protection for infant industries; eliminate export subsidies; eliminate discretionary licensing; lower specific tariffs; eliminate time limits on payment terms; eliminate nationalistic procurement plans; stop producing counterfeit goods; allow importation of luxury items; and unify or align tariff rates at one or two levels.

b) **On investment:** Allow rights of establishment in all markets; eliminate performance requirements; eliminate ownership conditions; guarantee repatriation of dividends and profits; and provide international arbitration of investment disputes.

c) **On services:** Establish a framework agreement with principles enunciated and begin to liberalize in individual sectors.

What does the industrial world expect to be asked by LDCs? From an industrial-country perspective, LOC goals in new negotiations can be put into four categories.

a) Developing countries want to continue to receive **special and differential** treatment from industrial countries. They do not want to graduate from LDC status. They want to hold on to their ability to obtain derogations from GATT rules to promote infant

industries and to subsidize manufactured exports. They will also try to avoid binding their tariffs and agreeing to full reciprocity in terms of their GATT obligations.

b) LDCs want industrial countries to grant them **more market access for their** exports. The developing countries complain that tariffs in industrial countries remain, on the average, higher on their exports than on products exported from other industrial countries. Furthermore, effective protection in industrial countries is also biased against LDCs, because tariffs are generally higher on processed products than on raw materials (escalating or cascading tariffs, depending on which way you look at them). Specifically, LDCs want more access for their textiles, apparel, footwear and steel throughout the industrial world. They seek the elimination of quantitative restrictions and no tariff barriers against their agricultural and tropical products, and they want industrial countries to lift their GATT-inconsistent protective measures.

Commodity price stabilization is a particularly high priority for LDCs. Trade in primary commodities such as cocoa, sugar, rubber and tin is extremely volatile (particularly prices), making planning difficult for producers and consumers. Projections suggest that chances are slim for major price advances from the already depressed 1986 levels. If anything, the problems of some commodities will get worse as new materials (e.g., fiber optics, ceramics) become available as substitutes. Several commodity agreements have tried, with limited success, to use buffer stocks of commodity reserves to stabilize prices, but surpluses have often arisen, depressing prices. For example, although the multilateral agreement for rubber has functioned quite well, the agreement has failed to hold prices above the specified floor level, and the sugar agreement collapsed in 1984 when the largest sugar producer, the E.C., refused to agree to terms acceptable to the other major producers.

The U.S. would like to see greater structural adaptation of the commodity-producing economies. LDCs counter with arguments for assured higher prices and some form of "safety net" to protect their foreign earnings, guarantee a predictable flow of foreign exchange earnings and allow them to service their international debts. They seek adequate sources of compensatory financing to extend product coverage to more commodities and to cover commodity exports going to any destination. As with agriculture, there will be a great deal of acrimony and debate about commodities and tropical products emerging from the new trade talks, but early or fundamental progress is unlikely.

c) LDCs want the industrial countries to adhere to GATT discipline, to avoid discriminatory trade practices and to stop using domestic unfair trade laws to limit their exports. LDCs realize that Japanese imports of their manufactured products have fallen in relative terms. Europe and the U.S. are also putting more and more roadblocks in the way of their exports. LDCs are particularly *frustrated* in that when they develop manufactured products that are competitive in industrial countries, they are often hit with quantitative restrictions, tariffs and no tariff barriers which prevent them from using those few advantages they possess to gain more than a small foothold. They also want the industrial countries to stop taking illegal safeguard actions that often take the form of discriminatory bilateral circumventions which hit LDCs directly or indirectly through trade diversion. LDCs would also like to see industrial countries cut their use of countervailing and antidumping duties against their exports and abstain from challenging their export subsidies under the Subsidy Code.

d) LDCs want to limit the discussion and progress on investment and services issues. LDCs note that although they are constantly pressed to permit freer flows of capital into their countries, industrial countries rule out of hand the possibility of a greater flow of labor from developing to industrial countries. In a well-reasoned critique of the trading system and U.S. initiatives at the 1982 Ministerial Meeting, Carlos Diaz-Alejandro and Gerald Helleiner argued that a broad reform agenda should include a "GATT for immigration" as well as a "GATT for investment." At this meeting, the Indian Trade Minister asked whether services also included labor services and, if so, how immigration would be dealt with. Developing country leaders often distinguish between high-technology and labor-intensive services. The industrial countries, they claim, only want to discuss high-technology services.

From an industrial-country perspective, the initial demands of the LDCs amount to asking

for greater access to developed-country markets while keeping their own markets closed. At the same time, LDCs want the industrial world to conform to the GATT when it benefits the cause of their development, but they do not want to submit to GATT discipline that might constrain their flexibility in dealing with their current domestic economic problems and their longer-term development plans.

Not surprisingly, the industrial world has a radically different agenda of issues which it wants to discuss.

Industrial countries believe that they gave more to the LDCs than they got in return in past trade negotiations. This was acceptable because the LDCs needed help, but also because North-South trade as a proportion of total world trade was not very important. Now that LDCs play a larger role in world trade, the industrial countries seek concessions in five main areas: acceptance of GATT discipline, reduction of protectionist barriers to imports, elimination of certain export practices, acceptance of the principle of grade anion, and reform of practices on foreign investment.

a) Although they recognize that the current difficult economic situation makes full-scale liberalization of LDC import barriers impractical, the industrial countries' first objective is to get the IUCs to accept their responsibilities within an interdependent trading system. Beyond limited compliance with national treatment and nondiscrimination obligations, industrial countries complain that LDCs have not accepted their full share of obligations under the GATT. Even though LDCs benefit from the application of most favored-nation treatment by the industrial world, *they* continue to discriminate against industrial-country exporters. In particular, the industrial countries want the LDCs to accept rules that would define when they might derogate from their GATT obligations because of balance-of-payments problems and impose predictability and time limits on their ability to escape their obligations. The industrial world wants LDC commitments that they will deal with reciprocity and begin to bind their tariffs.

b) The industrial countries want *more access to developing country markets*. At the very least, they want the rules restricting their sales to LDCS to be rationalized, liberalized and made more transparent. The industrial countries stress that these are goals toward which to work; there is no expectation that changes will take place overnight. With regard to tariffs and barriers at the border, industrial countries seek reduction and possibly realignments of the extremely high tariffs that LDCS impose and also the easing of restrictions that ban the importation of luxury items in many LDCS.

The industrial countries have a number of other objectives that would make it easier for them to sell to LDCS. Industrial countries would like LDCS to agree to limit the level and duration of their support for infant industries, to open up government procurement to foreign producers, to relax and make more transparent the barriers hampering trade in services, and eventually to eliminate discretionary licensing policies.

c) LDCS are being pressed to eliminate or at least *reduce many of their current export subsidies*. In addition, LDCS can expect to come under increasing pressure to stop producing and exporting counterfeit goods and to complete negotiations on the Counterfeit Code begun during the Tokyo Round. A related item involves intellectual property. The U.S. and Europe are growing more and more insistent that LDCS, particularly such NICs as Singapore, Hong Kong, Taiwan and Korea, respect the intellectual property of western companies and pay appropriate licensing fees and royalties.

d) Industrial countries want the richer LDCS to *accept the principle of graduation* and negotiate measures, targets and time schedules which would determine when, in what sectors and at what pace NICs would accept full trade and financial obligations and discipline. The industrial countries point out that they are not asking NICs such as Brazil and Argentina to give up benefits until their economies are back on track. In addition, their advantages might be retained in sectors that are not yet competitive. Special and differential treatment could, in theory, be granted in new sectors, including services and high-technology products. Graduation would also make poorer LDCS more competitive, because some new foreign investment and export sales that go to the richer NICs might be diverted to them. To date, however, the NICs have bitterly opposed graduation, regardless of how well their economies are performing. LDCS have so far not pushed them to graduate; they do not want to risk splitting the LDC bloc and diminishing its

bargaining leverage.

in this regard, it is worth noting that the recently released GATT "wiremen's" report criticized preferential treatment, stating that it has been of limited value and arguing that greater emphasis should be placed on integrating *the* LDCs more fully into the trading system. If the new recommendations gain wide acceptance, it would be a departure from the trend in trade policy that has been in *force* since *the* enactment of Part IV of the GATT in 1964.

e) *The corporate community continues to press the developing countries to liberalize their treatment of foreign investment.* In particular, the industrial countries' multinational companies want their governments to press LDCs to guarantee rights of establishment, eliminate performance requirements, ease ownership restraints, guarantee that profits and dividends can be remitted to headquarters, and agree to the international arbitration of investment disputes. LDCs counter that these are investment issues and should not be discussed under the auspices of GATT negotiations.

A Possible Bargain

is a bargain possible? Can a package emerge? Yes. Although the details of what will develop are uncertain, the general framework of a workable package is predictable: each must gain, and all must sacrifice the interests of protected, inefficient domestic producers and/or agree to limits on national sovereignty.

Under this possible package, the U.S. and Canada would get somewhat improved access to markets in Japan and the Asian NICs and the promise of better access to other developing-country markets when conditions permit. The development of codes, frameworks and general principles for services, counterfeiting and intellectual property should prove possible, even if immediate liberalization in these realms is elusive. Institutional reform, stronger discipline and even limited progress on safeguards are achievable goals. Some strengthening of *the* NTB codes is also within reach. However, major multilateral breakthroughs on agriculture (where the U.S. wants improvements on trade in grain, but is restrictive on dairy products, beef and sugar), *high-technology* products and trade-related investment issues seem less likely. On these issues, Canada and the U.S. may opt for bilateral agreements.

For its part, the U.S. would reaffirm its commitment to special and differential treatment for the least developed countries and to the concept of unconditional most-favored-nation treatment. The U.S. would also need to promise that in the future, it would apply and adhere to GATT rules and principles when they went against U.S. interests as well as when they supported them. In addition, the U.S. will have to accept the high cost of continued internal adjustment and permit greater access for LDC textiles, steel, footwear and apparel in the U.S. market.

The most difficult problem in negotiations could be that there are no visible political gains for the European Community. The real challenge will be to find enough to give to the E.C. in return for all that others will be asking. Negotiators from other countries will be hard pressed to come up with something for the E.C. If not enough can be found, negotiators will have to lower their sights, and the negotiations will be less productive.

European gains in any package will come at the margins. Europe can gain from greater access to markets in Japan and the NICs and will benefit to some extent from progression trade in services. (It will, however, be extremely difficult to form a European position favorable to liberalization of trade in areas such as telecommunications and insurance.) Agreements on intellectual property and counterfeiting are viewed positively in Europe. Institutional reforms could cut both ways. The E.C.'s opposition to a stronger, legalistic GATT system is long-standing. The E.C. prefers ad hoc political deals, rejects or blocks dispute panel rulings and favors selective safeguard procedures. Some in the EC., however, would approve of an enhanced GATT. Like Japan in previous negotiations, Europe will try to buy time and will block action in areas such as safeguards and agriculture. As long as the E.C.'s Common Agricultural Policy (CAP) remains affordable, substantive concessions on agriculture are unlikely. Since it is always better to negotiate from a

position of strength, negotiations on the high-technology sectors or services will depend on how successful European high-technology consortia are between now and the conclusion of negotiations. If *they* lag behind, then Europe will probably side with the LDCs to limit progress on high technology issues and to keep trade-related investment issues far from center stage.

Europe is also likely to grant the LDCs somewhat greater market access, but Europe's severe adjustment problems will make new concessions difficult. (however, on textiles and apparel the E.C. is sounding more accommodating than the U.S.) Finally, the U.S. and Japan cannot expect much new access on the continent until Europe's economic position improves, a more integrated European market evolves, and Japan starts buying more European goods and services.

Japan will try to sit on the sidelines, supporting institutional reforms and other measures with long lead times. However, unless Japan starts buying more manufactured products and sophisticated services from other industrial countries and from the NICs, others will retaliate by limiting the access of Japanese products to their markets. They may also gang up on Japan to liberalize and reform its industrial development policies. Some further relaxation of Japanese barriers which limit the import of citrus, beef, tobacco, forest products and pharmaceuticals seems possible. Overall, the Japanese will buy time, a stronger trading system and continued access for Japanese products in return for further steps to internationalize its markets.

The gains and losses of the NICs and other developing countries generally mirror those of the industrial countries, except that the former have a greater interest in a stronger system. If discipline is strengthened and market access in industrial countries is increased, the NICs benefit. To obtain concessions, the NICs will have to join the bargaining process, accept more GATT discipline and give up some market access both to developed countries in capital-intensive goods and to other developing countries in traditional products. In addition, the developing countries will need to accept some sort of general principles on services and some greater discipline on counterfeiting and intellectual property. The Asian NICs will be at the center of negotiations. They will be asked to accept more responsibility for the management and functioning of the trading system. The high debt Latin American countries will be able to delay concessions longer, but will need to accept greater discipline once conditions permit. The least developed countries will be asked to give little, but *they* could be the major beneficiaries if market access and discipline are increased. Significant progress on tropical agriculture and commodity products is unlikely. Current excess capacity is too great, and the costs of price supports for LDC products would fall on unwilling citizens in developed countries. Tempers will flare on these issues, but resolution seems improbable.

In *sutra*, market access will be a major sticking point that will test the ingenuity of the negotiators to come up with balanced packages, including differential phase-in periods and escape clauses. Although controversial both within countries and internationally, the greatest impetus for liberalization would come if deals were to cut across issues, particularly trading concessions on new issues and market access. Within industrial countries, traditional industries will not want to accept more competition *from* abroad in exchange for stronger discipline and better access for the service and *hightechnology* industries. Internationally, some worry that concessions across issue lines would establish linkages *which* could be used as retaliation during future trade disputes. This could undermine existing discipline in industrial products. But if discipline is strengthened so that respect for the system increases, this will not be a problem.

Agriculture could also be brought into cross-issue bargains, but significant progress will depend upon how much the E.C. and the U.S. are willing to change their domestic farm policies. They are the two largest exporters, and little will happen unless they move. Institutional reform is needed to make the other deals self-sustaining, but institutional reform is impossible without the European Community and the United States. There is little reciprocity involved in establishing a stronger system, because it is a public good. Bargaining, however, will be intense as countries consciously understate the benefits derived from a stronger system. It is difficult to gauge the tradeoffs in advance, but institutional reform will be the critical ingredient for ensuring that the trading system evolves in response to emerging problems.

Above all else, any agreements reached will have to be flexible and contain mechanisms for updating rules and norms on a multilateral basis as circumstances change. Otherwise, countries will fall back on unilateral interpretations or ignore the agreements altogether.

However, such a far-reaching global bargain lies far in the future. For now, the major players must act responsibly to ensure that these talks get off on the right foot.

Major Policy Questions

The launching of the Uruguay Round is good news for the world trading system. But a critical question is how long the process can remain credible - credible as an international negotiation and credible to national legislative bodies. To remain credible as an international negotiation, countries are going to have to abide by the standstill agreements in the Ministerial Declaration, and over time, they will have to begin the process of rolling back restrictions taken outside the GATT. If countries start to take new unilateral restrictive measures, the confidence and trust built up in Punta del Este will dissolve quickly. To remain credible to national legislative bodies, the negotiations will have to produce concrete results in a short period of time, or at least suggest the possibility of progress. One way to get concrete results would be to get agreement in a more limited forum.

The U.S. and Canada are engaged in a historic bilateral negotiation to establish a comprehensive trade agreement between the world's largest trading partners. How will the bilateral negotiations between the U.S. and Canada blend in with the multilateral negotiations? The bilateral is like a mini multilateral, because most of the issues are the same. On the positive side, a valuable learning experience is sure to result, because one learns to negotiate by negotiating. Path breaking agreements are also possible in the new areas of services, intellectual property and investment. On the other hand, if the resulting agreement is not open-ended and contains unique discriminatory provisions that cannot be generalized, then it would reinforce the trend toward bilateralism and fragmentation. Either way, these bilateral talks over the next two years will do much to set the tone for the Uruguay Round.

Besides the negotiation with Canada, the U.S. administration also needs to conduct a significant negotiation with Congress and the private sector. Trade negotiations are as much domestic negotiations among interest groups as they are international negotiations among countries. As the Uruguay Round begins, ominous signs are coming from the U.S. Congress and the private sector. What is the responsibility of the major players domestically? The U.S. administration, in consultation with Congress and the private sector, must decide what and how to negotiate in light of what other countries want as concessions. Then it will have to develop and sustain the domestic consensus necessary to complete a successful negotiation. The U.S. administration is groping to find its way on trade policy, and the world is waiting nervously. The U.S. had better get its act together, because it is still looked to for leadership on international economic issues. Its actions are emulated. If the U.S. were to rush mindlessly into an aggressive tit-for-tat posture on trade, the trading system could end up fragmented. The passage of restrictive trade legislation by the U.S. Congress would start negotiations off on the wrong foot. The one hope is that only in the context of a major multilateral round of negotiations does the U.S. come close to articulating a coherent trade policy.

Besides forceful U.S. leadership at home and abroad, an extraordinary effort will be required internationally in order to make the talks a success. Several factors are necessary to conclude the negotiations successfully.

- a) More high-level political involvement is needed, not less. A far-reaching global bargain can only be struck at the higher levels.
- b) More cooperative action is needed, not less. Joint leadership is necessary to move ahead. If the other pillars of the trading system, the E.C. and Japan, fail to exercise leadership, no progress is likely. Coalition formation will play a critical role, as it did at Punta del Este.
- c) The GATT Secretariat needs more authority and responsibility for resolving trade

problems, not less. The complexity of today's trade problems requires ongoing mechanisms for identifying and resolving problems before they get out of hand.

f) More involvement by the stakeholders in an open trading

system is needed, not less. Each nation should prepare "wish lists" of foreign restrictions it wants to see removed in order to mobilize private-sector interests behind the negotiations.

Without continuing high-level political involvement and active support from the private sector in all countries, sustaining these negotiations over the course of what could be a decade will be impossible. If countries cooperate, higher growth and greater discipline are possible. But, needless to say, a great deal needs to be done to reform the international trading system. It will not be easy, and it will not happen overnight, but the stakes are too high not to try. Let me conclude with a few questions.

a) Given the large number of contentious issues on the agenda, how ambitious will the Uruguay Round be? If it is to be completed in four years, the U.S. will be faced with a difficult choice in choosing among its manifold objectives. But without widespread support in the private sector (particularly services and agriculture) for the ultimate package, it may not be saleable in Congress.

b) How long will the process remain credible? Having an interim discipline will make it easier to pick up a few median members of the U.S. Congress (never the extremes). Surely, there are benefits to the extent that fewer unilateral restrictions will probably be taken, but these will be difficult to measure. When will concrete, positive results come along to demonstrate the usefulness of an international negotiating process to a restive Congress? But attempts to implement early results will run into the "package paradox" in Congress - it is difficult to move small packages unless something positive can be pinpointed.

c) The euphoria over Punta del Este has a very short half-life. What will now happen at a working level in Geneva? Will the test and confidence built up at Punta del Este dissolve as Geneva personnel revert to old *forms*? Coalitions that cut across North-South lines played a critical role in Punta del Este. Will they continue to play a critical role in the future?

d) How will the bilateral negotiations between Canada and the U.S. mesh with the multilateral talks? The bilateral could be a catalyst for the multilateral talks, but it will also be constrained by them. The negotiators will always have to keep the implications for third countries in mind. Will the agreement be exclusive or open-ended? If open-ended, how will other countries accede? Will agreements unravel if third countries try to accede because the negotiated package is unique to the U.S. and Canada? If exclusive, how much resentment will it cause? Will that undermine multilateral efforts?

e) How will the U.S. administration behave? Clayton Yeutter has seemed to say that the U.S. has it both ways- it would benefit from an interim discipline but it is free to continue to take restrictive actions. For example, will this stem the tide of U.S. unfair trade practice cases under Section 301? Will the administration begin to demonstrate some leadership in its dealings with trading partners and with Congress? How will the myriad other bilateral negotiations (e.g., GSP, 301, textiles and steel) blend into the multilateral talks?

f) How will Congress behave? Negotiating authority expires on January 3, 1988, and it must be renewed in order for the U.S. administration to have a credible position in the talks. Will Congress compromise with the administration to produce a bill that is not inimical to the international trading system?

g) How much effort will rate other major players put into the talks? Can the E.C. overcome its internal problems of unemployment and inconsistent national policies to fashion common and forward-looking proposals? Will Japan begin to bear responsibility for maintaining the system that is commensurate with the benefits it derives from the system? Will some LDCs continue to play leadership roles to move the process forward?

h) What issues will the industrial countries be forthcoming on in *order* to bring the LDCs back into the bargaining framework of the GATT? What domestic accommodations are the industrial countries planning to make in order to ameliorate the adjustment

CHAPTER 3

The Uruguay Round: Developing-country Interests

Winston Fritsch

This note briefly outlines the main problems and possibilities for success in the Uruguay Round of multilateral trade negotiations from the standpoint of the developing countries. First, the major stumbling blocks on the way to an effective launching of a new MTN Round are discussed. The next section addresses the themes of safeguards, agricultural trade, subsidies and CVDs, and tropical and natural resource-based products. The rationale of the developing countries' position in the year preceding the Punta del Este meeting, which is a rough guide to their negotiating position in the early stages of the new Round, will not be covered, as it has been extensively described elsewhere.'

Obstacles to Improving the World Trading System

Four years of multilateral negotiations since the 1982 Ministerial Declaration were successfully concluded in September 1986 with the launching of a new MTN Round. Although the shape of the new Round is still unclear, it will certainly involve more complex issues than previous MTNs. However, the stakes are high and - at least as far as trade in goods is concerned - reasonably well defined. Successful completion of the work outlined in the Uruguay agenda could make a much more lasting contribution to the world economy than that of any single previous Round.

Unfortunately, quite apart from the difficult technical points raised by questions to be addressed in this Round, there are two major obstacles to an early launching of the negotiations.

The first and foremost are the present, severe current account imbalances among the world's largest economies and the potential for international financial instability generated by these imbalances, compounded by the debt crisis. The correction of these imbalances can only be achieved by greater macroeconomic policy coordination among the leading industrial countries. Meanwhile, they are bound to negatively affect the trade negotiations on two accounts. On the one hand, the perception of great potential instability, and the fact that the path toward adjustment is still unclear, will prevent negotiators from acting on any proposal for the reform of trading rules bold enough to achieve the necessary greater liberalization. On the other hand, the fact that the most obvious aspect of current global macro imbalances is the staggering U.S. trade deficit is bound to introduce a more protectionist bias in the outlook of U.S. legislators and influence the negotiating position of the U.S. administration.

There are clear signs that trade policy action by the U.S. Congress will be influenced by the current trade disequilibrium. This mood could either lead to outright protectionist attitudes, likely to be concentrated in sectors of great export interest to LDCs, such as textiles, steel, cars and footwear, or it could be twisted so as to help reinforce the U.S. administration's aggressive policy of "bilateral reciprocity" deals and restricted free-trade-zone agreements aimed at opening up markets for U.S. exports - or both. Both eventualities would sour the climate for the MTN.

These uncertainties in the world economic outlook also prevent the elaboration of a clear U.S. agenda for questions relating to trade in goods. As of today, any honest observer acquainted with Washington thinking on the subject is bound to agree that the U.S. has no clear-cut priorities in this area, and without active U.S. participation, there is not much hope for the new Round.

Second, there is growing skepticism in the North - even among academics - that substantial concessions regarding market access in areas of great export interest to developing countries can be made. This point will be elaborated later in connection with the discussion of specific items on the Uruguay agenda. Suffice it to say here that only limited reciprocal North-South liberalization can be achieved if the issues of protection in agriculture and, especially, safeguards against manufactures of export interest to developing countries are seriously considered - and the chances of getting the leading industrial countries moving toward liberalization in these areas are apparently dim.

Last but not least, this Round will require more imagination, as well as technical and negotiating expertise, than previous ones because of the wide range of no tariff issues and negotiating modalities that are likely to be involved. Though tariff negotiations will be helped by harmonization, they will be less influential, though hardly irrelevant. The really great challenges will be the rewriting of articles dealing with safeguards (especially Article XIX) of the GATT so as to strengthen its rules and ensure greater transparency and multilateral surveillance, and negotiations aimed at furthering the integration of the larger and more diversified developing countries in the set of GATT rules and obligations. The success of the latter, however, presupposes surmounting extremely difficult obstacles, for discussions will center on problems which are either theoretically controversial (such as infant industry protection) or politically sensitive. Among these, graduation from present preferential schemes may prove less controversial than, for instance, graduation from Part IV exemption in regard to stricter rules for balance-of-payments restrictions under Article XII, particularly within the present unstable world economic environment.

Developing-country Interests

Looked at from a comprehensive standpoint, the task ahead looks discouragingly difficult. When inspected more closely, however, it is clear that the wide range of LUC targets in the negotiations have widely varying possibilities of being met.

Let us start in an optimistic way by considering the question of primary commodity processing and tariff escalation. Here lies the greatest opportunity for an early start of promising North-South deals within the reciprocal framework which traditionally characterizes the GATT negotiating process.

The fact that nominal tariffs in industrial countries usually increase or "escalate" with the degree of processing, thus leading to high rates of effective protection for processed articles, has long been a source of complaint by raw material exporters. Many of these suppliers, however, have also imposed - either to compensate for the disincentive produced by the structure of protection in the North for processing activities, or for domestic distributive reasons following devaluations - heavy export taxes on unprocessed materials and foodstuffs. The no cooperative equilibrium thus resulting has important trade-destructing effects which naturally affect the global distribution of value added along the several processing chains. Therefore, the negotiated reduction of both higher tariffs against processed materials and export taxes on raw produce could raise the volume of trade and, in principle, result in significant gains for all parties concerned.

Even though a general framework for negotiations in this area could be agreed upon, talks on tariff escalations against export taxes shall perforce follow a sectoral, product-by-product pattern, and it is not at all clear whether there will be well-defined coalitions along North-South lines. It should also be noted that a comprehensive and nondiscriminatory treatment of this question may demand changes in some tariff preferences given to certain producers under regionally restricted schemes.

Still in this item, and especially in tropical products, no border taxes with strong trade-inhibiting impact - many identified as early as the Haberler Report - will continue to be a matter of concern to exporting countries and a possible area for liberalization. Beyond that, however, begins the grey area which either intersects with other general trade impediments (such as sugar or oilseed subsidies) or lies entirely outside the GATT framework (such as price stabilization programs).

Moving in increasing order of difficulty as far as liberalization is concerned, let us turn to subsidies and CVDs. This item interests developing countries in two *ways*. On the one hand, as bounties to manufactured exports became part and parcel of export promotion policies increasingly followed beginning in the 1960s, CVDs applied by developed countries became an increasing irritant in North-South relations. On the other hand, subsidies are the chief instrument applied by the industrial countries to protect their inefficient producers of temperate foodstuffs.

Looking at the subsidies issue from the point of view of market access for LDC manufacturers, the important aspect is, thus, CVDs. If the objective of industrial countries is, as stated in the Enabling Clause of the Tokyo Round Framework Agreement and repeated in the Uruguay Declaration, to integrate developing countries more fully into the set of rights and obligations governing the GATT, they should aim at drawing the latter into signing the Subsidies Code. There is, therefore, scope for reciprocal negotiations in which - for signing the code and agreeing to undertake a progressive phasing out of current subsidies - a developing-country signatory could be granted, for instance, increased effective GSP coverage, if these negotiations were to be conducted on a bilateral basis and over a limited range of goods (or preferably, via MFN tariff reductions by the interested developed-country signatory).

Turning to the remaining issue of temperate agriculture and safeguards for industrial protection, we enter a territory riddled with difficulties and almost uncharted by GATT experience. Let us deal with safeguards first, i.e., the MFA and other VERB, as well as the general question of improving GATT safeguard rules so as to abolish such illiberal schemes. A basic source of political resistance to reform in this area - especially in the U.S. - has been the labor adjustment costs caused by increased import penetration, especially after the demolition of government-sponsored adjustment programs in the early 1980s.² This opposition is likely to continue despite abundant evidence that market restraint agreements, by being selective, are not effective in curbing overall import penetration - nor in defending the level of employment in the affected industry, which will depend on the labor-saving characteristics of the technical changes needed to face rising foreign competition in the medium run.

The fact that affected industries are generally both large employers and that *they* compete with products of great export interest to developing countries makes safeguards an issue with strong North South implications. LDC proposals for tackling it within the GATT framework have centered on reforming the safeguard rules embodied in Article XIX in the direction of achieving greater transparency, fixed time limits, and the progressive reduction in the application of safeguards, as well as more effective multilateral surveillance mechanisms to ensure their implementation.

A crucial aspect in negotiating new safeguard rules stems from the issue of the modality of negotiations, i.e., whether safeguards should be selective (that is, discriminatory) in their application to different suppliers or applied on an MFN basis, and whether compensation should be paid to the injured Contracting Party during the period of application.

The question of compensation can be addressed by guaranteeing that the application of safeguards is temporary and GATT-monitored. This waiver of strict reciprocity is justified by the need to stem fears in the protecting countries that the need for compensation would generate political pressures against its application from unprotected business sectors, which will have to bear the brunt of reciprocity or suffer retaliation.

The most important and contentious aspect is, however, that of selectivity. In fact, this was the main problem in negotiating new safeguard rules during the Tokyo Round, when European resistance to their nondiscriminatory application prevented agreement. The case for selectiveness rests on the argument that it is politically damaging to the protecting country to hurt trading partners who are not the main source of disruption, usually caused by rapid import penetration from a few suppliers. This is an awkward argument. Selective application of safeguards, as in the current VERB, is clearly unfair to efficient producers restricted by the quotas - which in most cases are developing countries exporting labor-intensive manufactures. Also, as previously argued, quotas are an ineffective form of curbing import penetration. Moreover, if the quota allocation is not periodically reviewed in the light of new developments in suppliers' relative competitive positions, it may prove to be unfair to efficient latecomers into the agreements (as, it

seems to be widely recognized, is the case with the MFA today). However, even if the proselectivity argument has to be accepted on political grounds, a positive answer to preserve the MFN clause may exist in the form of allowing the granting of temporary offsetting subsidies by the noninjuring suppliers affected by the imposition of a safeguard.

In the superior MFN framework, two main alternatives to present VERB have been proposed for negotiation: (i) giving existing quotas a well-defined time limit and auctioning import licenses, or (ii) ratification and binding of existing global quotas at the level of their tariff equivalents for future reduction on an MFN basis. There are technical problems in the calculation of tariff equivalents. Conceptually, however, both alternatives go a long way toward achieving the aim of greater transparency and providing a simple framework in which a progressive reduction of this NTB could be achieved.

It should also be stressed that these solutions still possess the not insignificant advantage of being capable of generating fiscal revenue for the protecting country (as opposed to private-sector rents, such as the present VERB) which could be used to finance structural adjustment programs. This is not only conceptually possible but, as Aho (1985) has estimated, their application to present VERB in the U.S. could produce not less than US \$20 billion in extra revenue at current trade levels. If one agrees that without some relief to the costs of labor adjustment, it is unlikely that much will be achieved in this area in the coming MTN, the case for using these instruments is strengthened further.

Finally, we come to agricultural protection. This is the area in which trade restrictions (i) have been applied for longer, (ii) are extremely severe, nominal rates of protection being on the order of 70 to 80 percent on the average for the main developed countries, (iii) have greatly increased in the recent past, and (iv) show a tendency to spread as some food-deficit industrializing countries follow the path of Western Europe and Japan.

Curiously, however, this is the area in which the damaging effects of protection to world economic welfare are most serious and least disputed. The present structure of protection, aimed at stabilizing domestic prices in relatively large economies- based on variable levies in the case of the EEC and on administered quotas in Japan - amplify world market instability. Worse still, the disposal of surplus stocks generated by these policies, notably the CAP, through subsidized rates in world markets is achieved at the cost of displacing efficient producers.

As a recent study⁴ has shown, the abolition of present restrictive practices in temperate agricultural trade in the EEC and Japan would have a significant impact on world prices and trade volumes of these commodities, as shown in table 1.

TABLE 1

Impact of Trade Liberalization in Some Key Agricultural Commodities
(Percent Change)

	Wheat	Coarse	Rice	Ruminant
Change in international price level following:				
EEC liberalization		16	5	17
Japan liberalization		1	7	8
All OME liberalization		16	14	24
Change in world trade volume following:	12.3	23.2	0.3	2.7
Japan liberalization	0.5	-0.2	4.7	2.0
All DME liberalization	7.5	24.4	4.0	3.9

Change in domestic level of 43 40 -20 -39

liberalizing country

EEC

Japan -74 -77 -71 -71

a. Changes shown are between base year (1980) and equilibrium situation after supply adjustments have taken place following a one-shot liberalization.

b. Developed Market Economies.

SOURCE: Anderson and R. Tiers, "International Effects of Agricultural Policies," In R.H.

Snaps, ed., *Issues in World Trade Policy: A Study of the OMAADS* (New York: St. Martin Press, 1986).

It is interesting to note, however, that regarding grains and meat, the main losers are the developed countries themselves. The maintenance of the present structure of protection against these foodstuffs in developed market economies implies a per capita loss - calculated as including all negative income effects measured in 1980 U.S. dollars - of US\$ 95 for the EEC, US\$ 85 for New Zealand, US\$ 35 for Australia, US \$10 for Canada and the U.S.s Some developing countries, such as Argentina and Uruguay, also suffer. However, LDCs as a group benefit from artificially low prices (though to a small extent, their aggregate per capita gain being on the order of US\$ 1), basically because they are net importers of grains. Thus, even though extensive use of subsidies in sugar - which if abolished could produce an increase of 30 and 53 percent in developing countries' exports of refined sugar and molasses respectively' - agricultural trade liberalization remains largely an issue to be negotiated among developed countries.

Unfortunately, given the domestic political strength of arguments related to food security in countries lacking comparative advantage in food production and the tatter's commitment to defending farmers' incomes, this is an area in which little hope of liberalization has been entertained. In the coming round, the strongest resistance to liberalization will come from the EEC, as heretofore. However, the evolution of the Community's position on the issue, as well as the pressure from efficient producers affected by the dumping of food surpluses, will to a large extent depend on the evolution of European excess capacity. Eventually, the increase in the costs of protection with rising stocks is likely to be borne by no rural taxpayers, while the effects of subsidized exports in third markets is likely to induce retaliation, both making for a reconsideration of current policies. The crucial necessary condition for this to happen is, however, the continued and more explicit U.S. backing of the position represented by the Cairns Group.

CHAPTER 4

Bargaining Barriers:

The United States, the NICS and the Uruguay Round

Henry R. Nau

Although the OPEC revolution received most of the attention in the 1970s, the real

revolution in the Third World occurred through the trade of manufactures and the associated development and transfer of industrial technology. From 1960 to 1980, a small group of developing countries emerged from the pack of poor countries to achieve per capita income levels of \$2000 and above. Aside from the lightly populated oil-surplus countries - Saudi Arabia, Kuwait and Abu Dhabi - the key members of this new group of middle-income developing countries are the so-called NICS (newly industrialized countries) - principally Korea, Brazil, Taiwan, Hong Kong and Singapore. Each of these countries relies significantly on manufactured exports for economic growth and development. In 1985, Brazil exported \$26 billion worth of merchandise, about two-thirds of it in the form of manufactured goods. Korea exported \$30 billion, with 95 percent representing manufactured goods.

The NICS also include a second level of middle-income countries whose growth depends mainly on domestic markets and commodity trade, but whose manufactured exports began to grow rapidly in the late 1970s and early 1980s. These countries, sometimes referred to as the NECs (newly exporting countries), include Argentina, Mexico, India, Yugoslavia, Chile, Colombia, Malaysia, Thailand and Peru. Growing on a smaller base, their manufactured exports actually increased more rapidly in the 1970s than those of the principal NICS.

Ironically, despite this dependence on and successful development through trade, many of these middle-income countries are skeptical participants in the Uruguay Round of comprehensive trade negotiations launched by the GATT in 1986. Brazil and India oppose liberalization of trade in areas such as services, investment and intellectual property. They also demand as preconditions of early progress in the new Round unilateral steps on the part of industrial countries to remove existing restrictions on trade in goods. While a few NICs or NECs, such as Korea, Colombia and Chile, are more favorably disposed to the new Round, they are reluctant to confront their developing-country colleagues and thus defer to the more hostile leadership of Brazil, India, Argentina and Yugoslavia.

What accounts for this apparent paradox between, the real interests of developing countries in trade and their resistance to an improvement and expansion of the trading system? How might this divergence be overcome to achieve a more meaningful participation of the developing countries in the upcoming trade Round? Part of the answer lies in a better understanding of patterns of trade and technology transfer between developing and developed countries *through* various phases of the postwar period. These patterns reflect the relationship of the trading system to other important aspects of the world economy, including the domestic policies of both industrial and developing countries, exchange rate policies, foreign investment and technology flows, and balance-of-payments lending. *They* also suggest the legacies that contribute to the current suspicions, and in some cases misunderstanding, that developing countries harbor toward the multilateral trading system today.

Halcyon Days: 1950s and 1960s

When the trading system functioned most successfully in the 1950s and 1960s, few developing countries participated. Despite the membership of many Latin American countries in the GATT, the immediate postwar period was marked by the prevalence of export pessimism and import substitution strategies in the developing world. Development strategists, led by the D.N. Economic Commission for Latin America (ECLA) and its Secretary-General Raul Prebisch, foresaw poor prospects *for* the traditional raw material and agricultural exports of developing countries and urged these countries instead to develop their own manufacturing capabilities through import substitution. While this approach was not entirely inappropriate given the absence of significant industrial facilities in many developing countries, it was carried to the extreme and adhered to longer in most developing countries than was appropriate, especially in Latin American countries, which started the period with more industrial capacity. From the late 1940s to 1960, for example, Brazil's exports did not *grow* at all, reflecting the total preoccupation with import substitution and the domestic market. The only NIC during this period that opened its markets was Hong Kong, and its situation was in most respects unique.

Import substitution encouraged some foreign investment where this was permitted. It tended, however, to direct this investment and associated technology transfer into markets defined by elite consumption and previous import patterns. These markets were often characterized by high capital and relatively sophisticated technological requirements rather than the low-cost labor and smaller, artisan type manufacturing capabilities that represented the comparative advantage of these countries. Moreover, in this period, only U.S. companies operated on any scale internationally. Thus, both the misdirected allocation of foreign capital and technology, caused largely by local policies themselves, and the relative monopoly of U.S. multinationals built up a legacy in developing countries of distrust and alleged exploitation by multinationals. This distrust reinforced the reluctance to open markets to foreign trade, because trade was seen as a precursor of foreign investment.

In the mid-1960s, a number of NICs, including Brazil, Korea, Singapore and Taiwan, shifted course and began to liberalize imports, unify and decontrol exchange rates, and promote exports. These countries realized unprecedented growth rates. From 1960 to 1973, Korea's exports expanded at a real annual rate of 14 percent, while its GNP grew at an annual rate of 8.9 percent. From 1968-73, Brazil's exports and GNP grew in real terms by 13.6 percent and 11.2 percent per year respectively, while from 1965 to 1973, real annual growth of Singapore's exports and production measured 12.6 percent and 12.77 percent respectively. By contrast, countries that continued to pursue import substitution policies grew much less rapidly - Argentina by 4 percent per year in both exports and GNP, India by 3 percent per year, Chile by roughly 4 percent.

Brazil, Korea and the other early NICs entered the trading system when other aspects of the world economy were most supportive of trade. Inflation was low and predictable in the key industrial countries. From 1950 to 1967, inflation in the United States averaged about 1 percent per *year*. Growth was moderate and steady. The U.S. experienced its longest period to date of economic expansion in the 1960s. Exchange rates were relatively stable, as much because of the underlying conditions of low inflation and moderate growth as because of the fixed exchange rate system established at Bretton Woods in 1944. Finally, the world financial system was, compared to later years, relatively small and stable. Many countries, especially in Europe and including Japan, imposed capital controls on international financial flows. Where capital exports expanded, they took the form largely of equity investments. The multinational corporation spread, especially among industrial countries (the period of the "American challenge" in Europe). Foreign investment was also attracted to the liberalizing NICs, but regulation and screening of foreign investment continued and even intensified.

Also, in the 1960s trade stood at the top of the agenda of the international economic dialogue. The Kennedy Round from 1963 to 1967 reduced tariffs by an average of 50 percent across the board of internationally traded manufacturing goods. The world community focused on the real goods economy rather than the financial economy that came to dominate the international dialogue in the 1970s.

As table 1 shows, the net result of these factors for the period from 1963 to 1973 was unfrequented growth in the volume of world exports and production. Overall rates reached 9 percent and 6 percent *year* respectively, while manufacturing trade and output grew even more rapidly at 11.5 percent and 7.5 per year respectively.

TABLE 1

Growth of World Merchandise Trade and Production

(Average Annual Percentage Change in Volume)

	1963-73	1973-79	1979-84	1984	1985
All merchandise	9		2	9	3
Exports					
Agriculture	4		3	4	-2.5
Mining	7.5		.4	3	
Manufacturing	11.5		4.5	12	
All merchandise	6		1.5	5.5	3
Production					
Agriculture	2.5		2,5	5	2
Mining	5	2.5		2	
Manufacturing	7.5	3.5		7.5	

SOURCE, CATT Secretariat estimates.

Thus the earliest NICs (and also Japan, which some analysts regard as the first NIC) shifted into manufacturing at the most favorable time in terms of the expansion of the world production and trading system. The relative ease of their entry into the international trading system made it all seem quite natural and automatic. Without participating in or contributing to the liberalization of trade (no LDC participated significantly in Kennedy Round tariff reductions), they were able to benefit from it. This experience may be a factor affecting the attitude of these countries today. While they know the benefits of trade, they do not recognize its obligations.

Troubled Decade: 1970s

Two economic shocks in the 1970s, one internal and one external, ended the halcyon era of the trading system. The internal shock, relatively underemphasized in the subsequent analysis of this period, was the erosion of price stability in the key industrial countries, particularly in the U.S. From 1967 to 1973, before the oil shock, the average annual inflation rate in the U.S. tripled over the period 1961-67. Through an overvalued dollar, the U.S. exported its inflation. The external shock, the oil price increases, added to domestic distortions and shifted the focus to finance and recycling of petrodollars. Trade receded from the international dialogue; commodity and financial issues ascended. Foreign investment came under attack (e.g., the various international codes and national regulations) even as it took a back seat to balance-of-payments lending, as multinationals from Europe, Japan, and even some of the developing countries reduced the dominance of American firms on world markets. Developing countries once again shunned the trade liberalizing negotiations under the Tokyo Round and advocated an aid approach to trade in the form of special and differential treatment (preferences, etc.) for developing countries (preferences in effect shifting tariff revenues from developed to developing countries).

The unprecedented expansion of international financial flows, particularly through commercial balance-of-payments lending, fueled the continued expansion of international trade, especially for the oil surplus and newly industrializing countries. But this expansion now occurred increasingly on a foundation of weaker and less stable domestic conditions. As a result, exchange rate volatility increased and international debt obligations mounted. Table 1 shows that from 1973 to 1979 the growth of world exports and production slowed dramatically to one-half or less than one-half of the annual growth rates of the

1960s.

The original NICs - Brazil and Korea - reacted to these shocks in contradictory *ways*. On the one hand, they heightened their emphasis on manufactured exports to sustain growth and pay for higher-priced oil imports. On the other hand, they reversed their earlier policies of liberalizing imports and decontrolling exchange rates. Korea and Brazil extended import substitution policies to heavy and capital goods industries, justifying such policies by the need to diversify exports and reduce import requirements (particularly capital goods requirements, which had grown substantially as a result of the first wave of import substitution policies). The net result was to raise dramatically the costs of export-led development and to exacerbate domestic distortions already created by the higher costs of energy.

Belatedly, subsequent NICs or NECs - Mexico, Argentina and Chile - shifted to export-led growth in this period. Their policies, however, were even more compromised by the legacies of import substitution and a greater historical reliance on commodity trade as opposed to manufacturing trade. Their experiments in outward oriented growth were short-lived and relatively unsuccessful.

Thus the energy crisis of the 1970s affected the trading system in two important *ways*. It necessitated overnight a massive expansion of international financial, especially commercial bank, lending. International lending, in turn, drove the expansion of trade and, to a lesser extent, foreign investment, especially between developed countries and oil-surplus or newly industrializing developing countries. At the same time, the energy crisis compounded inflation and encouraged trade restrictions, both of which substantially increased the malefaction of domestic resources in industrial as well as developing economies. The easy availability of finance diverted attention from the need to restore more efficient domestic policies and to emphasize market-opening trade negotiations. Finance came to be regarded as the solution to energy problems. Yet finance, arguably, drove trade in the 1970s, especially between developed and developing countries, into some inefficient sectors, beyond the point justified by existing domestic market conditions and comparative advantage.

Pressures of Adjustment: Early 1980s

The policy directions of the 1970s in both industrial and developing countries were unsustainable. Pressure for adjustment came after the second oil crisis in the form of concretionary monetary policies in the key industrial countries and spiraling interest rates and debt burdens in the developing countries. External finance dried up. With this factor gone, which had driven trade and growth in the late 1970s, world trade and growth slumped. As table 1 shows, annual rates for both slowed to 2 percent or less.

Reactions to these developments in both industrial and developing countries have put enormous stress on the trading system. Adjustment policies have shifted the costs to the external sector, severely restricting trade flows.

In the U.S., initially tight money and continuing loose fiscal policy produced a historically unprecedented high dollar, which made foreign imports more competitive and U.S. exports less competitive. Traded goods sectors in the U.S. underwent severe contraction.

Developing-country policies exacerbated these developments. Reacting to the interest rate shock, heavily indebted developing countries, including most of the key NICs, drastically cut imports. Average import growth in these countries dropped from over 30 percent per year in 1978-81 to minus 7 percent per year in 1981-84. From 1981 to 1984, these countries cut imports by a total of \$43 billion - 40 percent of this amount, or \$16 billion, from the U.S. alone. U.S. exports to Brazil dropped by \$1.2 billion, to Argentina by \$2.1 billion and to Mexico by \$9.6 billion. U.S. exports to Korea stagnated even though Korea increased its overall exports by 10 percent.

Recovery in the U.S. after 1982 restored growth to developing country exports. From 1981 to 1984, exports of the high-debt developing countries to the U.S. rose by \$15 billion, increasing the U.S. share of exports from these countries from 25 percent to 32 percent. Exports from Brazil increased by \$3.5 billion or 85 percent, from Korea by \$5 billion or 90 percent and from Chile by \$450 million or 75 percent.

The slower pace of recovery in the other industrial countries put the primary burden of absorbing developing-country exports on the United States. Today, the U.S. takes in 68 percent of all manufacturing exports of developing countries, up from 52 percent in 1981. Meanwhile, Europe accounts for only 24 percent, down from 40 percent in 1981; Japan's share remains unchanged at 7 percent. This imbalance among industrial countries has exacerbated the protectionist pressures in the U.S., further straining the stability of the international trading system.

These abnormal pressures on the trading system may have been worth the price *if they* had been accompanied by improvements in domestic policies and conditions, the foundations for sound international trade, as evidenced in the 1950s and 1960s. Some improvements have been achieved, most impressively in the inflation rate among industrialized countries. Inflation in the OECD countries was less than 3 percent in 1986, helped along during the year by unexpected oil price declines. Investment and growth in the OECD countries have also been revived. Real growth in the five major industrial countries averaged 3 percent in 1983, 4.2 percent in 1984 and 2.8 percent in 1985.

Nevertheless, serious distortions and rigidities remain in OECD economies. The U.S. fiscal deficit persists, while fiscal conservatism continues in Europe and Japan. Under these circumstances, sustained growth relies increasingly on rapid money growth and political pressures to lower official discount rates. Inflation has been accelerating for a couple of years in the services sector, and food and energy prices cannot be expected to sustain the declines of recent months.

If domestic conditions in the industrial world are still troublesome, inflation and inefficiency in the developing countries remain alarming. Despite the emphasis on adjustment in IMF programs of recent years, the newly industrializing countries, with the exception perhaps of Korea, have made few improvements in the flexibility and efficiency of their home markets. The median domestic inflation rate in the heavily indebted countries increased from 17 percent in 1982 to 33 percent in 1984. Instead of adjusting to meet the fiscal and monetary targets of IMF agreements, indebted countries have negotiated a series of adjustments to the IMF agreements. Brazil alone has signed seven letters of intent with the IMF since 1982 and since 1986 has refused to sign any IMF agreement at all. The adjustments that - have occurred have come primarily through trade rather than domestic policy. In 1985, as the GATT Secretariat notes, the heavily indebted countries, again including the principal NICs-Brazil, Korea, Argentina, Mexico, Yugoslavia, Chile, Colombia, etc. - "returned to the import-contracting adjustment that characterized their performance in 1982 and 1983." Exports in only five of these countries increased, while imports in thirteen of them declined. As growth slows and protectionism increases in industrial markets, the NICs restrict imports even more, thereby magnifying further their own domestic distortions and inefficiencies while also fanning additional protectionist sentiment in industrial markets.

U.S. Policy Options

The incomplete adjustment in both industrial and developing countries presents the U.S. with new choices.

a) Should the U.S. give priority to further macroeconomic adjustment in both groups of countries? This would imply renewed efforts to reduce the U.S. budget deficit (which may be necessary in the wake of the Supreme Court decision striking down GrammRudman), stimulate growth in Europe and Japan, and press stabilization and structural reform programs in the developing world.

b) Should the U.S. shift policy priorities to international financial and monetary reforms, as it appears to have done since 1985? This implies continuing concern to maintain a low dollar, coordinate international economic and exchange rate policies, and mobilize new financial resources (Baker Plan) to alleviate debt servicing constraints, or perhaps even, as Senator Bradley has suggested, to forgive some portion of the outstanding long-term debt of developing countries.

c) Should the U.S. pursue more aggressively the multilateral liberalization of trade policy as the central priority of international economic strategy in the last half of the 1980s? This would imply both a willingness to bargain with Congress for new flexibility and authority to negotiate in the upcoming multilateral trade Round and a readiness to subordinate bilateral and plurilateral trade actions and negotiations to multilateral objectives in the new Round.

These directions for U.S. policy *are by* no means exclusive of one another. Yet the priority accorded among them is critical. In its first term, the U.S. administration clearly gave priority to domestic macroeconomic adjustment, even at the expense of a considerable shock to the world's financial and trading system. Since 1985, the administration has given more emphasis to international financial and monetary reforms. Throughout this period, the U.S. has been generally defensive toward trade policy, rhetorically resisting protectionist pressures but conceding to these pressures increasingly in practice, and since 1985 pursuing a more aggressive bilateral and plurilateral policy toward both trade liberalization (Israel, now Canada, maybe ASEAN) and threatened trade retaliation (e.g., 301 actions against Taiwan, Korea, Brazil, etc.). The less aggressive support for multilateral trade liberalization has been not only understandable but probably inevitable, given the earlier preoccupation with domestic adjustment and lingering problems with the high dollar and debt constraints.

Today, however, the opportunity to give multilateral trade policy a higher priority in U.S. economic strategy may be greater. On the surface at least, the world's financial and monetary situation is considerably improved. The dollar is down, and the world community has finally reached the point, in the absence of short-term emergencies, where it can consider the longer-term management of the debt crisis. If U.S. initiatives over the past year toward exchange rates and debt financing have helped to achieve this outcome, they have been well targeted. On the other hand, these initiatives may have run their course. A further decline of the dollar is now resisted by both Germany and Japan, and the dollar's decline thus far has not helped the U.S. a great deal with some of its major trading partners, especially the key NICs, whose currencies are tied to the dollar. Moreover, it is not yet clear whether underlying economic conditions have improved as much as the financial indicators. There are few signs that further fiscal policy adjustment is being achieved in the U.S. (the budget deficit will be substantially reduced in 1987 due to tax reforms but is expected to increase again in FY 88 and FY 89) or in other industrial countries, and the emphasis on more financing for indebted countries may have turned their attention away from *further* adjustment just when its continuation was most needed (judging at least from the growing resistance among these countries to IMF agreements, and from the slow development of an acceptable and effective role for the World Bank in structural policy reform).

In these circumstances, giving new priority to multilateral trade liberalization may be helpful both to sustain the emphasis on adjustment, which is necessary, albeit politically difficult, and to open up new opportunities for renewed capital flows to developing countries.

Adjustment thus far has been pursued primarily in a bilateral context under the aegis of IMF surveillance and adjustment programs. In this context, it has become increasingly politicized, and in any case it has not been particularly conducive to trade liberalization. In the winter of 1984-85, for example, the IMF Director approached the United States and other industrial countries worried about the reluctance of developing countries to liberalize trade in the context of IMF programs. He asked if the industrialized countries would be willing to reciprocate for trade liberalization measures that the developing countries might adopt unilaterally, thereby encouraging the latter to take such measures. For various reasons, including institutional difficulties between the GATT and the IMF, the proposal could not be implemented.

Similarly, the World Bank has sought to encourage greater trade liberalization, but its efforts too have fallen short. The Development Committee at its session in April 1985 featured trade issues for the first time. In the absence of an appropriate bargaining framework, however, the U.S. opposed any reference in the communiqué to textile trade. Developing-country interest in the new Round declined accordingly, and the Development Committee shifted its focus in April 1986, in the wake of the Baker Plan, back to the familiar ground of development finance. The communiqué in 1986 did

affirm the concept of a "trade credit" whereby developing countries would receive credit in the GATT Round for unilateral steps they might take to liberalize trade on their own. Nevertheless, it is hard to conceive how such a trade credit might be implemented, especially when the World Bank, which would monitor such measures, has no country dialogue with industrial countries.

The new GATT Round offers a way to move an important element of adjustment policy, namely trade policy, out of the bilateral context, where it has languished, into a new multilateral arena where countries exchange real concessions in trade, and do so without the adversarial monitoring of international bureaucrats. The Fund and Bank could then reinforce the participation of developing countries in the new Round by offering financing in support of trade liberalization where it may be expected that imports of developing countries will expand more quickly than exports. In the end, trade liberalization itself may become the biggest factor once again catalyzing new flows of financial resources to developing countries. As the World Bank emphasized in its background report for the 1985 Development Committee meeting, "trade liberalization would improve the prospects of indebted countries by encouraging the supply of direct investment and commercial bank funds to export oriented industries.

Thus a more aggressive U.S. policy toward the new Round fits in well with the administration's financial objectives toward the indebted countries and sustains an emphasis on policy adjustment, particularly in trade policy, where developing countries' attitudes remain most difficult to change.

NIC Policy Choices

There are two strategic policy choices for the NICs:

- a) To persist in the trade-restricting policies of the past four decades and extend them into new areas of information and communications technologies.
- b) To alter fundamental attitudes toward the trading system and progressively liberalize imports in exchange for enlarged and more secure access to industrial-country markets.

The first choice assumes that the international trading system will continue to accommodate NIC exports and the international financial system will continue to finance the higher costs of protected domestic development. Neither assumption is likely, but even if they were, the NICs would derive less benefit from this approach in the future than they have in the past. The reason has to do with the increasing incompatibility of restrictive trade policies and integrated world markets for production, technology and trade.

Trade has become increasingly linked with international production. GATT estimates that some 40 percent of world trade is now interfere trade. Trade in services, it is argued (though the statistics are still missing), is also closely linked with investment. While this fact raises old fears of multinational and restrictive business practices in some developing countries, it actually reflects the increasing competition among multinationals and the growing prevalence of joint ventures and decentralized management of multinational networks of affiliated firms and subsidiaries. Multinational expansion today involves a more significant sharing of technology and financing with foreign partners than was the case before.

More equitable international arrangements among firms from different countries are a direct consequence of the accelerating pace and diffusion of technological change in world markets- the collapse of thee product life cycle. National firms can no longer hold a competitive technological advantage long enough to export products from home to foreign markets; *they* must immediately seek joint arrangements to produce and market the product abroad, and even in some cases to design and develop the product initially in collaboration with foreign partners.

These developments create an entirely different world market for trade, investment and technology transfer. Under the old product life cycle concept, products were designed primarily for home markets and then sold and produced abroad as no technological factors such as transportation costs and wage rates affected competitiveness. Today, products are designed with foreign markets in mind. Chances are considerably greater, therefore, that products designed by foreign firms will reflect local factor endowments and demand requirements in host countries. Second, multinationals are now more numerous and competitive than before. They are forced to sell and produce abroad more quickly or lose their markets not just to local producers, as in the past, but now also to third-country multinationals. Host countries enjoy an enviable bargaining leverage. Third, access to foreign markets is increasingly critical not only to sell and produce products, but also to keep pace with technological change and to acquire or share technology in these markets as needed.

The range of technological change in world markets is also broadening. Today, new production technologies are as important as, if not more important than, product technologies. Flexible automated manufacturing systems reduce production costs for labor-intensive products such as apparel and footwear while permitting more efficient production of capital-intensive products for smaller markets or niches in larger markets, such as the luxury end of the automobile market. These developments alter in some ways the traditional comparative advantage of the less developed countries in labor-intensive products and of the industrial countries in capital-intensive manufacturing sectors. They make it less likely that developing countries will produce only lower-end technology items, or that industrial countries will lose their manufacturing sectors altogether.

There are two schools of thought as to how a country can exploit these new features of world markets. One is to manipulate domestic and trade policy to target technology, investment and trade in specific products. The other is to open markets and let the greater forces of competition determine comparative advantage, trade and investment flows.

The first option is possible in a country that has a reasonably coherent policy-making process or large domestic savings (the latter being necessary because mistakes in this more centrally steered approach are costlier). Japan is considered to have both, Korea also to a lesser extent. Even then, the sustainability of this approach is limited by the tolerance of trading partners. The second option is more congenial to a country with a competitive policy-making process or lower domestic savings. The U.S. reflects these characteristics, as do many developing countries, especially those undergoing recent democratic changes.

Nevertheless, developing countries hesitate to open their markets to greater competition, fearing that they lack sufficient entrepreneurial capabilities to hold their own in domestic, let alone world, markets and determined to protect their natural resources, industrial assets and national sovereignty. In rapidly changing world markets, these attitudes are a prescription for falling farther and farther behind. Import substitution, or as they are now called, market reserve policies, condemn the home country to accelerating technological backwardness as technological change in world markets moves faster than technological catch-up in protected home markets. What is more, such policies raise the costs for domestic users of protected products and thus impair the competitiveness of a wide range of manufacturing and export activities. This makes it unlikely that the country can ever attain competitiveness in world markets even if it succeeds in "reserving" a large share of the home market for its own industries. Countries with small home markets ate at an even greater disadvantage.

In many ways, the lead-in to the growing integration of world production and technology is freer trade. Countries that do not trade with one another also do not invest or transfer technology with one another. The U.S. and Japan, which import more manufactured goods from developing countries than from Europe, have closer manufacturing and technology relations with these countries than with Europe. The NICs need to consider whether they can remain a part of an increasingly integrated world market if they restrict trade and in turn cut themselves off from global technological change.

Bargaining in the New Round

World market developments offer both the U.S. and the NICs a new opportunity to emphasize international trade liberalization talks. In September 1986, the GATT Contracting Parties met in Punta del Este, Uruguay to launch the eighth postwar round of multilateral trade negotiations. A Trade Negotiations Committee was established under which both a Group of Negotiations on Goods (GNG) and a Group of Negotiations on Services (GNS) operate. In

early 1987, the GNG setup fourteen subgroups dealing with specific issues -tariffs, agriculture, tropical products, etc. In addition, a surveillance body to implement standstill and rollback provisions was established. All the groups have begun meeting in Geneva. The Punta del Este Declaration calls *for* the *new* Round to be completed in four years; but the negotiations *are off to* a slow start and, with French and U.S. elections in 1988, are unlikely to make significant progress before 1989 at the earliest. Many observers expect this Round to last the better part of the next decade.

Two aspects of the new Round stand out. First, the agenda is longer and more complex than for previous Rounds. The issues include traditional industrial tariff and institutional issues (safeguards, dispute settlements, etc.); more recent concern with non-tariff measures, including standstill and rollback of existing quota restrictions; and largely new issues, such as agriculture, services, intellectual property, and trade-related investment measures. Second, the active participants are more numerous and now include many developing countries. Unlike the pattern of previous Rounds, developing countries played a key role in launching the new Round, acting through various groupings, some of which cut across traditional North-South lines (e.g., the Cairns Group on agriculture, G-48, etc.).

The longer agenda and larger number of active participants make the Uruguay Round significantly different from earlier ones. The Round begins with no single, overriding issue or objective, such as the across-the-board tariff-cutting formulas of the previous two Rounds. Nor is there any agreement on priorities among the many issues on the agenda. Positions of the GATT members *vary* from hardliner developing countries that seek immediate implementation of standstill and rollback commitments to the U.S., which seeks priority treatment for agriculture and new issues, such as services. Agreement at Punta del Este was possible only because everyone's issue was included.

Several large questions have plagued the launching and now the early bargaining of the new Round:

- a) Can the GATT expand beyond manufacturing goods and develop effective rules for new sectors such as services, investment and intellectual property?
- b) If not, can the GATT strengthen existing rules for goods, especially provisions covering controversial non-tariff barriers such as subsidies, and possibly extend these rules to agriculture?
- c) If the GATT can do neither, is the alternative world of bilateral and regional trading agreements a viable alternative for either industrial *or* developing *countries*?

To resolve any of these questions, the two sides must be ready to bargain. Thus far, the developing countries have given no hint that they understand the GATT process of reciprocal bargaining. Historically unused to assuming obligations, they demand concessions rather than offering propositions. The U.S. too has been reluctant to bargain. Trade liberalization has 'never held top priority in the international economic policy of the Reagan administration.' One clear indication of this fact is that the administration for the first time is seeking new authority to participate in this Round on the basis of legislation drafted by Congress rather than initiated by the President. The administration demands that the GATT be expanded, but it holds a weak bargaining position vis-à-vis Congress, which is reluctant to make any concessions to strengthen the GATT, particularly in products of special interest to the HICs: steel, textiles, etc.

The new Round thus exhibits a painful irony. Without expanding the GATT, it is doubtful that it can be significantly strengthened. And if the new Round drags on too long,

trade talks will devolve into bilateral and plurilateral arrangements, where substantive *tradeoffs* will be made in any case. So the issue is not whether to bargain, but where and when. The NICs can strike a better deal in the GATT than outside it, and U.S. is better off bargaining now to ensure early progress in the new Round.

Expanding the GATT

Brazil, India, Argentina, Egypt and Yugoslavia currently lead a group of developing countries strongly opposed to progress on new issues in the GATT Round: *services*, investment and intellectual property. They argue instead *for* immediate implementation of the standstill and rollback commitments in the Punta del Este Declaration on all trade-restricting measures affecting manufactured goods (textiles, steel, footwear, etc.) and agriculture - sectors which are clearly within the existing jurisdiction of the GATT. They argue further for a tightening of the safeguard rules in the GATT to prevent future derogations from it.

The U.S. accepts the standstill and rollback provisions drafted at Punta del Este but interprets these commitments in such a way that *they* would not apply *to most* measures which offend the

developing countries. The problem for the U.S. is that a meaningful standstill and rollback commitment would apply to existing U.S. restrictions in sugar, meat imports, textiles, steel, automobiles, etc., as well as the use of future 301 actions in both goods and services trade. The U.S. insists, however, that the Punta del Este commitment applies *only* to new measures, not to existing restrictions or extensions of existing programs (such as another VRA in steel, or tightening sugar quotas under existing programs), and does not apply at all to trade legislation consistent with the GATT (Section 201 escape clause actions, countervailing duty, antidumping provisions and national *security*). *Moreover*, while the U.S. has in the past and conceivably in the future would again submit 301 cases to the GATT in goods, it retains the right in new areas, such as services, to retaliate under 301 without submitting to GATT rules, including retaliation that restricts U.S. imports of goods.

What needs to be done in this situation? Ideally, the NICs should recognize that developing rules for new issues is a bargaining, not a theological, matter. *They* should use their *services* "card" to secure the clearest possible commitment from the U.S. to standstill and rollback. At the moment, *they* continue to do just the opposite - that is, refuse to link services and goods for fear that they will have *to give* up something in services. The U.S., in turn, should consider the broad "framework" compromises it must make now with both Congress and the developing countries to facilitate early success in the new Round. It might accept a firm commitment against *any new* bilateral or plurilateral trade actions in goods (i.e., agree to take all 301 actions in goods to the GATT) and *agree* to negotiate a rollback of existing restrictions by a certain date (e.g., by 1989, when both the current steel agreements and possibly the new MPA will expire). If it could secure a date for completion of services negotiations, it might even accept a standstill on 301 actions in services sectors, or at least in those sectors given priority in the trade Round. This commitment could be made for one year, renewable if the services negotiations warranted it.

The more the developing countries give in services and other new sectors, particularly intellectual property, the more concessions the U.S. should offer by way of restraining its actions outside the GATT. In this way, the U.S. makes compromises that Congress is more likely to accept. Services exporters and many traditional industries, which have a stake in intellectual property rights, will support such a compromise. Even within a traditional sector such as textiles, an agreement to negotiate on counterfeiting and intellectual property rights may offset to some extent the commitment to negotiate a long-term phase-out of quantitative restrictions in textiles.

Having said all this, the prospects for mutual compromises by the U.S. and the NICs are hardly bright. The trade bill going to conference between the U.S. House of Representatives and the U.S. Senate in the autumn of 1987 contains negotiating authority

for the U.S, in the new Round, but it also contains numerous provisions that are likely to be viewed abroad as protectionist. Indeed, the bill may well precipitate retaliation abroad and a retrogression in the negotiations in Geneva. With U.S. elections in 1988, the chances of expanding the GATT would seem to be on hold, at least until 1989.

Strengthening the GATT

If the GATT Round could achieve broad commitments such as those outlined above, strengthening the GATT becomes easier. On the other hand, without such commitments, there may not be a sufficient balance of benefits within GATT issues themselves to warrant compromise.

The key issues involved in strengthening the GATT are safeguards, tariffs, no tariff barriers, agriculture and dispute settlement. All these issues require some give and take on both sides, but the benefits are insufficiently balanced to encourage compromise individually or collectively among these issues alone.

On safeguards, for example, the NICs ask for strict adherence to a nondiscriminatory and strengthened Article XIX. In return, the U.S. asks for greater discipline by developing countries under Article XVIII, which *gives* developing countries broad discretion to impose quantitative restrictions for balance-of-payments and infant industry purposes. The European Community seeks to amend Article XIX to allow discrimination or selective application of relief against offending exporters only. It is doubtful that firmer adherence to Article XVIII by developing countries offers enough either to the U.S. to roll back quantitative restrictions on goods such as textiles, etc., or to the E.C. to drop its demands for selectivity, especially when developing countries retain high existing levels of protection on most of their imports.

Thus the safeguards issue blends with the issue of tariff reductions. In this area, the industrial countries are not likely to have much to offer, since their tariffs are already low. To secure the basis for compromise, therefore, the industrial countries would have to

throw in no tariff measures or quantitative restrictions. They might convert quantitative restrictions to tariffs in such sectors as textiles, steel and leather goods and then proceed to bargain reciprocally to lower tariffs in developing countries.

As high as they are, however, tariffs are not the only or even the main restraint on imports in developing countries. Subsidies, licensing policies and other administrative measures are frequently more important. The U.S. has long sought to bring the NICs under the provisions of the Subsidy Code, offering in return the injury test for U.S. imports from developing countries. In many cases, however, this incentive was not enough. If, however, export subsidies for agriculture as well as industrial products are included, the developing countries acquire a much broader incentive.

Subsidy issues are at the heart of the larger and very controversial agricultural issue. But now the European Community is put on the spot. Within the export subsidy area alone, it does not have sufficient incentive to reach a compromise, so it argues for negotiations on all aspects of agricultural policy, not just subsidies. Yet its flexibility to significantly modify the price support system for agriculture is limited, even under severe budgetary pressures.

Finally, the issue of dispute settlement reflects overall willingness of GATT members to submit to GATT discipline. This willingness, in turn, is a function of the overall benefits of GATT participation. If those benefits are inadequate, countries will circumvent the GATT. This, it may be argued, has become the biggest reason for expanding the GATT and also for liberalizing agriculture.

Bilateral and Plurilateral Alternatives

If the basis for broadening the benefits of GATT membership cannot be found, trade

disputes and solutions will devolve into a bilateral or plurilateral context. Tradeoffs will be made in more constrained and possibly more coercive circumstances. The issue for the U.S. and the NICs, therefore, is whether they prefer to negotiate these disputes in the multilateral trade Round or in bilateral and regional discussions. On this point, the NICs have shown a decided preference for negotiating bilaterally. That explains their acceptance of the MFA in practice even while they denounce it in theory. They like the economic rents they gain from these restraint arrangements and the political assets they can turn to their advantage in bilateral situations (e.g., Korea's security value to the U.S.).

Under pressure from Congress, however, the U.S. administration is beginning to push its weight around in bilateral trade relations. If individual trading partners are ready to negotiate services, the U.S. is offering broad free trade area negotiations. This is the case thus far with Israel and Canada. However, with those partners unwilling to negotiate services or reciprocate in goods trade, the U.S. is using the big stick. Section 301 actions against Brazil, Taiwan and Korea, discretionary graduation of these same countries from GSP in specific product areas, and more restrictive bilateral arrangements under the current MPA renewal all suggest that U.S. bargaining power in the bilateral context is being used more aggressively than before, and with fewer residual benefits for the NICs.

Japan, although not an NIC, has already recognized the need to seek refuge from U.S. bilateral badgering in the more diffuse setting of multilateral negotiations. Will the NICs follow suit? They do not have an unlimited amount of time to make their decision. While for some U.S. policy makers the aggressive use of bilateral and regional arrangements has always been a tactic to compel greater interest in multilateral negotiations, the longer the tactic persists and multilateral negotiations stall, the more likely the trading system will devolve into a set of individual, albeit overlapping, trading arrangements in which reciprocity with the NICs will be negotiated bilaterally rather than multilaterally. The choice for the NICs, therefore, is not between retaining special and differential treatment or giving it up, but whether they will negotiate their assumption of reciprocal obligations in the new trade Round or bilaterally. They are *very* likely to secure better terms in the GATT, where they can coordinate their interests with other developing countries and where commitments will be exposed to multilateral surveillance (and thus less subject to abuse than bilateral arrangements).

Conclusion

The opportunities for mutually beneficial bargains in the new Round are numerous, but the NICs' historical attitudes toward the trading system and severe political constraints in the U.S. create an enormous reluctance to bargain. Who should take the initiative to break this deadlock?

A good part of the responsibility rests with the U.S. To make gains in negotiations on services and intellectual property, it should be ready to make firm commitments on standstill and rollback to include not only European VCR restraints or Japanese agricultural quotas, but also the long-term phasing out of textile, steel and other restrictions of primary interest to the NICs. Such an *offer* could smoke out the NIC hardliners and inject a hopeful spirit of concession and compromise in the early phases of the new Round. If necessary, these commitments could be timebound and renewed each year or so, depending on mutual satisfaction of all parties with progress in the negotiations of special interest to them.

Once this level of bargain is struck, the way would be clear for reciprocal bargaining in all other areas. In each of these areas, whether it be a specific service sector or tariff negotiations or NTBs, special and differential treatment (SDT) for developing countries might be preserved. Numerous possibilities arise:

- a) SDT might be more generous in services sectors than in traded goods, and in high technology than in other manufactured goods, on the grounds that there is greater justification for infant industry protection at the upper end of the technology spectrum.
- b) Bargains in individual negotiations might reflect unequal substantive concessions by industrial and developing countries. This is the way developing countries have participated

in previous GATT Rounds. These bargains are best made in specific negotiating situations rather than on the basis of general principles.

c) Substantively equal concessions in individual negotiations might be implemented differentially, with developing countries being given more time to implement reduction of tariff or nontariff measures.

d) Concessions by industrial countries might be implemented on a non-MPN or preferential basis with respect to developing country imports. This is the basis of GSP. Caution should be exercised here, however. It is not at all clear that preferences have worked in *favor* of developing countries, certainly not the later industrializes. If the industrial countries eventually give up non-MPN action in the area of safeguards, the developing countries should think about doing so in the area of preferences.

The tactical features of bargaining, however, are less important than the strategic constraints which make both the U.S. and the NICs reluctant to bargain. These constraints can be overcome only by new vision and statesmanship. The NICs should see the opportunity, after forty years of abstention from the reciprocal trading system, to try a new and proven path of higher growth through measured trade liberalization; and the U.S. should finally *give* trade the priority it had in earlier, postwar periods, when the U.S. led the world toward unprecedented prosperity.

CHAPTER 5

North-South Trade Policy Issues

Philip Ndegwa

In considering where we might go from here in trade policy, one possible starting point is to consider where we have gone wrong in the past. It is striking that although there is little analytical disagreement about desirable trade policy objectives, the basic principles (as embodied in the GATT) have been honored as much in the breach as in the observance by most countries. Professor Hellene's paper, "Developing Countries and Reform of the World Trading System," is excellent on this point.

There are many reasons for these departures from GATT principles, but to generalize, most of them could be characterized as attacks on the symptoms, rather than causes, of problems. This occurs because it is often easier for governments to dabble with particular trade policy measures than to confront the deeper sources of competitiveness problems, such as taxation, labor market or exchange rate policies. This tendency is strengthened by the role of politicians in determining trade policy. In virtually every country, trade is handled politically - which means that short-run considerations and special-interest groups, and not long-run considerations, wield most of the influence.

This leads immediately to the conclusion that trade policies are, in practice, inextricably intertwined with other policies. The overall level of government assistance to particular industries is a function not only of border protection/export assistance, but also of the effective incidence of taxation and government expenditure, and of any compliance costs or (monopoly) rents arising from the regulatory structure, for example. Many of these effects defy satisfactory quantification even in data-rich countries, which is one reason why it is difficult to give rigorous substance to' any Subsidies Code. This complexity also means that it can be hard to trace causality and to distinguish symptoms from causes. For example, many people would argue that current protectionist pressures in the U.S. can be traced back ultimately to the size of the fiscal deficit. Others would disagree. All we can be sure of is that simplistic explanations should generally be viewed with suspicion.

My conclusions from this analysis are very much like those of Gerry I-lleiner:

a) I am skeptical that any mere tinkering with GATT rules is going to provide any durable solution to trade policy problems (and, if past experience is any guide, it could take a decade to achieve anyway).

b) Rather, the time has come for a "back to basics" movement in trade policy, with the main GATT principles returned to their former prominence.

c) *All* countries need to give much greater emphasis to maintaining a proper balance in their various policies so that trade policy does not have to carry the burden imposed by inappropriate or unsustainable policy choices in other areas.

d) *All* countries must also make real efforts to improve the marketing of trade liberalization ideas (to politicians, businesses and the general public). One possibility is to achieve greater transparency in trade policy through better public disclosure, etc., but more could also be done to identify the scope and incidence of the benefits of liberalization (we know enough about the costs already!). Actually, when one sees the power of special-interest groups and the short-run approaches by politicians, more public knowledge about the benefits of trade liberalization becomes a key area for greater attention.

North-South Distinctions

Despite vast differences between the countries of the North and the South, it is my belief that the above policy conclusions apply equally to both groups. Trade is an important engine of growth for both. The North should realize that its own future growth potential lies to an important extent in the South, but that the South cannot move to provide the opportunities at present, because the external finance constraints are so binding. In this connection, the debt problems of LDCs must be seen as a central, not a peripheral, issue.

The South must also try harder to realize growth opportunities that lie in intro-South trade. Currently, intro-South trade is relatively very small, and it is difficult to avoid the conclusion that the main-

tenancy of traditional production patterns and the pursuit of economic independence on a national basis, for example, may have unduly inhibited achievement of the gains from intro-South trade which are likely to be available.

Managing the Process of Change

There are three main difficulties in getting from where we are now to a satisfactory new trade order: the initial conditions, the disease of gradualism and the nature of the institutional processes.

The initial conditions are unsatisfactory for both North and South. In the South, stagnation is the order of the day for many reasons, both internal and external. Therefore, however respectable the longer-run arguments, the time is not auspicious for trade liberalization. The North, by and large, is still preoccupied with avoiding a "resurgence in inflation and has subordinated all other goals to this. It would be nice to think that another Marshall Plan-type action could be mounted to get the world back on its feet (who could doubt that the U.S. ultimately benefited immensely from the postwar reconstruction of Europe and Japan?), but this hardly seems a realistic possibility now. For both groups, there is a common underlying problem: it is much easier to pursue active adjustment and trade liberalization policies in an environment of growth rather than stagnation. In the current circumstances, the initiative can only come from the North, for only the North has the resources and flexibility to provide it.

Second, there will be little benefit from what seems to be an inevitable further round of gradualism - gradualism in negotiation and gradualism in the implementation of agreed changes. Gradualism in structural adjustment is often advocated, but it defers the benefits of reform as well as the costs; it substantially increases the risks of backsliding as lobbies and pressure groups take their toll on politicians; and it is ultimately no easier than "biting some bullets." Frankly, we are now probably past the point where any

case for gradualism can be made.

The nature of the institutional processes required to achieve rapid and meaningful reform is also worrying. None of the various regional groupings, or the GATT or UNCTAD, seem to have been satisfactory for in this respect. Perhaps they could become so if the political will were there. If it could be established, a new grouping which had a real mandate to make progress quickly would have some appeal.

First among the principal aims of any new or existing negotiating body should be to promote better international marketing of the case for trade liberalization in all countries. The second priority would be to talk turkey on the timing of a return to first principles in trade policy. Let us also *try* to avoid the trap of mixing up trade and aid. Obviously, LDCs need both more trade and more aid. Some donors seems to think that since some aid is given, trade problems can be ignored. This is wrong. In any case, the point to stress is the mutual benefits of trade.

Commodities

Commodities continue to present a major problem - a problem which, very much like agriculture in the industrialized countries, cannot be ignored. The issue of commodities is important for LDCs for several reasons: their great dependence on commodities for foreign exchange, employment, etc.; the unfavorable price trends; and, given the necessity to industrialize, the realization that by following the law of comparative advantage, they will not achieve the kind of development they need.

Unfortunately, LDCs can do very little about either their dependence on commodities or commodity prices. It is a kind of bind. Much work has already been done on commodities and several instruments established to resolve some of the problems associated with commodities, e.g., UNCTAD's Common Fund, the IMF's Compensatory Finance Facility (CFF), commodity agreements, etc. In spite of the many technical difficulties involved, a workable solution to the commodities problem could surely be found and implemented, *given the political will*. That is perhaps the most difficult problem we now face as far as commodities are concerned.

Safeguards

The intellectual case for safeguards is a very narrow one. They can be justified only where the viability of an industry is threatened for strictly temporary competitiveness reasons. Not many cases fall strictly into this category, and it is clear that many invocations of safeguard provisions have strayed well' outside this definition.

Wider Issues

It is true that in many countries, it would not be helpful (and could even be counterproductive) to pursue trade liberalization without also taking liberalization measures in the financial, goods and/or labor markets. All countries will need to consider their own positions on these matters very carefully. It is an area where it is difficult to generalize, except to assert that the full internationalization of capital and labor markets (as well as goods markets), however intellectually attractive, is unrealistic, given the way we have organized the world politically.

We will therefore always have to be content with a second-best situation. Even so, there is still great scope for improving the situation prevailing today.

PART II

POLICY ISSUES ON TRADE IN SERVICES

CHAPTER 6

Overview: Trade in Services

The third meeting of the Roundtable on Trade was devoted exclusively to a review of the issues on international trade in services, the Uruguay Round's negotiations in this sphere, and, more specifically, progress in its Group of Negotiations on Services (GNS).

Negotiations on trade in services in the Uruguay Round have succeeded in developing an agreed program. Progress had nevertheless so far been clouded by conceptual complexities and limited by serious disagreements among the negotiating parties. The presentation of a detailed U.S. proposal to the GNS in the week preceding the Roundtable's meeting made it possible for discussions in both the GNS and the Roundtable to focus upon specific points of agreement and disagreement. The following is a summary of some of the main elements of the Roundtable's discussion.

Definition and Measurement

A common understanding of what is meant by trade in services does not *yet* exist. In the narrowest definition, trade in services relates only to services that are disembodied from producers and transported to consumers in much the same way as goods. Most services, however, have to be executed and delivered on the spot, and "trade" may thus necessitate international flows of labor and/or capital. Services trade may therefore have to be defined in a wider sense. If so defined, a multilateral framework or series of agreements would have to relate not only to restrictions on trade of the type which the GATT has previously addressed, but also to regulations concerning the movement of capital and labor across national boundaries.

The principal databases for the services sector are at present national income accounts, which incorporate data on the production and consumption of services, and balance-of-payments accounts, which incorporate information on international transactions in services. Both provide information only at a high level of aggregation. Data relating to services transactions within or among transnational corporations are particularly scarce. Attempts to measure international trade in services, particularly at an appropriate level of desegregation, confront serious methodological and statistical difficulties. Much still needs to be done in terms of statistical conventions and classification systems. It will be essential to develop an improved information system on services, both at the national and international levels, for both the developing and the industrialized countries.

Trade in Services vs. Trade in Goods

Unlike goods, services are used as *they* are produced, and they are thus not storable and do not involve a transfer of ownership when sold. In the majority of services transactions these features necessitate proximity between the producer and the user. This in turn implies that many international services transactions require international factor mobility - either labor movement or foreign direct investment, or both. International flows of capital and labor are substitutes for trade in goods but are frequently complementary to trade in services. International factor movement has not previously been addressed in international trade negotiations, and it raises a host of new issues. (Foreign direct investment issues have also been discussed at great length in the UNCTC).

.Transporter transactions in certain producer services associated with modern telecommunication and information technologies, which have grown very rapidly, do not, however, require proximity between user and provider. Some of these transactions take place at arm's length and can be addressed in the same terms as arm's-length goods trade. A high proportion of this new services trade appears to take place on an antireform basis. The international distribution of the gains from antireform trade (and its liberalization) raises difficult issues that have not been addressed in the GATT or as yet successfully resolved in other U.N. bodies where they have been addressed, e.g., UNCTAD and UNCTC.

Services trade is also frequently influenced by types of governmental policy - notably national regulations of various kinds- that are not of great relative significance in

goods trade. On the other hand, tariffs on services imports are infrequent.

Roundtable members did not agree on the degree to which the differences between goods trade and services trade might require new theories or non-GATT policy approaches. Some argued that the peculiar features of services trade do not necessitate any abandonment of the basic precepts of comparative advantage theory or any alteration of the traditional case for liberalization of trade. There was agreement, however, that predictability of trading conditions is an important objective for services as well as goods trade.

GATT Principles and Services Trade

The creation of an international regime for trade in services requires a consistent conceptual framework. Some Roundtable members argued that GATT rules and principles, developed in the context of trade in goods, may be inappropriate as the conceptual basis of a multilateral framework for trade in services. In particular, the concept of "national treatment" as developed in the GATT in the context of trade in goods has previously related only to *products*. "National treatment" is now proposed by some industrialized countries in the context of trade in services *for producers*. Wherever physical proximity between the producer and the consumer is essential, national treatment for the supplier of services requires the right of establishment. This seems to many to break new, and perhaps inappropriate, ground for the GATT.

It was also noted that issues of access to supplies - particularly of producer services - frequently arise in discussion of trade in services. In this respect, the GATT's traditional focus upon market access (for goods) will not encompass the full range of many countries' concerns. Those expressing such concerns suggested that it may be necessary to explore alternatives to traditional GATT approaches. This may be particularly appropriate in the light of the Ministerial Declarations emphasis upon the expansion of services trade as a means of promoting growth and development. Existing sectoral arrangements may be suggestive. For example, the U.N. code on liner shipping provides for equal opportunity to countries at different levels of development. The Chicago Convention on civil aviation provides a skeleton multilateral framework of rules within which a web of bilateral agreements are negotiated.

Services, Growth and Development

The Ministerial Declaration launching the Uruguay Round called for a framework for services trade that promotes the "economic growth of all trading partners and the development of developing countries." The role of services and trade in services in development is not a matter for easy generalization. Economists and politicians are not uniform in their assessment of the developmental efficacy of primary reliance upon market forces. All economists recognize the theoretical and empirical possibility of various market imperfections. Most would agree that the competitive circumstances upon which static efficiency is believed to depend are therefore not *always* attained via laissez-faire policies. Moreover, they also all recognize the theoretical inadequacies of static efficiency criteria in the analysis of growth and development possibilities. Differences, if any, usually arise primarily in their pragmatic analyses of the true rationale and effects - actual or potential - of governmental interventions in particular countries, in particular periods or in general.

Where there are often fundamental differences as to the developmental efficacy of markets as against that of governments, one cannot expect agreement on the gains from trade, or the appropriate role of government policies on trade in either goods or services, for the promotion of development. The enormous variety of services, to which there is constant reference, further complicates this question. The industrialized countries advocating "liberalization" of international trade in services have not suggested that this is appropriate in all services sectors in all countries, nor did any members of the Roundtable. There seemed to be agreement that *predictability* of the conditions governing

international services trade was a more attainable objective than their liberalization, but there was no agreement on the appropriate nature - or even the desirability - of any universal framework governing trade in services.

Such disagreements notwithstanding, there was widespread appreciation of the major potential role of tradable producer services - particularly in the information and telecommunication sectors in the development of trade in goods, and indeed, in the overall future development of developing countries. The best means for developing countries of different sizes and at different stages of development to acquire reliable information and telecommunication services at low cost will undoubtedly merit continuing study. There was also considerable interest in more detailed assessments of the potential for international trade in labor-intensive services, particularly those exportable from developing countries to industrialized countries or to one another, and in other potential services exports from developing countries.

Country-specific Approaches to Trade in Services

Each country's growth and developmental circumstances are in many respects a unique product of its own history, politics, economic structure and culture. The current and potential roles of services and international services transactions in the growth and development process, therefore, vary from country to country, among and between both industrialized and developing countries. Nor do these roles remain unchanged within an individual country as development progresses and/or exogenous influences intrude upon normal domestic processes of change. It follows that neither domestic policies nor international rights and obligations can be prescribed in a uniform way for all countries and time periods. In any case, it was generally agreed that each country has the sovereign right to regulate its own services industries.

The variety of national circumstances and the inappropriateness of uniform policy approaches does not preclude, however, the development of universal international approaches. General rules may be formed which, in their specific application to particular countries of differing characteristics, are reflected in different policy requirements. An effective multilateral framework for international trade in services would have to indicate not only general principles and rules for this trade, but also the conditions governing the means for their application in specific countries and sectors, and provisions for their change if appropriate. Predictability, equity, efficiency and developmental objectives might all be furthered by such a universal, but not uniform, application of agreed rules.

Sector-specific Approaches vs. a General Framework

The Roundtable spent most of its time in discussion of general approaches to production and trade in services. Very little attention was devoted to the specific problem areas and sources of international disagreement at the level of particular sectors such as banking, telecommunications or tourism. Until one addresses the issues relating to international transactions in specific sectors, it is difficult to come to grips with such matters as the availability of relevant existing international arrangements and disciplines; the meaning and relevance of national treatment, rights of establishment, most favored-nation treatment and other suggested principles; or the need for differential requirements for differential circumstances.

On the other hand, to attempt to develop agreed international approaches to particular services sectors in the absence of any agreed general framework into which they can fit could also be fruitless. There is undoubtedly advantage, if this is possible, in trying to develop general approaches simultaneously with specific sectoral ones, thereby iterating the way toward pragmatic resolution of highly varied sectoral issues. Only if there appeared to be fundamental disagreement over general principles should an exclusively sector-by-sector approach be considered. Even then, the prospects of achieving agreement on rules for more than a few sectors would probably be slim. The participants nevertheless expressed an interest in further, more detailed discussions of

Balance of Advantage in Negotiations

It was pointed out that some industrialized countries have stated that the Uruguay Round cannot reach a successful conclusion unless there is a framework agreement on services. Neither all the negotiating parties in the Uruguay Round nor all the Roundtable members agree that this condition should be necessary, or that such an agreement is inherently desirable. Many argue that services trade issues have received more attention than they merit, and that goods trade issues are the more crucial to resolve.

If there is to be such an agreement on services, it can carry widespread support only if it generates or is consistent with an acceptable overall balance of advantages. Such a balance can be sought within the realm of services trade in the GNS via provisions for the liberalization of labor-intensive services trade, exemptions or special provisions for "sensitive" or "infant" services, differential and more favorable treatment for developing countries, and the like. Alternatively, although the Uruguay Round was launched on the explicit understanding that services trade was to be negotiated on a separate "track" from goods trade, and many developing countries insist on adherence to this approach, agreement can be sought at a more "global" level in a package agreed for both goods and services in the Uruguay Round as a whole.

Although there are clear North-South dimensions to the search for an appropriately balanced package for services in the Uruguay Round, the issues and disputes in services trade are not exclusively North-South in character either at the sectoral level or at the level of general principles.

CHAPTER 7

The Uruguay Round and Trade in Services: Policy Issues

Deepak Nayyar

In the period of intense debate which led up to the negotiations at Punta del Este, services were the major bone of contention between the North and the South. It would be an exaggeration to state that there was a perfect harmony of views among the industrialized countries, just as it would be a mistake to believe that there was a unanimity of views among the developing countries. All the same, the polarization of opposite views led to a near stalemate in the GATT Ministerial Meeting. The United States sought the inclusion of services as an integral part of a proposed new Round of multilateral trade negotiations under the auspices of the GATT. This demand was strongly endorsed by the major industrialized countries, which perceived a close identity of interests, and was supported by most nations of the industrialized world. Some developing countries consistently opposed this demand, as it seemed to them a situation of all give and no take. Although India and Brazil may have articulated the stance of the active Group of 10 silent support for their concerns was much more widespread in the developing world.

The Ministerial Declaration on the Uruguay Round, adopted on the occasion of the special session of the GATT Contracting Parties at Punta del Este in September 1986, represents a compromise that emerged from a deadlocked situation. The first part of the Declaration, adopted by the Ministers as Contracting Parties, launched multilateral negotiations on trade in goods under GATT auspices. The second part of the Declaration, adopted by the Ministers as representatives of their governments, launched multilateral negotiations on trade in services on a separate, parallel track outside the legal framework of the GATT.

For the industrialized countries, in particular the United States, it was imperative that the

new Round of multilateral trade negotiations should appear as a single undertaking, at least in political terms. For the developing countries, in particular India and Brazil, an explicit legal separation of the negotiations on services from the GATT negotiations on goods was as much of an imperative. The compromise embodied in the structure of the Ministerial Declaration was ultimately acceptable to both sides; but this was not the end of the debate. Indeed, given the conflict of interests between countries at different levels of development, the negotiations on trade in services are likely to be difficult, just as progress is bound to be slow.

The text of the second part of the Ministerial Declaration, which defines the objectives of the negotiations on trade in services, reveals the compromise between the lines. There is room for endless quibbling and continued debate on alternative interpretations of the text: Those who advocated the inclusion of services in the Uruguay Round may perceive that it provides a mandate to establish a multilateral framework of principles and rules for trade in services in order to facilitate the expansion of such trade under conditions of transparency and progressive liberalization, which would be conducive to economic growth and the development of all trading partners. Those who opposed the inclusion of services in the Uruguay Round may perceive that it seeks an expansion of trade in services in a manner that would be transparent, that would allow for sectoral treatment, that would respect national regulations in the services sector (not treat them as barriers to trade in services), and that would be consistent with the developmental needs of developing countries. It is obvious that different parts of the Declaration are likely to receive varying emphasis, while different clauses may be interpreted separately rather than together.

The program for the initial phase of negotiations formulated by the Group of Negotiations on Services also leaves everything open to conflicting perception and interpretations. This program consists of five elements: definitional and statistical issues; broad concepts on which principles and rules for trade in services, including possible disciplines for individual sectors, might be based; coverage of the multilateral framework for trade in services; existing international disciplines and arrangements; and measures and practices contributing to or limiting the expansion of trade in services. These elements are neither mutually exclusive nor exhaustive. It is, however, useful to consider them in turn as a means of highlighting some general policy issues apropos of the Uruguay Round and trade in services.

Definition and Measurement

The question of definition is fundamental, insofar as the negotiations will remain at cross purposes unless there is a common understanding of what is meant by trade in services. International trade in services can be divided into four categories: those in which the producer moves to the consumer, those in which the consumer moves to the producer, those in which either the producer or the consumer moves to the other, and those in which neither the consumer nor the producer moves to the other.

The fourth category would provide the narrowest possible definition of trade in services, where a service can be disembodied from the producer and transported to the consumer in much the same way as a good. A wider definition would include the first three categories, which have many implications that derive from the characteristics of services as distinct from goods. For one, the production of a service and its consumption are simultaneous and, as a rule, services cannot be stored. For another, the producer and the consumer must interact with each other, for which physical proximity is essential if the international service transaction is to take place.

Therefore, unlike goods or disembodied services, which can be shipped or transported from one country to another, most services have to be executed and delivered on the spot. It follows that movements of capital and labor, which are substitutes for international trade in goods, are complementary for international trade in services. Any international discipline for services defined in a wider sense would thus have to go beyond restrictions on trade per se into the realm of regulations about the movement of capital and *workers* across national boundaries.

What are we trying to measure? For negotiations on services, this is also a significant matter,

even if it is not as basic as the question of definition. Any attempt to measure international trade in services is confronted by a range of serious statistical difficulties which need to be recognized.

It is worth noting *a few* of the important ones. First, data on international transactions in services incorporated in balance-of-payments statistics are not available at a sufficiently disaggregated level. Second, a complete matrix of trade flows by country of origin and country of destination is simply not available for services, since balance-of-payments statistics report transactions in services between one country and the rest of the world. Third, insofar as services are embodied in goods which enter into international trade, data on trade in services is not distinguishable from data on trade in goods, where the service element of such transactions is often incorporated.

Some of the available literature defines trade in services as all the transactions in the current account on the balance of payments, excluding merchandise trade and private transfer payments. However, even this working definition is not without problems. For one thing, the category of direct investment income in balance-of-payments statistics is inadequate, because it does not make a distinction between direct foreign investment in goods and direct foreign investment in services and simply clubs together income from investment abroad in both goods and services. This would tend to overestimate international trade in services. For another, balance-of-payments statistics define receipts and payments on account of factor services exclusively in terms of investment income - that is, income from the factor capital, whereas the remittances of workers - that is, income from the factor labor, which should also constitute factor services, is not included. This tends to underestimate international trade in services.

It is apparent that much needs to be done in terms of statistical methodology, classification and information in the sphere of trade in services. As a corollary, the database on the services sector in national income accounts, which provides data on the production of services by sector of origin and on the consumption of services by the distribution of final consumer expenditure, needs to be strengthened.

Concepts and Principles

The creation of an international regime of discipline for trade in services obviously needs a conceptual framework. It would be reasonable to ask whether GATT rules and principles, developed in the context of trade in goods, are appropriate. My intuitive answer would be in the negative, although the question needs careful analysis. Consider, in turn, the principles of nondiscrimination, transparency and reciprocity, which constitute the foundations of the GATT.

Nondiscrimination

The principle of nondiscrimination has two dimensions: unconditional most-favored-nation treatment and national treatment. Interestingly enough, most-favored-nation treatment is not even mentioned by those who strongly advocate a framework of rules and an international regime of discipline that would make trade in services as open as possible through a progressive dismantling of barriers to such trade. The explicit objective of a multilateral framework is obviously constrained by the implicit desire to retain an element of bilateralism. The asymmetry is curious, insofar as the same advocates stress the importance of national treatment apropos of trade in services.

The concept of national treatment developed in the context of trade in goods may not be appropriate for trade in services. The reason is simple. For trade in goods, national treatment is provided for products, whereas for trade in services, national treatment would have to be provided for producers. In other words, national treatment in the sphere of services necessarily requires the right of establishment, where physical proximity between the producer and the consumer is essential.

Transparency

The concept of transparency was developed in the context of trade in goods for a world where restrictions on imports, largely in the form of tariffs, were visible and quantifiable. Such transparent protection has dropped to negligible levels, but the incidence of nontransparent protection has registered a steady increase. This new protectionism takes several forms: market sharing through grey-area measures such as VERB and OMAs; other nontariff barriers that are neither visible nor quantifiable; explicit or implicit subsidies on trade; and restrictive government regulations. It would appear that even in the sphere of trade in goods, the principle of transparency has been seriously violated despite GATT rules. Given the characteristics of services as distinct from goods, it is most unlikely that the concept of transparency can be written into a legal regime, let alone put into practice.

Reciprocity

The principle of reciprocity also cannot be easily transplanted. In sectors such as banking, telecommunications and aviation, bilateral reciprocity within sectors is the prevailing rule. It is difficult to see how this can be replaced by reciprocity across sectors in a multilateral framework. An exchange of tariff concessions in goods is one thing; an exchange of concessions on barriers to trade in services is quite another. How is it possible to exchange landing rights in the aviation sector with the right to open branches in the banking sector? Or, how is it possible to exchange a relaxation of restrictions on transporter data flows with a relaxation of restrictions that limit the right of doctors to practice medicine in foreign countries? It is nearly impossible to conceive of a scale which brings about a progressive reduction of barriers in the context of many service sectors.

A multilateral framework of rules and principles for trade in services needs a conceptual basis, which would need to be developed. GATT rules and principles in themselves are not quite appropriate, nor can they be taken and transplanted in parts, because their logic lies in the whole.

Scope and Coverage

The coverage of the proposed multilateral framework for trade in services depends, at one level, on the definition. It would be relatively simple to demarcate *if we* use the narrowest possible definition of trade in services, where physical proximity of the producer and the consumer is not essential. However, the agenda proposed earlier for negotiations on services, which goes beyond the narrow definition, is characterized by an asymmetry that is unacceptable to developing countries. The proposals for liberalization are largely confined to capital-related services, the production of which is finance capital-intensive, human capital-intensive or technology intensive. These are sectors in which the industrialized countries possess an overwhelming comparative advantage.

Labor-related services, in which developing countries have a potential or revealed comparative advantage, are simply not part of the agenda for the negotiations proposed earlier. If there is to be a right of establishment, which enables the producer of a service to move to the consumer of a service across national boundaries, there is no reason why this should be confined to capital alone, in the form of investment in services.

Considerations of symmetry and equity require that such a right of establishment should also be available for labor services. In fact, however, labor movements have been ruled out of the scope of discussion by the industrialized countries on the ground that they impinge on immigration policies. It is curious that when the North wants to send workers abroad, it is accepted as trade in services, but when the South wants to send workers abroad, it is described as immigration. From the viewpoint of developing countries, it is essential to redress this imbalance,

The agenda for negotiations on services should, therefore, be balanced in coverage and

also include sectors in which the developing countries have a revealed comparative advantage. The most obvious candidates are labor services, which require the movement of the producer across national boundaries to the consumer in order to execute the international transaction. A temporary movement of labor does not mean permanent migration. We have witnessed such a temporary migration of workers from South and East Asia to the Middle East and, although there are other examples, this movement has been mostly within the developing world. Therefore, meaningful negotiations on trade in services should discuss the temporary movement of labor between the developing countries and the industrialized countries, spanning the spectrum of skills, from unskilled construction workers through semiskilled vocational workers to highly skilled professionals such as doctors, lawyers, architects and engineers. Given the international differences in wages, such temporary movements of labor are likely to be from the low-wage to the high-wage countries. This would be the other side of the coin which would provide some symmetry to international trade in services in that capital-related services, such as those in banking, insurance or telecommunications, are likely to move in the opposite direction.

It is clear that a working consensus on the coverage of the proposed multilateral framework is imperative before any significant progress can be made in the negotiations on services. The element of symmetry and equity is essential in deciding upon the coverage, for that will determine who gains how much from a liberalization of trade in services.

Sectoral Arrangements

A few of the important sectors in services, such as telecommunications, civil aviation and shipping, are already covered by specific existing arrangements and organizations. The International Telecommunications Union has not only the mandate, but also the infrastructure, to deal with matters related to telecommunications. The International Governmental Bureau for Informatics and the United Nations Centre for Transnational Corporations have already done a considerable amount of work on information flows through transnational communication networks. This work provides the base for building further. The International Civil Aviation Organization, through the Chicago Convention, provides for national treatment with respect to the use of facilities, charges for such facilities and the use of airports. The commercial aspects of civil aviation are very much in the realm of the International Air Transport Association. The International Maritime Organization has developed a number of conventions relating to safety, marine pollution and legal liability. In shipping, the code of conduct for liner conferences has been evolved in UNCTAD. These international agreements in the services sector set standards and norms of behavior that are subscribed to by all signatories.

The experience so far suggests that the mandate of these arrangements has not placed any constraints on considering issues or problems which may arise in particular sectors. It would thus be logical to consider the question of international trade in services in each of these sectors in its context of the relevant organizations. This sector specific approach to trade in services has obvious advantages. First, there exists an infrastructure of organizations. Second, it is possible to take into account all the specific characteristics and needs of particular service sectors. Third, it would be feasible to exchange concessions in a quantifiable and meaningful manner within each sectoral arrangement.

It goes without saying that negotiations on services have to learn from, and build on, the experience of existing international disciplines. However, it will be exceedingly difficult to attempt an across-the-board multilateral framework for all services at the present juncture. To begin with, it would be desirable to formulate sector specific arrangements for international trade in services which can later be extended to other sectors. This step-by-step approach is certainly worth thinking about, given the difficulties associated with a generalized arrangement for services.

Restrictions and Intervention

In most countries, both developed and developing, the services sector has been subject to extensive regulation, particularly in the sphere of imports of the service itself or in the establishment of foreign firms to provide the service in the domestic market. These restrictions often go further, regulating prices, standards, location and even the right of entry. Such regulations have been in existence in most countries over long periods and span the entire gamut of service activities, whether financial services (banking and insurance), infrastructural services (shipping, transport and communications) or professional services (engineering, architectural, Legal and medical).

Restrictions on international trade in services have been in existence for a long time and are frequently associated with the principle of "use national," which is similar to the principle of "buy national" in goods. Restrictions on international investment in services seek to regulate either the entry of foreign firms or the operations of already established foreign firms. Quite apart from these, of course, there are government restrictions on trade in labor services which are embodied in immigration policies or consular practices that restrict even the temporary movement of labor across national boundaries.

It is possible to discern three sets of reasons for state intervention in the services sector. More often than not, such intervention does not differentiate between national and foreign firms. First, considerations of social welfare are deemed to be paramount in services, particularly in public utilities. Second, consumer protection is a basic objective leading to restrictions on the services sector. Third, the services sector may be regulated to curb the use of monopoly power and preempt the advent of restrictive business practices. It needs to be recognized that such regulations, some of which may be specific to foreign firms, are observed not only in the developing countries, but also in the industrialized countries. In addition, developing countries seek to regulate international transactions in services in order to promote the development of their infant service sectors, manage their balance-of-payments situation, sustain national sovereignty or preserve economic independence. [t is once again worth noting that many industrialized countries at an earlier stage of their development pursued similar paths in terms of restricting international transactions in services.

In such a context, any approach that enumerates measures and practices which are perceived as barriers to an expansion of trade in services is misplaced, if not misconceived. National regulation of the services sector is constituted by state intervention in the pursuit of national policy objectives which remain within the sovereign right of governments. Indeed, the text of the Ministerial Declaration states that a multilateral framework of principles and rules for trade in services shall respect national policy objectives, laws and regulations in the services sector. Restrictions on international transactions in services are one thing; restrictions on the production and distribution of services within national boundaries are quite another. Thus, any inventory of barriers to trade in services should be confined to restrictions on international transactions alone. In practice, this would be exceedingly difficult, because national regulations often affect domestic transactions as much as international transactions, and domestic firms as much as foreign firms.

Much of the discussion on interventions in, and restrictions on, trade in services is concerned with government policies and regulations. But restrictions on international transactions in services are not the preserve of government alone. There are a number of nongovernmental factors, of which restrictive business practices adopted by transnational corporations are perhaps the most important. The literature on the subject is extensive, and a discussion of it is beyond the scope of this paper. Suffice it to say that market sharing, price manipulation, barriers to entry and other noncompetitive arrangements which eliminate arm's-length transactions are characteristic of oligopolistic market structures, such as those in international banking, insurance, transport, communications and other service industries. Given the fact that a very large proportion of trade in services is probably constituted by antireform transactions, it would be no surprise if the incidence of restrictive business practices in the services sector were found to be high. This has serious implications for developing countries, not only in terms of the distribution of gains from trade in services, but also in terms of the

possibilities of learning and development, which *may* be circumscribed by restrictive business practices. Therefore, any sectoral arrangement or multilateral framework for trade in services will not be meaningful unless it goes beyond the realm of government regulations and deals with the problems of restrictive business practices adopted by transnational corporations in their international services transactions.

Some Policy Issues

The focus of the discussion so far has been on issues that are likely to arise in the Uruguay Round of multilateral trade negotiations apropos of trade in services. The policy issues that are bound to surface are likely to stem from a conflict of interest between countries at different levels of development. For the purpose of discussion, it is useful to highlight some of these general policy issues in the area of services: the infant industry argument, the distribution of gains from trade, the balance-of-payments issue and national development objectives.

Infant Industries

The free trade argument, which provides the analytical basis for those who advocate a liberalization of trade in services, stresses the welfare gains to be derived from international exchange and specialization in production. It is argued that a removal of restrictions on trade would lead to an optimum allocation of resources and would benefit all participants. But that is not all. It is also suggested that developing countries in particular would gain from cheaper imports in sectors where they are inefficient and larger exports in sectors where they have a comparative advantage.

While the basic gains from-trade proposition is valid, the free trade argument has serious limitations in the context of services, which are characterized by highly uneven levels of development across countries. What is more, a static view of gains from trade is quite inappropriate in a situation where intertemporal considerations are of the essence.

Within developing countries, we can think of industries in the services sector, such as telecommunications and informatics, which are infants in terms of their age. There are other sectors in services, such as banking, shipping and insurance, which are infants not in terms of their age, but in terms of their levels of technological development as compared to their counterparts in the industrialized world. It is plausible to argue that developing countries possess a potential comparative advantage in many of these sectors which cannot be realized if there is an immediate liberalization of trade in services that does not allow them the time to learn and become competitive in world markets. Most such industries in the services sector are characterized by lumpy investments, long gestation periods and low rates of return, which give rise to externalities in the process of development. What is more, these industries are also characterized by economies of scale and learning by doing, which are functions of cumulative production experience not only in terms of output, but also in terms of time. Therefore, the infant industry argument is of special relevance in the services sector- It is important to recognize that many industrialized countries which were late entrants into some of these sectors in services, particularly those associated with

high technology, developed their services industries through a set of national regulations and barriers to trade.

Distributing the Gains from Trade

There is a significant divergence between the corporate interests of transnational firms and the national interests of developing countries. While a liberalized regime of international transactions in services would serve the former, the same cannot be said for the latter, whether we consider trade in services or investment in services. For transnational corporations, access to markets in trade and the right of establishment in investment are closely intertwined issues which constitute a matter for corporate planning in their global Strategy,

For the developing countries, these issues should be separated. Given the importance of international transactions in international trade in services, where prices are determined as a corporate decision rather than at arm's length in the marketplace, the distribution of gains from such trade may be unequal. A more open regime for foreign investment in the services sector is, once again, likely to have an adverse influence on the distribution

of benefits between the foreign investor and the host economy. The national interests of the industrialized countries may coincide with the corporate interests of transnational firms, but the national interests of developing countries are very different. Of course, it is necessary to explore the question of the distribution of gains from trade not only between countries, but also within countries. The latter has received almost no attention in the context of services.

Balance-of-payments Implications

A liberal regime for trade in services would have balance-of-payments implications which are likely to create a conflict of interest between the industrialized countries and the developing countries. The uneven development of trade in services implies that the major industrialized countries, which have a large surplus on account of services and for which services constitute a large part of their total exports, are likely to have a substantial interest in the liberalization of international trade in services, as it would either improve their balance-of-payments situation or prevent it from deteriorating as much as it otherwise would. On the other hand, even with the present level of restrictions on trade, developing countries are large net importers of services, so that a liberalized regime of trade in services combined with low levels of development in many of these sectors is likely to accentuate their balance-of-payments difficulties.

Conclusion

Sectors such as banking, insurance, shipping, transport and telecommunications constitute the core of the infrastructure that is strategic in the process of development. Most developing countries wish to retain control over their banking and insurance sectors, which mobilize resources to finance the process of development. The allocation of these scarce resources and the effectiveness of financial policies are both, in a sense, a function of such control. Similarly, the shipping, transport and communication sectors are not mere producers of services - they are areas of economic activity where strategic considerations of national sovereignty, national security and national development are of vital importance. A liberalization of trade in services, and hence a reliance on foreign firms for these essential services, may well constitute a factor that erodes national sovereignty in political terms and increases dependence or reduces bargaining power in economic terms.

What is more, any legal multilateral discipline which goes beyond the rule of bilateral reciprocity in the services sector *may* seriously limit the freedom of developing countries in the pursuit of their national socioeconomic objectives. At one level, in the sphere of producer services, particularly telemetric and transporter data flows, the problem is beginning to be recognized, and regulatory institutional frameworks are perceived as an imperative. The Brazilian experience is the most obvious example. At another level, in the realm of consumer services, the problem may have an altogether different manifestation, but implications and consequences that are equally important. What it adds up to is a "cultural package" of television, movies, clothes, fashion, pop music, fast foods and so on which many young people in developing countries find extremely attractive and which is bound to influence the nature and pattern of development in these countries. This set of issues needs more careful consideration.

CHAPTER 8

Trade in Services and the Developing Countries: Negotiating Approaches

Gerald K. Helleiner

Trade and related investment and subsidy policies are controversial. The debate about the appropriate degree and nature of "outward orientation" in different kinds of developing countries will continue. This is not the place for an exposition of the pros and cons of liberal policies in the services sector, or, more specifically, for trade in services. It is

now in any case agreed that the category of "services" is too broad to permit many safe generalizations. Furthermore, since state ownership, monopoly, regulation and subsidies are common in parts of the services sector both in developing countries and elsewhere, relevant policy is frequently made by ministers and departments other than the Trade Ministers who dominate GATT discussions. (For instance, in the recent U.S.: Canadian negotiations, the detailed discussions of issues in the financial services sector were left entirely to finance and treasury officials).

Thus, even if there were agreement among the Trade Ministers on border measures, major problems for the overall national or international services regime would remain. Suffice it to say that the important role of certain intermediate services inputs, especially in the "new" knowledge-intensive areas of information and telecommunications, stimulates two concerns: (i) that their costs should be kept as low as possible - that is, in many instances, by importing - and (ii) that an independent capacity for their production should be generated as soon as this can be reasonably and efficiency achieved in the development process. It is also apparent that generalized advice either to "liberalize" services imports or to "protect" domestic services across all developing countries and all types of services cannot be taken too seriously.

Most western economists nevertheless probably incline to the view that domestic political influences typically bias policy toward approaches that are more inward-oriented than are socially beneficial. They tend to favor the construction of liberal international regimes so as to bolster those domestic forces that may counter some of this bias. One does not have to go along totally with these liberal aspirations to see the social productivity of predictability and rules in the international trading system. In services trade, there are at present few agreed rules. The developing countries have implicitly accepted the proposition that there may be gains for themselves in creating some. They obviously do not all agree on what they should be. This paper addresses some of the issues they must consider as the discussions of multilateral, unilateral and bilateral services regimes proceed.

Routt Principles and Approaches

GATT negotiations on merchandise trade have traditionally been based upon the concept of reciprocity. Across-the-board formulae for tariff totting, such as were employed in recent GATT Rounds, have also been based in principle upon some concept of "equal sacrifice." With nontariff measures, for which both levels and effects are more difficult to quantify, however, this approach has proved difficult. At the multilateral level, there has instead been a tendency to resort to across-the-board codes, standstills or rollbacks.

This approach will be required in negotiations on services trade as well. It is unlikely that many developing countries would be willing to introduce across-the-board standstills (let alone rollbacks) on their own measures in support of domestic services activities, now or ever, unless there were sufficient exceptions and exclusions to safeguard their future options, particularly in sectors they regard as strategically important. The same can be said - although less frequently - about the stance of the industrialized countries. The key debates will not, therefore, have to do with the character of a general standstill (or rollback) agreement, as some seem to assume, so much as with the detailed nature of new overall codes and frameworks and derogations there from. The most fundamental question of all relates to the precise nature of such nondiscriminatory approaches as are to be promoted in an acceptable international framework for trade in services.

The U.S. appears to prefer a "conditional MFN" approach in a services regime to reduce the prospect of "free riders," such as may be found in the traditional unconditional MFN approach. It argues that Article I of the GATT applies only to merchandise trade and that, in any case, further voluntary agreements and codes, such as those on nontariff measures, can be based and now are based on conditional MFN. The developing countries favor unconditional MFN, but many, including Brazil and India, have already in effect conceded this point by signing the Tokyo Round's conditional codes. Before the Tokyo Round's conditional codes, it might have made sense for some of the developing countries to insist on the inclusion of services within the GATT to try to preserve the unconditional MFN character of any new multilateral services regime. Sadly,

this is now only an academic pomp GATT's Article I has already been effectively neutered.

The U.S. seeks to achieve "national treatment" for foreign supplied no factor services already being supplied within the borders of a country. It also seeks "market access" for foreign services (and hence, since some services require a firm's "commercial presence" if these services are to be supplied, rights of establishment and rights to do business on the part of foreign firms). The developing countries seek to confine the provisions relating to "market access" to cross border trade, fully reserving their rights in respect of policies affecting foreign firms' operations within their countries. In this position, they remain in strict conformity with current GATT practice.

In the absence of agreed multilateral provisions on such matters, there is likely to be, at best, a continued tendency to resort to bilateral reciprocity. Countries will be tempted to treat the firms of other countries in the same way that their own firms are treated in those firms' home countries. Since developing countries (and other small countries) tie more likely to entertain foreign firms at home than they are to send their own firms abroad, they will have few incentives to offer or accept bilateral reciprocity in this sense. Much less will they be interested in reciprocal offers of national treatment, rights of establishment, etc. Nor will the developing countries have much incentive to collaborate in multilateralized versions of such reciprocal agreements.

The developing countries, therefore, are unlikely to agree to a wide-ranging agreement on services incorporating a liberal approach to market access, such as the U.S. seeks, unless advantages can be offered them in other spheres. There may be some room for quid pro quo North-South deals within the services sector in which advantages in services trade of greatest interest to low-income countries are offered in return for broad concessions on the rest. Alternatively, or additionally, coverage of a services agreement may be sectorally or otherwise limited so as to reduce what might otherwise be a gross imbalance of advantage. Ultimately, however, the prime motivation for developing-country participation in a services agreement almost certainly lies outside the arena of services trade.

The G-10 developing countries have been scrupulous in their avoidance of linkages between services negotiations and GATT negotiations on goods trade. They fear, understandably, that the existing obligations of their more powerful trading partners in respect of goods trade will be increasingly at risk - indeed, they are already being broken regularly - if such "new" agreements, from which the developing countries have little to gain, are so linked to them. Let the existing goods trade system be made to work, they argue, before adding further complexities and obligations (particularly on themselves) to the system. As disproportionate losers from the current difficulties in the GATT goods trade system, the developing countries' immediate economic interests coincide with the pragmatic logic of their suggested approach. And yet the developing countries (and all smaller and middle-sized countries) also have a disproportionate interest in an effectively functioning global economy. The stability and predictability of the trading (and financial) system matters greatly to them - more than to wealthier and more self-sufficient powers.

The "liberal" advantages of transparency, predictability and nondiscrimination may appear to have limited appeal to developing country governments practicing or contemplating protectionist policies in the services sector in pursuit of developmental or other sovereign objectives. On the other hand, multilateral approaches to the forging of international agreements and the resolution of international disputes are almost always preferable to bilateral or anarchic ones for the countries with the fewest bargaining chips. The developing countries have much to lose from the breakdown of agreed norms for international trading behavior, in a world in which large countries, notably the U.S., are already pressing individual smaller ones to introduce more "open" regimes for trade in services (and related policies) on pain of retaliation against their merchandise trade, it is somewhat academic for the developing countries to demand that there be no such goods-for-services tradeoffs. The new U.S. Trade Act will almost certainly strengthen that country's capacity (already considerable under Section 301 of its Trade Act of 1974) to act unilaterally in the services trade area in this way. Realistically, developing countries' choice may be between multilateral rules for the international trading regime

in general and bilateral bullying and anarchy, with no recourse to any agreed rules or principles.

It is important to recognize that what is at issue both in the traditional GATT discussions and in The debates over the "new issues" is not so much free trade versus protectionism as rules-based approaches versus anarchy. In the construction of rules; the powerful no doubt carry disproportionate weight; but, provided there is a degree of universal adherence to them, the very existence of rules can be of disproportionate assistance to the weak.

The weak *can* influence the rules to some degree. (They typically have more difficulty in ensuring their equitable enforcement). The numerical superiority of the developing countries within the GATT *may* be an underexploited resource in this respect, even if geopolitics still dominates in actual trading practice. It is crucially important, therefore, that the developing countries participate actively in the construction of a multilateral system of rules. They must do so even if they eventually decide that the agreed rules are not, after all, acceptable to them,

Coverage

Other things being equal, countries can be expected to seek the maximum freedom of maneuver in respect of the goods and services they typically import and the maximum obligations on the part of others in respect of those they export or may in future export. Developing countries are more likely to export labor-intensive services, especially unskilled labor-intensive services, than other kinds. To that extent, they are certainly interested in developing liberal trading rules for such sectors as personal services, tourism, construction, engineering and data entry. Countries like India and some of NICs with significant human skill bases should also favor liberal rules for the various professional services, including legal, architectural, software and other types of consultancy. If they are truly to function liberally, such rules must incorporate provisions for the international movement of labor as required for effective international services transactions. More fundamentally, the developing countries have an interest in a more liberal international regime for international labor flows themselves, whether seasonal or other short-term, medium-term, or longer-term. This interest is best seen as parallel to others' efforts to liberalize the international flow of capital and foreign direct investment.

The liberal treatment of labor flows seems at present to require more political impetus and technical investigation than the more familiar issue of capital flows. The developing countries may therefore gain from insisting at the outset upon developing a more comprehensive services regime that covers factor as well as non-factor services, however long it takes.

As far as non-factor services are concerned, developing-country positions are not uniform. Many poor countries, acknowledging their comparative disadvantage in high-technology activities, are likely to be content with liberal arrangements in such high-tech service sectors as computer and data services, telecommunications, and similar producer services. Some developing countries with more skills and industrial experience, however, see these latter sectors, or particular "niches" within them, as of potentially major significance for their own longer-run development and security. The reluctance of Brazil and India to discuss liberalized trade in services is in part the product of such aspirations for domestic high-technology services and directly related productive activities. To the extent that these sectors are associated with foreign direct investment, there is even greater caution concerning their inclusion in liberal regimes on the part of these and some other developing countries lest they be drawn into unwanted concessions on investment flows "through the back door of the services regime.

Other services sectors are widely seen in many rich and poor countries as unsuitable for liberal trading arrangements because of their perceived importance for national sovereignty, independence and/or development - notably, banking and financial services,

domestic transport and communications, and artistic, cultural and mass media-related services (including advertising). Insurance activities may also fit into the latter category, although they are not usually seen as quite so strategic as banking. Again, fear of loss of control over foreign direct investment may also influence potential service importers' attitudes in these sectors.

Some services are already dealt with in (non-GATT) international agreements - notably, air transport, shipping, and some elements of telecommunications. It is unlikely that new GATT-based or GATT-associated agreements would be permitted to infringe upon such existing ones. A "framework" agreement might nonetheless incorporate broad principles that could eventually have an impact upon the evolution of such existing arrangements - unless, of course, there were specific exclusions in this regard.

Limitations on scrotal coverage may be achieved via explicit exclusions from a general framework for services or via a limited and explicit list of those sectors to which the framework does apply. Developing countries would in principle be likely to favor the latter approach on the ground that they minimize the risk of inadvertently giving away more than they realize. But can one easily construct a "positive" list of those services for which a liberal regime would be acceptable (or, for that matter, a "negative" one of those for which it would not)? As soon as one tries, one realizes how difficult such an exercise would be. It will almost certainly be necessary to adopt an alternative approach - to build safeguards, exceptions and special provisions into a generalized and largely exclusionless services regime.

In the proposed new U.S.-Canadian bilateral free trade agreement, "cultural industries" are the only ones specifically exempted, and there is an attempt to define precisely what these (primarily services) industries are (see annex, p. 103). Advertising appears to fit within this definition. This proposed agreement also contains clarifying annexes on the following services sectors: architecture (a priori type for other professional services?), tourism, telecommunications,

computer services, financial services and, later, transportation. Contrary to expectations, the U.S. was less interested in some elements of services trade liberalization than was Canada. The lesson may be that, like Canada, the developing countries should not be assumed to be "protectionists," resisting U.S.-supported across-the-board liberalization. In the services sector, just as in goods trade, U.S. trade negotiators have domestic interests to appease.

The proposed agreement will lay out a set of disciplines which will govern trade and investment in the covered sectors and incorporate the following principles: national treatment, right of establishment, right of commercial presence, transparency and dispute settlement. No doubt, many will see the legal texts for these agreements (which are still being completed) as potential models for future services agreements in the Uruguay Round. If so, it will be important for them to be aware that Canada is now a major foreign direct investor and exporter of services, and its interests are much more like those of the U.S. than might be thought.

The U.S.-Canadian draft also recognizes the need for certain limited liberalizations of labor flows - the "temporary entry of business persons and recognized professions and persons engaged in sales or after sales service functions." This provision is said to have been extremely difficult for U.S. labor interest to accept. It raises, for them, the specter of eased immigration flows of a more general character, and it will be interesting to see how it fares in U.S. congressional discussion.

The other principal feature of the U.S.-Canadian agreement is the absence of an agreement on intellectual property. In view of the great importance accorded this subject in Washington policy circles (and indeed, its prominence in bilateral debate between these countries over pharmaceutical patents policies), this is a surprising omission. Perhaps it elevates the fact that there is an infinite variety of bargains that can be struck in goods-plus services trade, and one cannot expect to incorporate all subjects and all objectives within agreements that have to be struck within specific time horizons.

Also worth noticing is the explicit recognition by the U.S. of the Canadian right to

control foreign direct investment. While it is true that the effect of the agreement is to reduce Canadian (and U.S.) rights in this sphere, it is also true that the U.S. has hitherto been reluctant to recognize others' rights in this area at all.

Exceptions, Safeguards and More Favorable Treatment

The particular interests and concerns of developing countries in respect of services trade can be addressed via the application of various GATT approaches to infant industry protection (Article XVIII(c), protection associated with balance-of-payments difficulties (Articles XVIII (b) and XII), differential and more favorable treatment for developing countries (Part IV and the Enabling Clause), provisions for regional preferences (Article XXIV), the Safeguard Clause (Article XIX), and national security (Article XXI), etc.

The infant industry provision has scarcely been used. On the other hand, the balance-of-payments provision has been used too easily and thus probably abused, making a revert to other provisions such as the infant industry one unnecessary. Both should probably be reformed if the GATT is to be taken seriously over the longer run. The balance-of-payments provision could be tightened and given a time limit, but such a tightening is unlikely to be agreeable to developing countries without a parallel expansion and improvement of IMF credit facilities, and that does not appear to be on the horizon. Similarly, the little-used infant industry provision should be clarified for the day when countries may want to employ it; but there will be little pressure toward this end before the balance-of-payments provision is tightened.

In short, already existing GATT provisions and practices leave plenty of room for developing countries to protect their industries if *they* choose to do so. The corresponding provisions and practices in a new services regime would presumably follow the GATT lead. To the extent that they do so, developing countries will have plenty of leeway to protect their services industries as they see fit. If a new services regime is created, such "improvements" as are suggested here would probably be negotiated in parallel for both goods and services. A new regime for services will not and should not lead the rest of the system in this regard. "Improvement" of these provisions will have to be sought under current arrangements in the "mainstream" GATT regime for goods trade first.

Probably the most contentious of the "traditional" GATT approaches in a possible new services regime would be the pursuit of differential and more favorable treatment for developing countries. Appropriate definitions of beneficiaries and provisions for graduation from special status are now and would continue to be highly controversial. There is already widespread doubt, both within developing countries and elsewhere, as to whether their existing preferences under the GSP have gained them very much. Many hypothesize that these preferences have helped to legitimize discriminatory practices and the erosion of the MFN principle, largely at the cost of the developing countries. It would probably be more conducive to early agreement if the developing countries drew up their defenses around the exceptions and safeguard clauses, including the infant industry and balance-of-payments provisions, rather than around preferential treatment. *They* might nevertheless avoid conceding this point for tactical reasons for as long as possible. They might also seek an extended, and extendable, period for their own implementation of some or all of the general provisions of a services regime,

If there is to be developing-country participation, it may be necessary to add to the exceptions and safeguard clauses now found in the GATT within any generalized and across-the-board framework for services trade. A clause relating to the preservation of local arts and culture might find widespread favor. So might a clause that granted seniority to other existing or pending international agreements relating to the treatment of foreign direct investment, other capital flows, intellectual property, etc. Clauses relating to "reasonable" or "appropriate" domestic measures (in particular, various types of regulation) in support of specific national objectives might also be necessary, including definitions or lists of those policy instruments that are or are not acceptable. Special provision might also have to be made for cases of domestic monopoly in the services sector, whether state-owned or private. Such cases are more common in the developing countries than in the industrialized world.

Negotiating Processes and Tradeoffs

One element in the developing countries' response to the proposal to negotiate a more liberal framework for international trade in services has been their own (and others') limited conceptualization and analysis of where their interests truly lie in this field. In part, this has been the product of the lack of clarity in the U.S. (and other) proposals. In part, it has followed from the analytical ambiguities and confusion surrounding the concept of "trade in services" which are only now beginning to be sorted out. For many, it is the result of a continuing lag in the formulation of local interests and positions in this new, complex arena. Until the issues are more clearly understood, and above all, until the choices move beyond the level of gross and ideologically based generalizations, it is quite rational for the developing countries to stall. Reluctance to agree too quickly to move forward with services negotiations in the GATT may also have negotiating advantages.

Even if the developing countries begin to perceive the ultimate desirability of incorporating certain "deals" in trade in services into the overall trading regime, they might sensibly continue to drag their feet, demanding more data and more considered studies of the issues in the GATT and elsewhere. If they do agree to move more quickly toward some sort of framework for services trade, they are likely to insist, in the first instance, on forms of agreement that are fairly loose in their demands on the signatories - e.g., "principles and rules," such as the nonbinding ones on restrictive business practices agreed in UNCTAD, declarations of "best endeavors," voluntary guidelines, and the like. All these would be consistent with the aspiration to transparency agreed at Punta del Este. At the same time, they would permit experience to be gained and knowledge of the relevant issues to expand. Even a loose such a "framework agreement" could be while still suggesting to the U.S. that "progress" is under way remains to be seen.

At its broadest, the North-South dimension of the choice in respect of issues in services trade is between (i) a narrowly defined, tortuously negotiated and extremely contentious agreement on services and related issues, with limited coverage and probably limited membership, as against (ii) a much more ambitious "goods-for-services" deal in which the developing countries' immediate merchandise trading interests are more effectively secured in return for their cooperation in a new services regime (within which their longer-run development interests remain assured). The possibilities for tradeoffs within the former, more limited approach are an endless fertile field for the emerging new breed of trade lawyer. But the basic tradeoff of the latter approach is far more fundamental and more important to focus upon.

The industrialized countries are likely to be able, albeit with much difficulty and disagreement, to continue to develop more liberal, transparent and predictable regimes for their services transactions with one another. To induce the developing countries to enter into such arrangements, however, even with generous exceptions and safeguards to protect their interests, will probably require the industrialized countries to offer something immediate and tangible in return - most obviously, a rollback of current adverse discriminatory measures and practices, including the MFA (although some developing countries may be content with it), and firm commitments to refrain from them in the future.

Other, but still more difficult, possible dimensions of such a longer-run North-South trade "deal" might include the treatment of international labor flows (beyond those associated with services trade), international restrictive business practices and primary commodity trade. More broadly still, some developing countries see possibilities for linking international monetary and financial reforms with the resolution of disputes regarding the trade regime. There is an obvious logical link between trade and financial issues which is increasingly being recognized in international discussions and which is increasingly prominent in the balance-of-payments provisions of the GATT and in the lending conditions of the international financial institutions. In the existing institutional machinery, such wider "deals" could only be the product of "high politics," for which, unfortunately, the global environment still does not seem ready.

As has been seen, the developing countries are entirely correct in their protest that they should not have to make concessions in order to induce others to refrain from measures that contravene the spirit, and even the letter, of existing international agreements. On the other hand, trade in services and related issues are their most powerful current bargaining chip in antagonistic trading relationships in which they have not so far frequently been faring well. Strict legality and equity have *rarely* figured importantly in the practicalities of international economic relations. And, as always in economics, by-gones are by-gones; one must start from where one finds oneself.

Even if they gain little or even suffer losses from liberalized domestic trade in goods and services (and some analysts view potential gains from liberalization, even if unilaterally pursued, as substantial), the developing countries stand to gain greatly from a more liberal international regime for their goods exports, from international order, and more generally, from predictability. Eventually, they have no option but to pursue policies that may contribute to such objectives. Despite their reservations, most are likely eventually to see the possible advantages of a more ambitious "deal" and - perhaps holding their noses - to *work* to achieve one.

New Coalitions

The developing countries are alone neither in their anxieties concerning the possible implications of a new and liberal regime for international trade in services nor in their extreme *dependence* upon a healthy and predictable international economic environment. Many of the industrialized countries have been limited in their enthusiasm for the U.S. initiative. Those whose domestic firms face competition from large U.S. and other transnational corporations are still ambivalent at best about the desirability of a liberal services regime.

On the other hand, "free traders" favoring freedom of exchange on ideological or simplistic economic grounds can also be found in all countries. They typically favor unilateral "opening up" if no other possibilities for more global approaches are available, and they dislike "semanticist" bargaining over trade barrier reductions. The smaller industrialized countries also have a long tradition of strong support for the GATT.

Where large countries like the U.S. are threatening trading partners with unilaterally determined new trading conventions in services and other areas, there can be obvious advantages for smaller countries in building a joint front. In head-to-head bilateral bargaining against a larger partner, such countries can achieve outcomes as satisfactory as those they might achieve, albeit more slowly, from joint or fully multilateral approaches.

There has been some discussion in the ASEAN of a "Cairns Group" in services. Such a group could work to improve understanding and develop balanced approaches to services sector issues among a subset of countries that both span the traditional North-South divide and regard issues in services as important to their own commercial and development policies. As long as debate remains polarized between the major service exporting countries like the U.S. on one side and hardliner developing countries like Brazil and India on the other, not only will there be limited potential for progress on services, but there may also be reduced prospects for progress in the multilateral trading arena more generally. A Cairns Group in services, playing a mediating role in what has so far been the most contentious part of the Uruguay Round's agenda, might well be the key to its prospects for overall success.

ANNEX

Annex to the Preliminary Text of the Canada-U.S. Free Trade Agreement - Elements of the Agreement

1 Service

The parties have agreed to complete a final text that lay out a set of disciplines covering a large number of service sector principles. Such a text would include national treatment, right of

establishment right of commercial presence transparency and dispute settlements all of which will apply to future laws and regulation governing trade and investment in covered sector .

both parties have agreed to include in the service understanding a provision for addressing feature rollback in vision sector areas on a mutually agreed basic.

The parties will include sector real annexes clarifying the application of the disciplines

CHAPTER 9

Negotiations on Services

Anthony Hill

The Tokyo Round of multilateral negotiations concluded in 1979 with an Agreement on Government Procurement. This provided for coverage of services, but "only to the extent that they were incidental to the supply of products and cost less than the products themselves." Discussions on the possibilities of expanding the agreement to cover services contracts are continuing.

During the closing stages of the Tokyo Round negotiations, Jamaica proposed the adoption of a Code on Structural Adjustment and in May 1979 proposed that trade in services and restrictive business practices be the subject of an exchange of views. These proposals were made in the GATT's Consultative Group of 18.

The GATT Secretariat responded by preparing a note on *International Trade in Services* (CG. S/W/45, 10 October 1980). It provided some data and outlined work in progress in other forums. The Secretariat followed up with a background paper, *Trade in Services and the GATT* (CG. 18/49, 6 March 1981), which dealt, inter alia, with the main linkages between services and goods and set out a tentative classification of services by the nature of their association with trade in goods.

Between 1979 and 1982, a wide variety of views were expressed. At the outset, there was almost universal skepticism that the GATT could be a forum for any discussion of the subject. The dividing line was certainly not between developed (North) and developing (South). Some members, citing the complexity of the subject, felt that the OECD should continue its analysis before any work was undertaken in the GATT. Others felt that a fuller study of problems encountered in services trade was necessary prior to any GATT consideration. Still others doubted the wisdom of involving the GATT in a field so wide and disparate, governed by objectives and criteria of great variety, many of which were quite unrelated to free trade. Some parties even felt that the GATT had no competence in this area.

The debate continued in CG-18 during 1984 and 1985. In 1985 both Japan and the United States submitted written proposals for the inclusion of services in a new Round of multilateral trade negotiations. Japan proposed that a code be negotiated, while the United States proposed a "framework of trade principles" pertaining "only to the trade aspects of services." This proposal identified "sectors such as banking, insurance, telecommunications and data processing, shipping, aviation, and construction and engineering" as examples.

The United States and Japan were supported by most of the developed and a number of the Less developed Contracting Parties. A large number of less developed Contracting Parties and other developing countries applying the GATT on a de facto basis were opposed. Between 1982 and 1984, the Contracting Parties decided at the ministerial level "to invite contracting parties to exchange information" and initiated this process. National studies of seventeen developed Contracting parties were discussed in a technical group in 1985 and 1986.

Trade in services was included in the Uruguay Round of multilateral trade negotiations after protracted negotiations, with several less developed Contracting Parties opposed to its inclusion. It was finally agreed upon as Part II of the Ministerial Declaration -that is, it was not a decision of the Contracting Parties.

Given this brief background, what follows is a stocktaking of the negotiations in the "initial phase" (1987).

Group of Negotiations on Services

The Group of Negotiations on Services (GNS) agreed that at the end of the "initial phase" of negotiations (end-1987) there would be a stocktaking in order to determine how to carry forward a negotiating program. For the initial phase of negotiations, a number of elements had been identified. This list of elements was "non-exhaustive"; further, it was clarified "that no particular significance attaches to the way in which the items are formulated." When the elements were adopted, the Chairman pointed out that "it was the understanding of all participants that the objectives of growth and development mentioned in Part II of the Ministerial Declaration would permeate through all the elements to be addressed."

This stocktaking reflects the discussions to date and the Ministerial Declaration on the Uruguay Round. Specifically:

- a) Part II negotiations on trade in services are an integral part of the multilateral trade negotiations.
- b) "GATT procedures and practices shall apply to these negotiations."
- c) "The Group of Negotiations on Services shall report in the Trade Negotiations Committee."
- d) "When the results of the Multilateral Trade Negotiations in all areas have been established Ministers meeting also on the occasion of a Special Session of Contracting Parties shall decide regarding the international implementation of the respective results." [emphasis added]

Negotiating Objectives

A Multilateral Framework

The negotiations "shall aim to establish a multilateral framework of principles and rules for Trade in Services." They "shall respect the policy objectives of national laws and regulations applying to Services" and "shall take into account the work of relevant international organizations."

While the multilateral framework for trade in services "shall respect the policy objectives of national laws and regulations applying to Services," it should be noted that this is not limited to trade in services.

Any multilateral framework which is established in the context of the Uruguay Round, incorporating principles, rules and possible disciplines for trade in services, will be expected to achieve "the expansion of trade under conditions of transparency and progressive liberalization" and serve as "a means of promoting growth of all trading partners and the development of developing countries."

The multilateral framework may or may not be legally binding. If legally binding, the rules and disciplines may be more strictly defined, with procedures, practices and mechanisms set out as integral parts of the framework. Using GATT terms, this framework would entail both "rights and obligations" and specify procedures for dispute settlement. Principles may be drawn from GATT experience with trade in goods and those aspects of services already incorporated within the GATT framework; or it may extend beyond the GATT to take fully into account the principles, rules and disciplines which are to be found in existing international

(including

bilateral and regional) arrangements, as well as those enshrined in national laws and regulations applying to services.

Transparency and Progressive Liberalities

The multilateral framework established should create an environment favorable to the production of, and trade in, services. The experience gained from GATT negotiations will be helpful in the examination of the principles, rules and disciplines which would facilitate the expansion of trade in services. However, it may not provide all the answers.

"Transparency" entails notification and multilateral surveillance. It also guarantees the opportunity for all participants to be party to, or to be fully informed of, proposed regulatory changes in such a way that any negative impact on international trade of such proposed changes could, through consultation, be minimized while still achieving domestic regulatory objectives. Without such full transparency, some participants would merely be passive receivers of information, and consequently would not be in a position to influence the outcome of the measures under consideration.

"Progressive liberalization" in the GATT has been achieved through the "binding" of tariff concessions on individual products and through rules which prohibit or curtail the use of nontariff measures. Techniques and modalities have been developed which allow for the exchange of concessions and for the codification of the results of such negotiations either through schedules or, as in the case of nontariff measures in the Tokyo Round, through agreements and arrangements limited in membership and conditional in their application. However, since services are difficult to identify, classify and standardize, no hard and fast conclusions can yet be drawn as to whether GATT approaches are applicable, or whether the approaches and the experiences of other international arrangements provide the appropriate modalities.

Promoting Economic Growth and Development

The framework established should be so designed as to facilitate or promote economic growth and the development of developing countries. How to measure or evaluate whether and how such a framework promotes economic growth is a challenge to empirical analysis and the reliability of the data. There is also the question of

how to assess the value of trade in services in national output if the data are neither disaggregated nor reliable. The analysis and data needed to assess the contribution to economic growth may not be sufficient to assess the contribution to development, as this implies more than increments in output. Can it be assumed that increased trade in services, even if output is increased, leads to development? Unless each developing country benefits by increasing productivity and capital formation and by creating interlinkages among the different sectors of its economy, its development could be retarded even *though* output, as conventionally measured, has increased.

GATT experience *may* be helpful, for instance, in respect of "special and differential treatment" and in respect of the provisions in a number of articles of the General Agreement relating to the economic development of economies in the early stages of development. UNCTAD's work, especially as it relates to the contribution of services to development, and the national studies in progress in a number of developing countries will provide useful insights.

Respect for National Laws and Regulations

The multilateral framework to be established must take as given the policy objectives of national laws and regulations applying in services. Services in this context include both services provided within the domestic economy, including production services, retail

services, etc., and also factor and cofactor services traded internationally.

This objective does not require that the rules and disciplines of the multilateral framework be *consistent* with national laws and regulations. Rather, the multilateral framework shall *respect* the policy objectives of national laws and regulations. Rigid application of this principle could result in a situation where new rules may not be considered applicable by countries which have well-developed regulatory arrangements for their services sectors. On the other hand, developing countries which have not as yet been able to develop regulations may find themselves required to accept a greater degree of obligation.

Regulation is the central mechanism in ensuring that the provision of services conforms to certain general and specific rules of conduct for the benefit of the economy as a whole and for certain sectors. The regulation may be administered by the government (federal, provincial or municipal) or on its behalf by industries or

providers of services. The rules may be drafted by industries, professional groups or governments. Where there is self-regulation, the settlement of disputes or complaints relating to standards or conduct may be accomplished with or without an eye to respecting the policy objectives of governments.

"Policy objectives" may be defined in their most general terms as, for example, national security, which is the exclusive prerogative of governments. Governments may set broad policy objectives in the national interest and define them in terms of their social, economic or regional content. In most countries, governments reserve for nationals (including registered companies) or give priority to a number of social and economic activities which they believe to be essential for the welfare of their people. Governments even reserve a number of these activities for themselves - i.e., they are administered publicly. For some countries, industrialization is a major policy objective, and the policy designed to achieve this may be temporary protection for infant industries. Also, agriculture is a sector largely protected for a number of social, regional, economic and environmental reasons. Subsidies, import barriers and other measures have been used in fulfillment of these broad policy objectives.

One issue that will have to be examined is how far and to what extent GATT experience is useful. In this context, it needs to be recognized that while GATT rules are framed on the basic assumption that protection for domestic industry should be given through measures such as tariffs, which influence prices, protection for the services sector is given by adopting regulations. It is also necessary to guard against a situation where countries with established services industries seek to avoid the basic obligations by invoking grandfather clauses or by requesting waivers.

Moreover, the GATT as an institution does not review the trade policies of the Contracting Parties. However, over time, the decisions taken by the Contracting Parties have had an influence on policies which directly or indirectly restrict or distort trade. In the Negotiating Group on the Functioning of the GATT System, some Contracting Parties have made proposals for the establishment of machinery to review periodically the trade policies of all Contracting Parties. These proposals have been received with a certain degree of skepticism by a number of countries, particularly by some of the less developed countries, which believe that while the views expressed and the recommendations made may have little or no effect on the trade policies of the major developed countries, this would not necessarily be the case for the developing countries.

Work of Relevant International Organizations

The work of relevant international organizations may be narrowly defined to cover the activities which are undertaken by, in or through those organizations. It is assumed, however, that what is important in looking at international organizations is to see what principles, rules and disciplines are applied in regulating services activities. The GATT Secretariat and other international organizations have provided useful information in this regard. The key elements and their experience will be useful in the further consideration of the scope and coverage of the multilateral framework. It will not be enough merely to take note of the work. The effect that the rules and disciplines applied by these

organizations have on trade, economic growth and development will have to be examined.

Elements for Discussion

Five elements were identified, and discussions focused on them in the initial phase. It was a valuable and useful process, in that it allowed participants within a multilateral setting to begin to identify issues which could be included in a multilateral framework. This initial phase might be derived as issue identification, an important stage in the negotiating process. The five elements are reviewed in the context of the "negotiating objectives" and in light of the discussions during the course of 1957.

Definitional and Statistical Issues

Theory and empirical analysis are both inadequate. Much more work is required to gain a better theoretical and empirical understanding of the role of services in national economies and in the international economy. There is no commonly accepted set of definitions. Quantitative data for measurement and comparison are either unreliable or unavailable. The traditional distinctions between services and goods and the identification of "new" services pose problems. These will have to be clarified if progress is to be made in the negotiations, especially where empirical analysis, international comparisons and the measurement of trade flows are concerned. It is beyond the capacity of the GNS to fill these gaps. Participants will have to rely on the providers and users of services, statisticians and academics to provide these inputs. The GNS may therefore wish to request appropriate international secretariats to assist it in developing some typologies to aid each participant in assessing the costs and benefits of applying a multilateral framework, or even specific sectoral agreements. The GNS cannot *rely* exclusively on statistics already collected or those easily and readily available; nor should it accept this vacuum as unavoidable and continue to operate in ignorance.

Among the issues to be clarified are: (i) a better theoretical understanding of the role of services in economies and at different stages of development; (ii) the necessity to treat services not as a residual item, but as an important component; (iii) the need to disaggregate statistics collected in the field of individual service activities (e.g., the desegregation of services from goods in the construction industry); (iv) the need to distinguish between sectors, sub sectors and discrete products and to seek to define them more precisely, perhaps based on an improved International Standard Industrial Classification; (v) to break down the data on total trade flows along geographical lines; (vi) to establish interlink ages between the services sector and other sectors, perhaps by an improved input/output maven; and (vii) to identify services as both an input and an output of the production cycle.

Broad Concepts

"Broad concepts on which principles and rules for trade in Services, including possible disciplines for individual sectors, might be based" include, inter alia, (i) specialization based on comparative advantage; (ii) efficiency of the allocation of national and global resources; (iii) equity; (iv) competition and restraint of monopolistic or oligopolistic practices which may inhibit the functioning of "markets"; and (v) economies of scale.

It is assumed that these broad concepts, if applied rationally, would promote economic growth and the development of developing countries by maximizing global welfare. These broad concepts cannot be limited to trade in services, but must extend to the effects their application to trade in services will

have on national economies. Other broad "non economic" concepts on which principles, rules and possible disciplines might be based include (I) standards (health, safety, morals, etc), (ii) national security, (iii) employment

As the multilateral framework shall respect the policy objectives of national laws and regulations applying to services, it will be necessary, at another *level*, to identify as well those broad concepts on which regulatory measures and disciplines have been formulated.

.The definition and ordering of these broad concepts at both levels -applying both to services in general and to trade in services in particular - might bring some coherence to the negotiations and allow for a more systematic discussion of the principles, rules and disciplines which may form part of a multilateral framework.

Some principles more frequently proposed include: (i) most favored-nation treatment (implying nondiscrimination among participants, and nondiscrimination between services produced and traded domestically and those traded internationally); (ii) the right of establishment and the right of commercial presence; (iii) national treatment; (iv) reciprocity (and "relative" reciprocity in the case of less developed service sectors or less developed participants); and (v) transparency.

Specific rules and disciplines would follow from agreement on principles. Principles, rules and disciplines as applied through the multilateral framework and/or sectoral agreements would therefore have the effect of creating conditions for the expansion of trade and the promotion of growth and development of developing countries under conditions of transparency and progressive liberalization.

Coverage

The trade in-services to be covered by the multilateral framework is assumed to include those services, products or sectors which will promote both growth and development. What are the criteria to be used in selecting these services, products or sectors - share in international trade, importance for facilitating trade in goods, degree of governmental regulation or straightforward offers and requests? Should these services be, at a minimum, important in the production process and contribute to increasing employment, capital formation and the transformation of the economies of developing countries? Is it also to be assumed that services on the consumption side are to be covered (i.e., is a distinction between production and consumption services useful)?

A multilateral framework for trade in services will, of course, need to be consistent with any multilaterally agreed principles, rules and disciplines in the area of trade-related investment measures and

trade-related intellectual property rights. Some of these linkages have been identified - e.g., the concept of right of establishment, and access to intellectual property in the field of services. The coverage will need to take account of existing multilaterally agreed managements.

One approach to seeking agreement on coverage may work as follows. The services, products or sectors which participants consider of interest may be put on a "positive" or "negative" listing., transportation might be put on a "positive" list and financial services on a "negative" list. This approach would allow for the gradual listing of products and sectors which participants feel ought or ought not to be covered by the multilateral framework. Consideration could also be given to the sectors covered by national, bilateral, regional and international regulatory arrangements. As an example, the framework of the U.S: Canada Free Trade Agreement identifies trade in services to include transportation, telecommunications and computer services, tourism, and architecture. It also covers the principles of national treatment, right of commercial presence and right of establishment for each other's providers of services. Also included is a section on financial services, including "the grandfathering of existing privileges" and improved access and competition "consistent with prudential and regulatory requirements." It would appear that a multilateral framework would be expected to respect not only the policy objectives of national laws and regulations, but also the obligations entered into under the Free Trade Agreement. (Does this assume "rights and obligations" similar to those

provided for in Article XXIV of the GATT?)

The negotiating objectives allow for the "elaboration of possible disciplines for individual sectors." This implies that it may not be possible to elaborate disciplines or even rules across the board. A start should therefore be made in consolidating or drawing up an inventory of the disciplines in existing international arrangements. This list should include disciplines designed to regulate international "markets," even if those regulations are implemented at the national or regional level. Trade in many services is conducted in highly specialized and discrete markets of varying sizes and complexity. For - some "new" financial services, the market is described as global. It may be that the service product is defined or classified differently depending on the market - e.g., in the field of telecommunications, where levels of technology for trade transactions vary considerably. (Is there a need to develop an agreed international standup for services classification?)

Exist in international Arrangements

This is related to the element of coverage. It would be useful to make an evaluation of the extent to which existing international disciplines and arrangements contribute to the creation of an environment favorable for the promotion of economic growth and the development of developing countries. The principles, rules and disciplines in the existing international arrangements should also be examined in light of the broad concepts on which principles and rules for the multilateral framework might be based.

The development of "new" services will require that the evaluation not be limited only to existing international arrangements, but that it also include the examination of whether new principles, rules or disciplines are necessary *for* these "new" services. On the other hand, emphasis on the "new" services, particularly those produced by high technology, and insufficient attention to the traditional services, products and sectors would lead a number of developing countries to the conclusion that their interests were being ignored.

Barriers

"Measures and Practices contributing to or limiting the expansion of trade in services, including specifically any barriers perceived by individual participants, to which the conditions of transparency and progressive liberalization might be applicable" is an issue related to the element of coverage. Such measures may be those put in place by governments, while the practices may be those of private operators. This element does not refer to "the development of developing countries," but only to "the expansion of trade in services." This element might be pursued when sufficient progress has been made in other areas of the negotiations. The inventories being developed may be useful, however, as starting points in identifying services products traded and hence assist in classification and coverage. It will also be necessary to reach agreement on what constitute "barriers." GATT experience in trade in goods may provide some answers, but not necessarily all. Ileregulation should also provide some insights - e.g., civil aviation and telecommunications.

Further Work

At this stage, it may be useful to consider the following important points.

First, at the outset, and before there is general agreement on what constitutes trade in services - meaning a definition, standard classification and acceptable statistics - the establishment of a multilateral framework of principles and rules is called for. The GNS will have to find some practical way of dealing with this in considering "barriers."

Second, the central assumption on which GATT negotiations are based is the proposition that general welfare is maximized when the use of resources is optimized, and hence trade in products is "free." While this has never been attained, and while the Contracting Parties through their everyday protectionist practices deny the validity of this assumption, "progressive liberalization" is called for. In a world where rich

countries still maintain control over the movement of some Factor services (i.e., capital and technology) and where transnational corporations practice transfer pricing and are dominant providers and users of traded services, developing countries will wish to proceed with the utmost caution, [n many instances, the cost of services is already incorporated in the goods exported by developed countries (e.g., turnkey plants). The "right" to sell additional related services imposes further costs through liberalization.

Third, in respect of disputes arising from commercial transactions between importers and exporters, developing countries may require greater clarity in respect of applicable international law to cover disputes arising from, say, ownership.

Conclusion

Any multilateral . agreement would be unbalanced, inequitable and unworkable if it were to cover only access issues for providers and did not include exit issues for users, especially in those new services sectors, including telecommunications, which are revolutionizing the production process.

CHAPTER 10

Gains and Losses from Trade in Services

Paul Streeten

Generalizations, particularly in economics, use always dangerous. Empirical work usually destroys even the most imaginative, subtle and ingenious generalization. On the other hand, to say that each case is unique and that no general lessons can ever be learned from any specific event in space and time is to abandon thinking and analysis. The intermediate position is found in typologies and taxonomies. What might serve in analyzing country-specific gains and losses from trade in services is a typology by type of country and type of service. It would be helpful for a policy maker to look at a matrix showing on one side the characteristics of countries and on the other the characteristics of services, and then to *say*: Since my country is relatively small, has an income per head of \$x, is surrounded by the sea and has a services sector absorbing x percent of the labor force, my policy toward a service in which the user has to be near the provider, in which competition is strong and which is closely linked to commodity production and trade should be such and such.

A naive approach to the subject would argue that countries that advocate free trade in services have, on balance, to gain, while countries that oppose it have, on balance, to lose. But this is not necessarily true. Frequently, countries wrongly perceive and analyze their gains and losses from policies *they* advocate. This is particularly true of developing countries.

Developed-country Gains

The principal advocate of free trade in services has been the U.S. What are the potential U.S. gains? Clearly, the advocacy has

This paper is greedy ideologically in Jagdish pragmatic international! Trade in Services and Its Relevance for Economic Development, Ten Mennual Lecture of the Geographical Association Press, 1985), and in Deepak Nayyar's "International Trade in Services," Exim Bank Annual Lecture, 1986.

applied largely to certain kinds of services, above all banking and insurance, and not to others, which would imply large-scale immigration of people from developing countries. Some services involve movement of the user to the provider (haircuts in India, or Niagara honeymoons, cannot be exported); others, movement of the provider to the user (the construction of buildings or roads). Still others do not require movement by anybody: information is passed along a wire, television can be beamed from a satellite. It may not be sensible to fly chartered plane loads of Americans to India to have their hair cut, but it is perfectly sensible to invite Indian construction companies, consulting services or

doctors, or Mexican dentists, may come to the United States and service consumers there. A truly general freeing of trade in services would give free access by nationals from developing countries to users in the advanced countries. Such a step (as also the close link between some services and international capital flows) would mean encroaching on the time-honored distinction between free trade in goods and permitted restrictions on the flow of factors of production. The distinction between factor mobility and trade becomes blurred.

A consistent policy of free trade in goods and services would remove all restrictions on the migration of people who can provide services, or at least allow for temporary immigration while the service is provided. At the moment, the U.S. is advocating *free* trade in services which involve other locating Americans abroad or rendering services "along a wire," yet not wishing to accept the services of Korean construction crews or Indian doctors.

There are three possible sets of gains for the U.S. First, there is the gain from the political support of powerful lobbies that would benefit from free trade, though these are not national gains. But politicians, according to one theory of the state, trade policies for votes, and if yielding to these pressure groups promises political support, this is a powerful motive for adopting them. The U.S. multinational banks are such a pressure group, and yielding to their demands constitutes the first type of gain to the U.S. governmental political gain, though not necessarily a gain to the nation as a whole.

Ascending in the coverage of interests, there is a second set of reasons which do apply to the U.S. national interests. It can be argued that the U.S. comparative advantage in services has increased, and that to exclude these services leads to an unfair division of the gains from trade. But it must be noted that the services that are entering

international trade are only a small part of the general expansion of

the services sector in the U.S. economy. It is true that some of these

services are provided by government monopolies or by regulated private enterprises, so that comparative advantage is not always

as apparent or easy to determine as it would be in competitive enterprises. But the fact that the U.S. has in general achieved substantial

cost reductions in services connected with electronics and the transmission of information cannot be doubted. If, the U.S. says, it keeps American markets open to foreign goods, but foreign markets remain closed to American services, this leads to a biased international division of labor in which the U.S. loses. It will, of course, be argued that other countries' trade restrictions do not affect the benefits to any given country from liberalizing its trade. Adam Smith computed other countries' evictions to rocks in your harbor, which are no reason for throwing in additional rocks. But in the present atmosphere of "reciprocity," the bargaining power over closing markets to goods, even though it would hurt the protecting country, can be used to achieve liberalization in services in other, importing countries.

At the third and highest level, free trade in services is thought to benefit not only the U.S., but the world community as a whole. Since Ricardo, economists have advocated free trade as beneficial to all participants. But as we know from the theory of the second-best, partial free trade can be worse than severer trade restrictions. Trade diversion may be stronger than trade creation. Only the elimination of *all* barriers to trade can, on certain assumptions, be shown to be in everybody's interest. Quite apart from arguments derived from the theory of the second-best, America believes in a liberal world trading order. Under the postwar *post Americana*, it has upheld the principle of liberal trade in institutions such as the GATT, the IMF and the World Bank and has provided the public or collective good of this type of trade regime. With the decline of American hegemony, with slower economic growth and with the large and persistent deficit in the U.S. balance of payments, the U.S. commitment to a liberal trading order has declined. But the U.S. still believes in the rule of law in international trade and opposes discretionary controls. At this level, free trade in services is not only good for America, but good for all participants.

In advocating this stance, the U.S. is not alone. Other advanced postindustrial or service countries, such as Great Britain and Switzerland, have joined the U.S. call. Even some developing countries which stand to gain from offshore banking operations, such as Hong Kong and Singapore, consent. At one time it was thought - mainly by the late Nicholas Kaldor - that productivity growth in services is slower than in manufacturing, and a growth strategy suggested discriminating against them. But this view is no longer popular, and countries like Britain and Switzerland have made common cause with the U.S.

Developing-country Fears

Why, then, do the developing countries, led by India and Brazil and joined by Argentina, Nigeria, Cuba, Egypt, Nicaragua, Peru, Tanzania and Yugoslavia, fear that they would lose from liberalized trade in services? There are six arguments explaining the fear.

The first argument is the reverse of the second argue of the U.S. If comparative advantage in services has shifted to the postindustrial advanced countries - to the service economies - it is feared that the developing countries would lose either relatively or absolutely. This assumes, of course, that productivity improvements are not passed on in lower import prices, or if they are, that this prevents the growth of infant service industries in the developing countries.

A second fear is that negotiating about services will divert attention from keeping trade in goods open (or liberalizing it where it is now restricted) and thereby harm the developing countries in an area in which their comparative advantage is greatest. A particular form of this fear is the anticipation that concessions on services will be traded for relaxations of violations of the GATT spirit in such areas as the Multiforum Arrangement.

The third fear derives from various extensions of the infant industry argument. Although the developed countries now have a comparative advantage in services, the developing countries may acquire it in the future. Jonathan D. Aronson, in a paper for the Overseas Development Council, illustrates some success stories of service industries in developing countries.' Avian, Colombia's national airline, is the second oldest in the world (after KLM). Banco do Brazil was for many years among the most profitable banks in the world. Reuters is now owned by Mexico. India's software industry is highly respected. Singapore Telecom is an innovative leader, and PALAPA, Indonesia's satellite communication system, is extremely modern, Korean and Taiwanese construction firms are world leaders. And the Philippines are becoming a force in the animation of cartoons, architectural design and drafting.

Comparative advantage in services depends upon (i) the existence of certain types of infrastructure, subject to decreasing costs, (ii) certain skills and aptitudes which can be learned by doing - and the initial learning phase can represent large fixed costs, and (iii) certain attitudes which may call for a cultural transformation. Moreover, services often require lumpy investments with long gestation periods, and they may yield externalities and economies of scale. The initial comparative disadvantage is not God-given; it can be reduced and eliminated. But this process takes time. Meanwhile, protection is justified.

This line of argument is reinforced if it is remembered that the developed countries heavily protected the same service industries in which they have now gained superiority. Even the most generous act in history, Marshall Plan aid, was combined with such protectionist measures. Half of U.S. food and equipment sent to Europe had to be carted in American ships, to the chagrin of maritime powers like Norway.

The infant industry argument as such is not, of course, a first best argument for protection. If future gains compensate for current losses, including an appropriate interest rate, it constitutes a case for borrowing - possibly from the government, if private markets are imperfect. But if the future benefits accrue to others than the investing firm so that there are externalities, either a subsidy or, if there are fiscal constraints, protection is indicated. Under this heading one might also include restrictions intended to offset restrictive business practices by the foreign service provider. But this applies just as much to trade in goods as in services.

A fourth argument relates to the division of gains from trade. Transnational corporations are heavily engaged in trade in services: the large multinational banks, insurance companies and other financial institutions.' It is well known that antireform trade is not guided by the same considerations as arm's-length trade, and the transfer pricing practiced by multinationals can give rise to too small a share of the profits accruing to developing countries.

A fifth argument relates to the balance of payments. The developing countries now have a large and growing negative balance on services trade, and they may fear that freeing this trade would put an additional burden on their balance of payments.

A sixth set of arguments relates to political, strategic or cultural factors. Some services, such as tourism or advertising, can be excessively intrusive, encourage the wrong attitudes in the local population and disturb indigenous cultures. Others may be closely linked to areas of national sensitivity, such as the mass media, and be ruled out for foreigners. Others again *may* be regarded as part of the infrastructure and affect national security, such as telecommunications, shipping or banking. It is important, though not *easy*, to distinguish between barriers to trade and methods to preserve national culture, security and autonomy. But even on narrowly economic grounds there is reason for caution. Some services, such as financial services, give rise to movements of capital (and others, as we have seen, to movements of people). If a country wishes to maintain control of its capital outflow, free trade in financial services makes this more difficult. Past theory and practice have drawn a sharp distinction between the flow of goods and of factors of production.

Developing-country Gains

'There are two possible types of gains to the developing countries from freer trade in services. First, they may benefit from cheaper and more efficient imports of services provided by the richer countries. Cheaper banking and insurance services may help the production and export of developing countries, just as cheaper imports of steel reduce the costs of producing goods using steel. Secondly, they themselves may have a comparative advantage in certain services.

The first type of argument does not weigh heavily with mercantilist-minded politicians, who see imports as a loss and exports as a gain. It can also be countered with the infant service argument, although there may be better methods than protection to encourage an infant service. '

The advanced countries both dominate the trade in services and have a large export surplus in services. Deepak *Nayyar* argues that this implies that they have a substantial interest in the liberalization of international trade in services.' As we have seen, it is true that their preponderance and their large export surplus suggest that they have a comparative advantage in services and can benefit by selling even more when trade is liberalized. But there are arguments on the other side. The elasticity of demand for the services of a small newcomer is much higher than that for large, established firms: If a developing country can establish a cost advantage in a market now occupied by large firms, its prospects are good. This applies to volume of sales. As to the terms of trade, again, developing countries can benefit from the expansion of exports of services by advanced

countries. If economies of scale prevail, or if prices have to be reduced for larger sales, the terms of trade of the developing countries will tend to improve.

The second argument has both economic and political appeal. Some developing countries, such as South Korea, have shown great competitiveness in consumption. Other developing countries have acquired comparative advantage in communication software, punching data onto cards, conveying information of all sorts across a wire, in tourism, shipping, etc. In order to reap these advantages, it is important to insist in the negotiations that not only services in which the advanced countries have superiority, but also those in which the developing countries are superior, should be included. Domestic services by Central American maids, medical services by Indian doctors and

construction services by Korean crews would have to be freed, as well as American banking and insurance services.

Dependency and Equality

Two final considerations would justify some hesitation by developing countries in accepting free trade in services. They have nothing to do with infant industry arguments, balance of-payment losses, restrictive business practices, national sovereignty, cultural autonomy, externalities, infrastructure or "commanding heights."

The first consideration springs from a specific characteristic of services. Services are not storable. There are exceptions - software messages stored on a recording machine - but, by and large, they cannot be stored. They have to be consumed at the same time as they are being produced. They have been defined as those fruits of economic activity that you cannot drop on your toe. This gives added power to the provider of the service if there are no adequate alternatives and if the service is important. Electricity workers and railway workers have greater bargaining power than coal miners, because coal can be stocked and used while miners are on strike, whereas electricity and transport cannot. The bargaining power of the providers of services is greater than that of the producer of storable goods. Whether this is important in international trade - say, in the case of trade embargoes or sanctions - remains to be seen. If a country became dependent on another country's essential service, e.g., shipping, this could lead to greater dependence than, say, on imports of grain. In this sense, the growing international

trade in services would reinforce a tendency already at work in the international economy, viz., growing *interdependence*. By this is meant not only the growth of benefits from international relations, but also the growth of possible damage should these relations be disrupted. A strategy that is risk-averse might forgo some of the benefits of exchange and provide the service domestically at higher costs for the sake of avoiding the risk of damage should trade be terminated. This constitutes an argument against free trade in services not usually presented.

The second consideration is concerned with equality - The international division of gains from free trade in services may be unequal and, moreover, may make formulating national policies for greater equality or an incomes policy more difficult. Consider a model in which two types of services have to be combined, one of which is highly skilled, the other unskilled. Let us take air transport. The providers of the skilled service, pilots, are in relatively scarce total supply, but are highly mobile between countries in response to financial incentives. On a clear day, an airline pilot can see the world. The unskilled factor, ground personnel, are in highly elastic local supply, but immobile between countries. The result will be that pilots will earn large rents, while ground personnel will get the bare minimum *wage*. Any country, even a very poor country, wishing to have an airline will have to pay its pilots high international salaries, or it will lose them. A policy to make incomes more equal domestically will be impossible. Both international and domestic inequalities will tend to increase. Other examples are transnational advertising, hotel chains, tourist enclaves, etc. The cause of the problem is differential elasticity of supply of types of services that have to be combined. These can cause more serious problems to developing countries than the direct effects of the brain drain.

Costs and Benefits within Countries

More important than the impact of free trade in services on different countries is its impact on individuals, families and groups of people within countries. It would be possible, for example, for services trade liberalization to benefit rich countries, but mainly rich people within these countries, and to harm poor countries while benefiting poor people within these countries. In the bad old days, when it was assumed that government could do no wrong, a benefit to a country was readily converted into a benefit to serving people

through taxes, subsidies and social services. But according to current views, governments can do no right, and it is therefore important to trace costs and benefits to specific groups. So far, not much work has been done along these lines.

Since much of the services trade is conducted by large transnational corporations, it

may be presumed that a large share of the benefits would accrue, at least in the first round, to the capital and management of these corporations. If informal-sector enterprises were included in the liberalized trade, some sections of the poor would benefit. An analysis could be conducted in terms of the relative labor and capital use of traded services versus no traded goods and services. If the traded services were more labor-intensive than no traded goods and services, liberalization would raise wages not only in these services, but in all sectors, and would benefit the wageearning groups. If the opposite were true, the reverse conclusions would follow.

Notes

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CHAPTER II

Assessing Country-specific Gains from Trade in Services

Winston Fritsch

Negotiations in this area shall aim to establish a multilateral framework of principles and rules for trade in services ... as a means of promoting economic growth of all trading partners and the development of developing countries.

-Minismrial Uedaration on the Uruguay Aound Sceptember25,1987.

The negotiating objectives agreed upon in Punta del Este explicitly state that the ultimate aim of the multilateral services agreement to be pursued in the Uruguay Round is to promote economic growth and, in particular, the development of developing countries. This is a long way from the stated aim of the General Agreement itself, where the concern with the development needs of developing signatories came as an afterthought in Part IV as a response to widespread frustration with GATT practice as regards the trade and development link.

Ironically, however, these concerns appear explicitly in an area in which assessing the trade and development gains from freer trade is far more difficult than in the traditional area of trade in goods. This is so because information regarding the very magnitude of the transaction flows at an adequately disaggregated level, and the extent and kinds of barriers, is scarce. Also, complex theoretical issues are raised by the departure of international services transactions from the assumptions underlying the traditional comparative advantage framework - notably, the fact that they are almost inextricably linked to international factor movements and the operation of multinational corporations.

Thus, the theme addressed here, however relevant, is not as yet amenable to treatment in any general and theoretically unifying manner. One could, therefore, either choose to make an extensive

discussion of the main internationally traded services and of the impact of their liberalization on countries with different characteristics, or be selective. Since only the second option was within my powers, what follows is an attempt (i) to try to clarify some of the analytical peculiarities of international services transactions which make it

difficult to appraise the impact of their liberalization, and (ii) to address the question of liberalization in producer services transactions stemming from recent technical advances in telecommunication and informatics - by far the most contentious, and probably the most relevant, question before the negotiators.

What Is Peculiar about Trade in Services?

The term "services" - as, indeed, "agriculture" or "industry" - encompasses a very heterogeneous group of activities. Nevertheless, the set of activities classified under the services sector has two important distinctive common features. The first relates to the *contracts* associated with service transactions. In a service transaction, the producer operates on goods owned by other agents or on those agents themselves.' It is not possible for a travel agent to buy a stressed New York stockbroker, take him to Rio and sell him back in a better condition after a week. Similarly, Citicorp is not sold to Sherman and Sterling and bought back after a legal consultancy job is performed by the latter.

However, while in the case of personal services, this characteristic of the activity performed is always necessarily true independent of the agents' decisions, since owning people is nowadays illegal, in the case of producer or "business" services,' this is - when not legally binding - the result of a managerial decision of the firm or public administration unit about the *externalization* of its activities. A late eighteenth-century English cloth merchant had to choose between putting out raw materials for household services and setting up a spinning and weaving factory. In the same way, a modern manufacturer has to decide between hiring transportation services and building up its own fleet of vehicles to distribute its wares.

The second distinctive characteristic of services is physical, not economic. Unlike goods, they are not storable and must be consumed in the very act of being provided.³

These two features have an important bearing upon the nature of international trade in services, severely compromising the capacity of the traditional comparative advantage model to analyze such

trade. On the one hand, because services are not storable, they (unlike goods) cannot generally be produced in one country and consumed in another.' Thus the vast majority of international services transactions require physical proximity between the provider and the user. Therefore, the question of the liberalization of these transactions is inextricably linked to the liberalization of international factor mobility, especially in what concerns the (even temporary) movement of labor and foreign direct investment. This fact violates the analytical distinction between trade and factor mobility upon which traditional thinking about gains from trade is based.

On the other hand, even the "truly tradable" transporter (mostly producer) services, which do not depend on provider-user proximity, but take place through arm's-length transactions, are not covered by the traditional comparative advantage model, which is at a loss to explain the logic of the international externalization of activities that gives rise to these transactions. As noted earlier, this decision depends on the continuously shifting balance of incentives to *international* vertical disintegration (externalization) of producer services by firms. Such externalization, in turn, is the result of a complex dynamic interplay between technical progress and market size (which determines attainable economies of scale in each of the firm's activities), market structure, search and transaction costs, and perceived risks.

Moreover, while technical progress in the field of telecommunication and information has enlarged the possibility of remote services transactions and thus the *tradability* of services, it has, ironically, increased the attractiveness of foreign direct investment in several ancillary sectors, notably banking and other financial services.^o

Another peculiar feature of international services transactions is the structure of protection in the world services industry. In fact, not tariff regulation is far more pervasive here than in trade in goods, especially in banking, insurance and telecommunications. Some sectors are regulated not only by national law, but also by formal multilateral agreements between suppliers - notably, in aviation, shipping and

telecommunications. However, the unique feature of services protection is that national regulation applies not only to transactions (as in the case of trade in goods) but also to the *provider* of services, as is the case for government procurement rules and subsidies which discriminate in favor of national producers^o. The lack of transparency of the present structure of protection, which

varies widely across sectors and countries, is also a source of great difficulty in assessing the outcome of the linearization of services transactions.

Finally, international services transactions are far less often documented than trade in goods. In fact, the only systematically collected data in services come from no factor services balance-of payments statistics, usually available in disaggregated form only for travel, shipping, insurance and government services. All other services - including the most dynamic producer services - are lumped together. This poses a serious difficulty in assessing the impact of liberalization on developing countries.

Producer Services and Telematics: The Crucial Issue

The discussion so far has attempted to show that any exercise to quantify or even to qualitatively assess country-specific gains from liberalization in services transactions is plagued with difficulties stemming from the paucity of available data, a lack of information on the texture of protection and the prevalence of nonprime restraints, and, last but not least, important conceptual problems. In general, while discussing likely developing country-specific gains in the negotiations, one can offer little more than platitudes regarding liberalization in sectors where developing countries have been shown to possess a comparative advantage or the freeing of labor mobility.

There is, however, one aspect of the present development of the world services industry which may be crucial for the development process of industrial and developing countries alike. It may even change the present global pattern of comparative advantage outside the services sector. This is the recent extraordinary growth of the producer services sector in developed countries caused directly or indirectly by the widening application of communication and information technology.

Several developing countries have performed very well in respect of some internationally traded services - e.g., tourism, construction or transport-related services. However, due to several factors, such as the inadequacy of infrastructure in communications or informatics, the lack of skilled labor or the tendency of local firms to import such services, the great majority of developing countries have not experienced a parallel growth in the production of producer services. In fact, this explains why the current deficit of developing countries in services transactions (in the IMF definition) has increased dramatically over the past decade.'

The impact of domestic trade and production policies on these new producer services is, however, crucial for economic development. First, as intermediate inputs, their provision at internationally competitive prices is important to maintaining overall efficiency and export growth. Second, these new activities have important backward linkages with the production of hardware in the domestic communication and informatics sectors.

The changing balance of comparative advantage in trade in producer services, and the opportunities (perceived by multinational enterprises) created by the diffusion of the associated new technologies, explain most of the U.S. pressure that led to the mandate to include negotiations on services in the Uruguay Round, as well as the emphasis on questions such as the "right to establish" and "national treatment" by U.S. negotiators. The reaction of relatively advanced developing countries which seek to develop an indigenous capability in telematics, on the other hand, promises to make this issue a central part of the debate in the GNS.

In no way can an open economy afford not to *draw* on these new technologies if it is to maintain its general competitive position. Although today, comparative advantage in the sector seems to lie overwhelmingly with a few developed countries, the question is once again one of strategic trade policy - of balancing short-term static locative efficiency losses against dynamic considerations of comparative advantage gains. In responding to this challenge, the crucial aspects to be taken into consideration are (i) the

state of development of infrastructure and skills to deal with communication and data processing, and (ii) the extent of the potential domestic market for these services. Countries lacking large markets and adequate infrastructure gain no advantage from selective import substitution and should concentrate on freeing and improving their access to efficient international suppliers. Countries with large markets and well developed infrastructure are best placed to respond in terms of developing an indigenous capability. This seems to be the case among the leading G-10 countries.

Note.

1. G Findly, "A Framework for Services Trade Policy Question." Pacific Economic Review 126 (September 1985).

2. This is the term generally used to refer to such services as design, engineering and end design, management, legal and other consultancy services, training, advertising, insurance, banking and financial services, imports and exports trading, market entry, leasing, accounting, investment promotion and consultancy, distribution, maintenance and quality control, and shipping and chemical/physical analysis. See M. Gibbs, "Series: Commerce for Development," mimeographed (Geneva, March 1987).

3. T.Y. Hill, "On Goods and Services," Review of Economics and Statistics, December 1977.

4. This is the case when the residence of the provider and the residence of the consumer are in different countries. A typical example is the provision of services, for instance, involves the movement of a service by a provider to a nonresident consumer (e.g., tourism, education (e.g., consultancy) or across (e.g., transport or telecommunications) the provider's national borders.

5. O. Nanyang "International Trade in Services: Implications for Developing Countries," Pacific Economic Review Annual Lecture, Bombay, March 1986; J.J. Schon and J. Mazza, "Trade in Services and Developing Countries," Journal of World Trade, May-June 1986.

6. For a description, see UNCTAD Secretariat, Trade and Services: Policies and the Underlying Factors Governing International Service Transactions (New York: United Nations, 1985).

7. M. Gibbs, "Services" (see note 2).

8. For a detailed analysis see K. Ssuvana, Trade and Foreign Direct Investment in Domestic Services (oulder: Westview Press, 1986).

CHAPTER 12

Services in the Uruguay Round

Murray Cobban

Trade in services (TIS) has long been on the agenda of international discussions on trade and development. What has changed is both the nature of the debate and the attention it receives. For *many* years, services have been accepted as a significant component of overall trade and development, but more often than not, the trade debate either left the implications of this recognition largely unaddressed, or saw them as falling within the responsibility of the U.N. specialized agencies (ICAO, IMO, ITU, etc.). The situation today is the reverse TIS is now one of the most debated issues on the international agenda, and the issues being discussed relate more to its general economic impact, to national sovereignty and to negotiating priorities than to technicalities of specific service sector transactions. The catalyst for much of this change has been the Uruguay Round.

While the nature and content of the Round have been shaped by many factors (notably, some of the long-standing issues of the GATT agenda, such as safeguards and agriculture), it was the TIS debate which generated much of the heat - it not the most light - in the preparatory stages. Not only has the treatment of TIS been a significant determinant of the overall format of the Round; its handling in the

substantive phases of the negotiations may have important implications for the future nature of the world trading system.

This paper looks at the international discussion of TIS in the GATT context. It briefly reviews the state of the subject; the origins and evolution of the GATT's involvement; the interests and approaches of the key participants in the Round; the progress made in

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the negotiations; and some of the major issues and possible directions in which the discussion appears to be heading. The positions of and implications for developing countries are considered under each heading.

The Scale of Trade in Services

The increasing significance of the services sector in almost all national economies has become particularly marked over recent years. In major industrial countries, services now account for around two-thirds of GNP and have a major impact on levels of employment and on the implementation of technological change. In the Third World, services account on average for about 30 percent of GDP in the low-income developing countries, nearly 50 percent in the middle-income and just over 50 percent in the upper-middle-income developing countries. A variety of services based on tourism, offshore financial activities, information technology and telecommunications are sometimes a major source of current and future employment and development in developing countries (e.g., those small island economies where receipts from tourism alone are often larger than the value of their visible exports).

While there are significant problems of a definitional, and consequentially statistical, nature (which are explored later); there is no doubt that TIS is now a substantial part of world economic activity. In 1984 the IMF estimated that the value of global services exports was \$375,000 million, or about 20 percent of world merchandise exports. The share of services in world trade appears to have remained fairly constant during the last decade or so, with services exports growing at an annual average rate roughly equivalent to that of growth of trade in goods (14.7 percent, compared with 15.4 percent in the period 1970-82), although there are some indications that the growth rate of services may now be higher than that of goods.

Traditionally, trade in professional services (banking, insurance, construction, engineering, consulting, data processing, etc.) has been dominated by the developed countries, notably the United States, followed by the U.K., France and the Federal Republic of Germany. Developing countries are mostly net importers of services, as a group exporting only \$0.78 in services for every \$1.00 they import. There are, however, signs of change. Developing-country exports of services doubled between 1978 and 1984, when those of the industrial

countries increased by only 58 percent. In the same period, the developing countries' share of global services exports increased from 22.3 percent to 27.3 percent. Most developing-country services exports are related to travel and tourism, but a number have established advantages in other areas, such as financial services (Hong Kong), transportation (Singapore) and construction (Republic of Korea). The relationship of services, and particularly TIS, to development has been explored in considerable detail by UNCTAD. The Seventh UNCTAD Conference, held in Geneva in July 1987, gave that organization a strengthened mandate in this area, and the information which will be produced from this should improve the developing countries' ability to assess the economic implications of negotiating proposals made in the Uruguay Round. Increased Pressure for a GATT Negotiation

Even acknowledging the importance of TIS in the economies of particular countries and in the world as a whole does not, by itself, explain why there has been such a rapid elevation of services to such prominence in international discussion. Nor does it

explain the reasons why the GATT has achieved such a predominant role in these discussions.

It is well known that much of the pressure on both these points has come from the U.S. There appear to be at least five linked reasons why the U.S. has pushed so hard for a services negotiation. First, the increased role of services in both the U.S. economy (and many others) and in international markets has increased the prominence of services (and the political influence of large corporations involved in them) at a time when the U.S., like other developed countries, is concerned at an apparent erosion of its competitive position in trade in manufactures. Second, there is an increasing recognition of the changes *which* technological advances are making in the number and scale of services which can now be traded. Third, unilateral deregulation of service industries in the U.S. and in other developed countries, including the U.K., Australia, etc., has led some domestic producers of services to believe that they are at a disadvantage relative to foreign competitors whose countries do not provide reciprocal access/benefits in their own markets. Fourth, the push for "liberalization" of TIS is seen as supportive of other U.S. policy goals, notably in the areas of high-technology trade, intellectual property rights and trade-related investment measures (particu-

larly insofar as rights of establishment are involved). Fifth, the deterioration in the U.S. trade balance in goods has heightened the concerns already being felt internationally over increasing protection - and services trade is an area in which examples of protection are readily perceived (whether or not "justified") and where recent pressure has been concentrated to achieve "fairer terms" in competing for contracts in areas such as telecommunications, infrastructure systems or air transportation.

Many other countries, mostly developed, but some developing, share some, if not all, these concerns. Some developing countries also see advantages, either to their own service industries (including those through technology transfers) or to their consumers in terms of lower prices for service imports, from a more transparent and open set of rules covering TIS. This latter viewpoint is, of course, to some extent offset by the approach of many developing countries, whose own development strategies at present see services primarily in terms of achieving self-sufficiency.

The reasons for the choice of the GATT as the forum to change the situation are perhaps less clear-cut. One key point is the U.S. desire for a "framework" - a set of principles and rules - to cover all TIS. This suggests a "legal obligations" approach similar to that already inherent in the GATT's treatment of trade in goods. It is reinforced by the implication that a broad framework approach requires a forum other than that provided by the existing industry-specific service organizations. Second, using the GATT holds the attraction for some countries that its nondiscriminatory rules would appear to support many of their objectives for the framework, e.g., national treatment. A third point is doubtless the U.S. dislike of other international organizations with a general trade-related role; any trade "negotiating" process has always been run by the U.S., and some other countries, as a GATT-based exercise, and they will only infrequently, and reluctantly, enter into in other fora. There is also the argument that the GATT Codes negotiated in the Tokyo Round already provide some precedents for handling services in a framework manner.

The objection to using the GATT from [those countries which insist that its competence is confined to trade in goods appears to be based on rejecting the applicability to TIS of the very points which make the GATT attractive to the U.S. and some others, notably, the nondiscriminatory and legally binding elements, because of their impact on national sovereignty in the field of services.

The decisions at Punta del Este may have effectively ended part of the argument: there is a "negotiation" on TIS (despite the continuing argument over its content and end product) in the GATT. The fact that there is important work being done in other fora, whether sectorally based or more wide-ranging, is very relevant, but in the final analysis, whatever is decided in the GATT negotiation will be, for some countries, *the* result which will count.

Coverage of the GATT Debate

One of the key problems of discussing TIS has been, and in many ways remains, definitional. At the level of "economic theory," it is apparent that broad generalizations stating that the implications of liberalization of TIS are the same (analytically) as those of trade in goods may not be valid. The very heterogeneous nature of the economic activities covered by the term "services" introduces scope for differences in interpretation. The variety of activities (which include banking, insurance, finance, public administration, data processing, consulting, construction, transport, entertainment, education, medicine and tourism) and their diverse policy implications have resulted in different participants' taking different groups of activities as the basis for the debate. The very task of identifying "traded services" and agreeing on their definition is, at this stage, still an underlying concern of many negotiators in the Round. One key point here (which has significant policy implications) is that of agreeing to a definition which addresses not only the production of a service in one country which is used/received or paid for in another, but also the temporary displacement of persons to consume or (more controversially) to provide such services. The other dominant issue is the right of establishment (or more correctly, that of commercial presence) - a subject addressed later. The problem for most developing countries is that generally, they are less competitive in "traded services" (if the term is narrowly defined as those not invoking rights of establishment) such as banking, insurance and computer services than are the developed countries. The definitional scope can also be of critical importance to individual countries. For example, is it in developing countries' interests to include physically separated traded services or investment/establishment-related services in the discussions without other participants' being prepared to include labor-related services?

The definitional problem is both a cause and a result of statistical confusion. Even at the national level, there is a frequent overlap of manufacturing, agriculture and mining activities with service-related activities, particularly where "in-house" service activities are involved. When attempting to consider international statistics, the situation is even more complex. At least three problems are encountered. First, the balance-of-payments statistics on international services transactions are not sufficiently disaggregated for meaningful analysis. Second, detailed data of trade flows by country of origin or destination are not available (or services). Third, insofar as services are embodied in goods which enter international trade, data on traded services are not separable from those on traded goods, where the service component of such transactions is often included. In an attempt to address these problems, UNCTAD has been defining TIS as all transactions in the current account of the balance of payments, excluding merchandise trade and private transfer payments.

Most participants in the Uruguay Round have endorsed the need for improving the statistics and have urged enhanced cooperation between, and sufficient funding for, international organizations (including the U.N. Statistical Office, IMP, UNCTAD and UNCTC) to improve their databases. There are, however, a number of major industrial countries which believe that this definitional and statistical work, while desirable, should not impede starting substantive negotiations on the elements of broad framework agreements covering the services sector.

There is also a "definitional" problem involved in determining exactly what are the "barriers" to trade which will be taken up in the Round. The U.S. has documented some 500 such barriers in a range of countries, both developed and developing. Others, particularly some developing countries, would not regard many of the measures on the U.S. list as barriers to be negotiated in the GATT, especially where they concern matters relating to direct foreign investment, control of transport and communication networks, or selective government procurement.

The other element of confusion over coverage results from the different perceptions of the possible outcome. The "framework" approach of the U.S. and Japan has on occasion been characterized as being reducible merely to inserting the words "and services" after "goods" throughout the General Agreement. While this is obviously an oversimplification, the strict Framework approach can give rise to a different perception of the coverage from that of the majority of

participants, both developed and developing, who see some scope for "general rules," but with sectoral differentiation. It certainly emphasizes the different perceptions of those

with individual sectoral interests. The position of those countries opposing the extension of the GATT to TIS on grounds of principle obviously implies an even more limited content for the negotiation.

A Brief History of GATT Discussions

It is perhaps an anomaly that services have been incorporated into the "new issues" of the Uruguay Round. This concept is probably understandable if the "newness" refers to the possibility of expanding the General Agreement explicitly to include services. It is, however, not strictly true to suggest that this is the GATT's first incursion into the TIS debate. As early as 1976 the U.S. raised the issue of including TIS in the Tokyo Round, and although services were eventually included technically in that Round, the negotiators agreed to postpone any substantive discussion on them due to lack of both time and data. The work in the Round on nontariff barriers did, however, result in references in the Codes on Government Procurement and on Subsidies to services related to trade in goods. The Agreement on Trade in Civil Aircraft also contained references to maintenance and repair services.

Prior to and throughout the 1982 GATT Ministerial Meeting, the U.S. exerted strong pressure to include in the GATT a consideration of rules for TIS. It proposed that the GATT Secretariat undertake a study to examine the barriers to TIS and the possible applicability of GATT rules to such trade. The proposed study, the U.S. envisaged, would have formed the basis for discussion by the Contracting Parties (CPs) of the feasibility of negotiating a framework of rules for TIS and, as appropriate, for individual sectoral agreements.

The 1982 GATT Ministerial Meeting did not, however, agree to establish such a formal committee to investigate TIS. Most developed countries advocated a more cautious approach, while several developing countries stressed that the competence of the GATT extended only to trade in goods. The Ministers did agree to recommend that interested CPs undertake national studies of the services sector and exchange information through the GATT. In the event, only fifteen developed countries submitted such studies. With the exception of the U.S. paper, these were largely descriptive exercises. They did, however, highlight not only the heterogeneous nature of services, but

also the inadequacies of national databases, even in the developed economies. Most of the studies also supported some form of multilateral action on services. The one by the U.B. advocated a framework of principles covering all service sectors, with sector-specific issues blended into a framework, and emphasized transparency, national treatment, nondiscrimination, reduction of restrictive legislation and the principle of the "right to sell," including rights of establishment and investment elements.

These studies were the subject of discussion in the GATT during 1984-85 in an informal group chaired by Ambassador Jaramillo of Colombia. During this process, there was continued and broad-based developing-country opposition to the U.S. approach on the grounds that the GATT was not the appropriate forum for such work. By June 1985, however, some developing countries, notably certain of the NICs, were indicating that they could agree to the inclusion of services in any new Round of trade negotiations, at least in the preparatory phase. The concept of "separate but parallel" negotiations on services was briefly seen as a possible compromise, though Brazil and India remained opposed. The U.S. called a special meeting of the Council to resolve the apparent impasse, and after several procedural excursions, this led in November 1985 to a decision to establish a Preparatory Committee to prepare the basis for launching a new Round. This decision also incorporated an agreement to formalize the Jaramillo Group's discussions, and meetings were held through early 1986. These covered in some depth the definitional aspects of TIS, the lack of internationally consistent regulations governing them, the role of TNCs and the work of other international organizations. The key difference between the U.B., Japan, Canada and to a lesser extent the EEC on one hand and some of the developing countries, led by India and Brazil, on the other remained the linked questions of the need for multilateral negotiations on TIS and the competence/appropriateness of the GATT as the forum to conduct them. The middle ground was occupied by many developed and some developing countries, which were

prepared to accept the argument that there could be a case for eventual extension of some GATT principles (e.g., transparency, national treatment, dispute settlement) to services and were willing to discuss some form of negotiations in the proposed Round, provided this did not detract from work on the rapid resolution of other outstanding issues.

The Launching of the Uruguay Round

The report of the Jaramillo Group to the Special Ministerial Session of the GATE at Punta del Este was inconclusive, reflecting the above differences of view. In the course of the session, the issue of services, together with agriculture, became a focal point. While there was much support for the middle ground, there was also recognition of the strength of commitment of those countries opposed to expanding the GATT's mandate into TIS, particularly in the context of a negotiating Round.

The outcome of the Punta del Este meeting was, inevitably, a compromise which can be interpreted as supporting the basis of each of the two approaches. On the one hand, the Uruguay Round explicitly includes, "as part of the multilateral trade negotiations," aims and general modalities for launching negotiations to establish a multilateral framework of principles and rules for TIS. On the other hand, the format goes some way toward reinforcing the different nature of the two sets of negotiations, in that Part II of the Declaration (referring to services) was adopted by the Ministers as representatives of governments rather than as Contracting Parties. Part II also established the Group of Negotiations on Services (GNS) as separate from the Group of Negotiations on Goods (GNG).

The full text of Part II of the Declaration is contained in appendix A of this volume. The key points, apart from those already mentioned, are references to respecting the objectives of national laws, to taking into account the work of other international organizations, and to provisions for a special session of Contracting Parties to decide on implementing the results of the negotiations. After the adoption of this part of the Declaration, India recorded its belief that the GATT could not be extended except by plenipotentiary action, and that there could be no linkage between the two sets of negotiations (i.e., on goods and on services).

What the debate at Punta del Este underlined was that the majority view - encapsulated in an agreement on the examination of the nature of TIS, the barriers in TIS and the scope for action in the GATT - would continue to be subjected to considerable pressure from both ends of the spectrum. The U.S. and its supporters on this issue, Japan and Canada, remained convinced of the need for priority negotiations leading to a framework agreement. India and Brazil remained resolutely opposed to any extension of existing GATT rules and principles to the services sector. These positions were made quite clear in the subsequent discussions in Geneva on how to establish the negotiating plans to facilitate progress toward achieving the provisions of the Declaration. Much of this represented a reiteration of previous views, but some elements were further clarified. The U.S. emphasized its view that the Uruguay Round was a single political undertaking, and that the best way to proceed with the work of the GNS would be to discuss a framework of rules. It preferred a horizontal approach to the exercise, cutting across the various service sectors. The ECC stated that the Declaration should be observed, expressing its belief that achievement of a multilateral framework was not an end in itself, but rather a means for promoting the economic growth of all trading partners and the development of developing countries. There were three main elements involved - liberalization of trade, respect for national regulations and development-related issues.

India reiterated that in its view, the GNS was different from the GNG. The negotiations on TIS, and the establishment of the GNS to conduct them, had not been taken by the GATT CPs but by all Ministers, whether they were representing GATT CPs or not. Also, there was no provision in the Declaration for any standstill and rollback to cover the services sector. The Declaration provided for an umbrella-type framework for services as a whole or a sectoral approach, and no preference had been indicated by the Ministers for one or the other. The expansion of TIS under conditions of transparency and liberalization was not an objective of the multilateral framework, but *merely* a means of promoting the economic growth of all trading partners and the development of developing countries. Any disciplines to be evolved by a multilateral framework "shall respect the policy objectives of

national laws and regulations applying to services," and that, under national goals and objectives were not a subject for negotiation in the GNS. The negotiations had also to take into account the work done in other international organizations. India further underlined that the GATT practice of taking decisions by consensus had to be observed.

Brazil stressed that the negotiations must start from the assumption that every country had the right to regulate its services sector and that the protection of national interests had to be clearly recognized. It also stated that the Declaration did not envisage liberalization of TIS as an aim in itself.

These early discussions in the GNS, and similar interventions in other GATT meetings such as those of the Council, reinforced the

different approaches of the key participants. The U.S., for its part, strongly expressed the view that unless work on services went forward in parallel to that on goods, there would be reduced U.S. participation in the Round. Most other participants, and especially India and Brazil, were concerned to ensure that there would be no linkage between trade in goods and trade in services in terms of degrees of progress or in the concept of tradeoffs of concessions (the implications of which will be explored further).

The GNS agreed on a negotiating program on January 28, 1987. This program identified five elements to be addressed in the initial phase of the negotiations during 1987, after which there would be stocktaking, with the participants deciding how to carry forward the negotiations. In this formulation, the GNS differs from most of the negotiating groups under the GNG, which have already included in their negotiating plans the basic elements for the subsequent phases of their work. This reflects both the ongoing reservations of some participants over the need for, and format of, a GATT role in TIS and the uncertainties resulting from insufficient data and limited experience in services negotiations beyond the sectoral level.

Early Work of the Group of Negotiations on Services

The first substantive meeting under the GNS work program was held on *February 23-25, 1987*. It focused on the familiar issues of the legal basis for negotiations and the scope of objectives for a framework of rules and disciplines. The well-known views on the legal separation of the negotiations on services from those on goods were reiterated by Brazil and India, which also sought an intensive period of work on definitions and statistical preparations. Several other developing countries also proposed that labor services and labor-intensive services should be an element of the Group's discussions. The U.S. pressed for an early start to the negotiations so that a framework of principles could be applied to individual service sectors from 1988. This was strongly supported by Japan, which proposed a "super-GATT" framework for services, providing for conditional treatment of participants, national treatment of foreign enterprises, regulations on public monopolies and multilateral scrutiny of national regulations. It appeared from the reaction that most Contracting Parties would have difficulty with such a "supranational" authority in the field of services.

On April 8-10 the Group again discussed the scope of statistical data to be collected, differences being expressed on their necessity for the start of negotiations. Some more detailed proposals on the concepts to be taken up in the negotiations were advanced. They included natural advantage, transparency, national treatment, increasing international competition and progressive liberalization. The relationship of services to economic growth and development was stressed by many participants. Some consideration was also given to the need for an illustrative listing of obstacles to TIS to assist in later negotiations.

The meeting of the GNS on June 29-July 2 focused on the problems and inadequacies of the database on TIS, with experts from the U.N. Statistical Office, the IMF, UNCTAD and UNCTC underscoring the need for internationally comparable data. These four organizations had submitted papers to the meeting on the nature of their work on services, the kind of data they had and their efforts to improve them. The experts also underlined the need for more technical assistance to developing countries in this field. This was supported by most speakers from developing countries, who

suggested the establishment of a group of experts from government's and international organizations to facilitate the process. These issues are to remain on the table for further discussion. The ensuing discussion highlighted the paucity of disaggregated data for analyzing TIS and the lack of common definitions of particular service subsectors necessary for comparability. The meeting briefly discussed issues relating to "transparency, the broad concepts on which principles and rules could be based, and measures and practices that limit TIS." Two Canadian papers - one on "transparency" and the other providing an inventory of "perceived barriers" to TIS (ranging from retail trade to datamatics) - were also discussed. Most developing countries, however, stressed that in their view, these papers went beyond the Uruguay Round mandate and could not be addressed in the negotiations.

A meeting of the Group on September 15-17 combined discussion on the five elements in the negotiating plan. The Canadian and Australian papers were examined in greater detail. The former proposed the application of "transparency" to all statutes, other legislation, orders, guidelines, manuals and administrative and quasijudicial decisions which affect the services sector through measures at the border or in the domestic market. There was reiteration of the need for advance notice by each country of its intended regulatory measures and for a reasonable time to be given to other countries to comment before a final decision is taken. Several developing countries expressed concern at the costs of issuing and assimilating the vast amount of information required to achieve full 'transparency'; some also underlined the fact that advance notice of regulations was not given to the indigenous population and thus should not apply to foreigners. The Australian proposal involved applying the concept of nondiscrimination to a framework for services and raised the issues of unconditional or conditional MFN, together with exceptions to these rules in order to meet national policy objectives. Most developing countries regarded these matters as outside the mandate of the negotiations on services and considered the need to promote the development of Third World countries as integral to any multilateral framework on services. The EEC, on the other hand, highlighted the expansion of TIS as another important objective of the GNS mandate.

A Japanese paper argued that the national treatment concept in Article III of GATT was crucial to any future framework for services, but that national treatment needed to reflect the characteristics of the services sector. Japan also questioned the application of a 'grandfather clause' to existing services regulations and advocated that a mechanism be set up for periodic negotiations to phase out national regulations inconsistent with the concept of national treatment. While several developed countries supported the proposal, most developing countries, led by India, underscored the need to respect national sovereignty and took the view that GATT concepts applicable to goods could not be extended to services. These developing countries further argued that for them, to dispose of the grandfather clause now would be premature, given the early stage of their regulations on services, and would preclude them from formulating future national laws and regulations to achieve their policy objectives in the services sector.

On the matter of improving statistics on services, the EEC and Japan urged that the GATT Secretariat liaise with other international organizations in order to help the negotiations to make progress. India, however, saw the improvement of the database as a long-term requirement and advocated that meanwhile, there should be ad hoc meetings to discuss the issue. The need to obtain access to data on TIS currently held by TNCs was also considered important by some participants.

The Group's meeting on November 3-5 reviewed new submissions by Sweden, Mexico, Jamaica and the U.S. Acting on behalf

of the Nordic group of countries, Sweden presented an information note on these countries' trade in services and on their work on statistics for services. The paper generally supported the liberalization of TIS, including the elements of "transparency," nondiscrimination and national treatment. It also proposed the examination of regional agreements to liberalize TIS. The Mexican paper underscored the need for further work on any framework for TIS in order to provide for increased access by developing countries to services and labor markets, as well as to secure increased transfers of technology. It also stated that, in Mexico's view, rights of establishment were outside the mandate of the GNS. The Jamaican paper included a summary of the services debate

in the GATT, a stocktaking of the

discussions in the GNS, and suggestions for the future work of the Group. This last item included scope and definitional issues, economic analysis of the costs and benefits of liberalization of TS, and dispute settlement.

The U.S. paper was considered to be particularly significant, in that it contained considerably more detail on exactly how that country saw the GNS moving toward a framework agreement designed to achieve "progressive liberalization" of a wide range of services in as many countries as possible. The proposed framework should be broad and flexible and capable of extension, through the GNS, to a wide range of service sectors. It should recognize the "sovereign right of every country to regulate its service industries," dealing only with measures whose purpose or effect was to restrict the access and operation of foreign suppliers of *services*, and it should cover both establishment within host countries and crossborder movements of services. The proposal detailed a series of concepts covering "transparency," nondiscrimination, national treatment, the control of state monopolies, subsidies and consultation/dispute settlement. The U.S. paper received a large measure of support *from* developed countries, although several *of* them made reservations to allow for future detailed comments. Many developing countries felt that much of the paper's content went beyond the Group's mandate.

On December 14-15 the GNS assessed the progress on the initial phase after the first year's work. While there was general agreement that progress had been made, opinions differed over the position the Group had reached and the pace and direction of future work. Some developed countries, including the U.S., Australia and New Zealand, called for more concrete negotiations so as to achieve an "early

harvest" in the services sector. Others, including the EEC, supported working toward an agreement but suggested that more work was needed on issues such as definition and the relationship to existing services arrangements. Some developing countries, such as India and Mexico, believed that further attention was needed to the five elements of the negotiating plan and were concerned that insufficient emphasis had been placed on either those services of interest to developing countries or the contribution of the services sector to the development process.

The EEC and Switzerland tabled their submissions on TIS to this meeting. The Swiss paper, while stressing that the principles of a new framework on services should be comparable with GATT coverage of goods, underlined the need for new mechanisms to be devised, where necessary, to take account of the special characteristics of the services sector. The paper also envisaged the possibility of bilateral services agreements being extended to third parties through "optional most-favored-nation treatment." The EEC submission highlighted the potential difficulties between the need for progressive liberalization of market access for services on the one hand and the need to respect national policy objectives and laws which impinge upon the services sector on the other.

On January 27-29, 1988, the Group continued discussions on the submissions tabled by the EEC and Switzerland in December. A wide-ranging discussion of these papers focused on the extent to which the underlying principles of any framework agreement for TIS would be comparable with GATT coverage of goods. Additionally, several developing countries again pointed to the implications of the objectives outlined in the Punta del Este Declaration for the expansion of TIS as a means of promoting economic growth generally and the development of developing countries in particular. Further, several developing countries focused on the need for the Group to clarify the issue of the definition of TIS and identify the sectors and activities to be covered as a first step in these negotiations.

At the meeting on March 22-25, Argentina tabled a submission which emphasized that the way in which the concept of development is treated in any services agreement will be crucial for developing countries. It urged that any such agreement must allow for active participation by developing countries in the services trade and ensure that this is maintained through access to and transfer of the relevant technology. The submission also urged that developing countries should have an option to establish specific national policy objectives

in individual service sectors, that they must be able to conduct policies directed toward

stimulating exports of services, and that they should have the power to control foreign exchange flows generated by specific projects connected with trade in services. Argentina also emphasized that any services agreement should not affect the promotion of joint ventures. The submission was welcomed by most countries as an important contribution (particularly as the first such submission by a developing country) toward bringing the issue of development into the discussions.

The Nordic countries also tabled a paper. This advocated a multilateral framework agreement for TIS which would be accepted in principle by the CPs but would only become effective in conjunction with a sectoral agreement. This submission was opposed by most of the major developed countries, which reiterated the need for a strong multilateral framework on TIS. The meeting requested the GATT Secretariat to prepare a glossary of the terms being used in the services debate as a guide for negotiators and to draft a paper on the definition of TIS. The meeting also agreed that UNCTAD, ITU and ICAO should be invited to the next meeting of the Group, after replying to a questionnaire on TIS which the Secretariat was to prepare, so that they could provide information to participants on the specifics of the relevant sectoral agreements.

Some Negotiating Issues and Scenarios

Three sets of issues are explored here. First, what GATT concepts might be involved in a possible framework covering TIS? Second, what other issues have arisen in the negotiating process which could have an impact on the attitudes toward TIS of key participants? Third, what, if any, are the scenarios which are emerging as possible future courses of action on TIS?

A number of key GATT concepts have already been referred to earlier. They are broadly encompassed in its principles and rules, the second of the elements identified for discussion in the initial negotiating phase of the GNS's work. Some concepts have also been explored, at least in a preliminary way, in other international organizations, including UNCTAD and DECD (the latter in the context of the publication *Elements of a Conceptual Framework for Trade in Services*).

The first key concept is transparency. Unlike trade in goods, TIS is largely governed, and restricted, by measures which are not

readily transparent, but rather are provided through a multitude of domestic laws, regulations and administrative actions. There is a large measure of support for increasing the transparency of those measures affecting US both in the GATT context and through complementary work in other international organizations. One approach which has received some attention in GNS discussions is the possibility of producing a general inventory of barriers to TIS. Existing measures which were notified could be protected, for an initial period, by some form of grandfather clause, but others could be subject to immediate challenge through the normal GATT dispute settlement procedures. Such an inventory would *facilitate the assessment of barriers to TIS and*, to some extent, could in effect be used as a form of standstill commitment in the sector. It could also be used as a database for future TIS negotiations. The U.S. and EEC submissions have already addressed the issues of transparency and notification/consultation/dispute settlement, and these would appear likely to be key areas of work in the near future.

Access to markets is one of the key issues motivating the proponents of the services debate in the GATT. It is, however, almost impossible to separate this from the related issues of investment, rights of establishment and labor mobility; and as noted above, these issues are particularly contentious. It may therefore be desirable to pursue the question of market access for "traded" services in advance of the more complicated consideration of issues of rights of establishment and labor mobility.

It is also useful to query whether rights of establishment (which at present has no formal definition) would be more effectively addressed by examining the more essential issue of securing local presence to the extent necessary to supply services and to secure adequate access to the market. This latter approach, which has been

one proposed by the International Chamber of Commerce since 1981, would automatically incorporate into the debate the issue of labor mobility.

The framework discussion will also need to address the related issues of national treatment (i.e., the elimination of discriminatory barriers to the treatment of services from abroad compared to those from domestic suppliers) and the regulatory system (and again, rights of establishment). Experience within the EEC suggests that achieving a common regulatory system is not easy. Perhaps initial efforts should focus on the misuse of those regulatory powers which impede trade, particularly as existing national regulatory systems are likely to be strongly defended by most participants in the Round.

There are a number of other GATT concepts which will cause difficulties in developing a services framework. Not the least of them is the fact that the Declaration requires respect for national policy objectives applying to services. As has already been indicated, some developing countries would interpret this as suggesting that their regulations on services are not subject to negotiation in the Round. But the need for developing countries in particular to be able to safeguard their services sector for reasons of national sovereignty or development, and hence to be able to protect this sector through regulation or control of market access, might raise the graduation/ integration issue, in terms of the pressures on these countries to accept greater obligations under the GATT. There are some developed countries involved in the services negotiations which support the position that there should be no "free riders" and that all countries, irrespective of their levels of development, should be prepared to make concessions if they are to gain advantages.

It is also difficult to see how the MEN principle can easily be extended to the services sector. Many of the trade concessions negotiated on services are at present based on bilateral reciprocity - e.g., country A allows the banks of country B to participate in A's market subject to A's banks receiving similar (or equivalent) rights in B. Multilateralizing such concessions may prove difficult.

In the category of other issues in the negotiating process, there would appear to be at least three areas of controversy. The first is the familiar one of the competence of the GATT and the appropriateness of extending GATT concepts to services. This also encompasses the problems of introducing into the GATT debate the question of the scope of restrictive business practices, particularly through the operations of transnational corporations, in parts of the services sector. Some countries would have difficulty if the GATT negotiations on services were to address these issues when negotiations on them in other fora have not been completed.

The second problem, which will become even more important as the Round progresses, concerns the relationship between negotiations in the GNS and those in the GNG. While many countries have frequently reiterated their belief that there can be no tradeoffs of concessions between the two groups of negotiations, it is likely that some "balance of benefits" will be sought by certain participants. It is important that developing countries, with the support of as *many* developed countries as possible, continue to resist any attempt to institute a direct linkage either between the actual concessions they

might seek to obtain in the GNG and those sought by others in the GNS or between the rate of progress of each set of negotiations. This delinkage has been recognized in the Final Act of the recent UNCTAD VII Conference, although some developed countries may wish to attempt to weaken the interpretation of this agreement.

The third problem concerns the speed of progress of the negotiations. On the one hand, the U.S. has been pressing strongly for some substantive decisions to be implemented during 1988, for obvious domestic political reasons. As indicated above, the concept of an "early harvest" was supported by some other developed countries at the last GNS meeting of 1987 and at that year's Contracting Parties session. The opposition of some developing countries to this concept has also been noted earlier, and many of those which are prepared to negotiate actively on services in the GATT see a longer time frame as more appropriate. However, it is also probable that at least some developing countries would wish to see progress on implementing some results during the course of the Round. Associated with this is the impact of individual service industry pressures on

governments. It may be (as has been the case in some bilateral and plurilateral discussions on services) that the desire to achieve rapid and visible results to respond to pressures from specific sectors (usually insurance or banking) both obscures the overall balance of costs and benefits involved in the totality of the services negotiations and leads to efforts to reach early results in some service sectors irrespective of their implications for others. While this is a problem predominantly for the larger developed countries with active sectoral pressure groups, it is also one which smaller developing countries with limited interests in services should bear in mind.

These varied concerns make the sketching out of possible scenarios on where GATT negotiations on services may be leading very difficult. While it is obviously too early to make a clear judgment, there do appear to be some elements emerging from the discussions. For example, there seems to be some recognition that, despite all the difficulties, a form of framework agreement on services will be the end result. This is to some extent balanced by a recognition, even by the U.S., that the task of amending the text of the General Agreement itself to incorporate services would be extremely difficult, and possibly inappropriate. This then suggests that the likely outcome may be a separate general agreement on services, although how this would be linked to the present GATT is unclear.

It also seems that proponents of the framework approach are now envisaging that this could have a multitiered set of obligations. In other words, the framework would provide rules to govern TIS which would be binding upon parties to the agreement, but which would fall short of the general principles at present embodied in the GATT. Furthermore, the framework would make provision for countries at different levels of development in their services activities to accept different levels of obligation. The framework would also include appropriate criteria for the gradual increase of such commitments as the ability of these countries to compete in services trade increased. Such an approach, with its implied acceptance of the concepts of graduation, integration and conditionality, would be a difficult principle for some developing countries to accept. It may be, however, that this approach - with its similarity to the negotiation of the Codes under the Tokyo Round - does offer one way

toward a broad, flexible agreement on a framework for services, even if in the end such an agreement does not cover all GATT Contracting Parties. The recent trend for some of the major developed countries (notably the U.S.) to include services provisions in their bilateral and

plurilateral trade agreements is perhaps indicative that this feature could expand multilaterally.

While all these issues remain to be addressed substantively in the GATT negotiations, it may be reasonable to suggest that progress is

possible, and that for many developing countries there could be benefits in the *freer* market access that the framework approach might secure for them, provided there is sufficient coverage of their particular service interests, coupled with the recognition that certain

sectors (such as banking and telecommunications) may need special safeguards, and that movement toward broad obligations may have to be progressive. There is a continuing danger that failure to reach agreement on TIS in the Uruguay Round could accelerate pressures

from many countries for restrictive and discriminatory measures in the services sector and could also lead to a retardation of progress in other areas of the negotiations, including those relating to products

of concern to many developing countries.

It is apparent that while all developing countries have interests in TIS, these interests are not necessarily common (although some

principles may be), and that each country must make its own assessment of the potential benefits (and costs) as the TIS negotiations proceed. Already the discussion has highlighted how little is known about TIS, especially in many developing countries, and has reinforced the message that it is essential for all countries to move rapidly to

identify their own interests and to seek to have them adequately reflected in the debate.

CHAPTER 13

The Uruguay Round and Trade in Services: GATT Perspective

GATT Staff Paper

The issue of services first came to the forefront of the GATT in 1982 with a request by the U.S. government that services be included in the work program established by the Ministerial Declaration of 1982. While the proposal received the support of a number of industrialized countries, a number of developing countries opposed the idea on the grounds, inter alia, that the GATT had no legal authority to address itself to services.

At the 1982 Ministerial Meeting, the Contracting Parties decided:

- a) To recommend to each Contracting Party with an interest in services of different types to undertake, as far as it is able, national examination of the issues in this sector.
- b) To invite Contracting Parties to exchange information on such matters among themselves, inter alio, through international organizations such as the GATT. The compilation and distribution of such information should be based on as uniform a format as possible.
- c) To review the results of these examinations, along with the information and comments provided by relevant international organizations, at their 1984 session and to consider whether any multilateral action in these matters is appropriate and desirable.

The implementation of the work program was seriously hampered by disagreement on how the process would be carried out within the GATT framework - in particular, the information exchange process envisaged in paragraph 2 of the Ministerial Declaration. Further difficulties related to the consideration as to whether any multilateral action in this area was appropriate and desirable, as

This paper summarizes the discussions that have taken place in the Uruguay Round in the area of services. It is not intended to present GATT Secretariat views on any of the issues under discussion.

foreseen in paragraph 3 of the decision. Nevertheless, in November 1984 the GATT Contracting Parties succeeded in adopting a set of agreed conclusions which laid the groundwork for the initiation of a process of exchange of information on services in the GATT.

Between 1984 and 1986, seventeen national studies (by Australia, Austria, Belgium, Canada, Denmark, the European Economic Community, Finland, the Federal Republic of Germany, France, Italy, Japan, the Netherlands, Norway, Sweden, Switzerland, the United Kingdom and the United States) were circulated in the context of that exchange, and comprehensive documentation was received from thirteen international organizations. The issues covered in the exchange of information were grouped under the following four major headings: (i) general characteristics of services; (ii) conceptual framework, statistical problems and methodologies; (iii) national and international regulations governing individual services sectors, and problems identified in relation to international transactions in services; and (iv) issues raised in connection with possible multilateral action on services.

The discussion over the next months covered a broad range of issues. They provided an opportunity to address such matters as what constitutes trade in services, certain development aspects of services trade, and the role of transnational corporations in international services activities. However, no agreement could be reached on any recommendation, and the eventual decision to proceed with the multilateral negotiations on trade in services was taken only as a part of the negotiated compromise reached on the

occasion of the Special Session of the Contracting Parties in Punta del Este in 1986.

Meeting on this occasion, Ministers adopted a Declaration launching the Uruguay Round of multilateral trade negotiations.

The Ministerial Declaration

As GATT Contracting Parties, the Ministers adopted Part I of the Declaration regarding trade in goods. This establishes the objectives and principles of negotiations on goods and the list of subjects on which negotiations will take place. As representatives of governments meeting on the occasion of the session, the Ministers further decided to launch a negotiation on trade in services and adopted Part II of the Declaration in that regard. It has been agreed that the negotiations on services will not be placed within the legal framework of the GATT, but GATT procedures and practices will nevertheless apply to them.

The negotiations as a whole are considered as a single undertaking, and they will be conducted within the same time frame, namely, four years. A Trade Negotiations Committee has been established to carry out the negotiations, as well as two negotiating groups, one on goods and one on services.

Part II of the Ministerial Declaration defines the objectives of the negotiations on trade in services as follows:

Negotiations in this area shall aim to establish a multilateral framework of principles and rules for trade in services, including elaboration of possible disciplines for individual sectors, with a view to expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting economic growth of all trading partners and the development of developing countries. Such framework shall respect the policy objectives of national laws and regulations applying to services and shall take into account the work of relevant international organizations.

Based on this wording, it is clear that the purpose of establishing a multilateral framework of principles and rules for trade in services is, threefold: (i) to expand trade under conditions of transparency and progressive liberalization; (ii) to promote the economic growth of all countries; and (iii) to promote the development of developing countries.

Regarding the implementation of the results under Part II, the Ministerial Declaration specifies that this will be decided by Ministers meeting also on the occasion of a Special Session of the Contracting Parties. In other words, all options regarding the legal status and the institutional framework of an agreement on services remain open until this decision is taken.

It is evident that the Punta del Este Declaration, in dealing with the interface between negotiations on goods and services, represented a compromise between two, until then, opposing points of *view*:

a) One group of countries held the view that services made an important contribution to GDP growth and were therefore an important source of job creation. These countries also noted that services flows were becoming increasingly integrated within the international movement of goods and, therefore, an essential element of international trade based on comparative advantage. As such, a decision to negotiate a multilateral framework of rules and disciplines on services was an indispensable element in any new process of negotiations aimed at improving and strengthening the trading system.

b) The other view, held by a number of developing countries, was that trade in services was not just like trade in goods, and that it touched on basic national policy objectives and concerns. National regulation of services activities could go beyond regulations normally affecting trade in goods, and there could be no *prima facie* assumption that GATT rules and principles could apply to trade in services in the same manner as they apply to trade in goods. In particular, they considered it essential to ensure that no linkages were established between the negotiations on goods and negotiations on services which would allow concessions on goods to be negotiated against concessions on

services.

The Group of Negotiations on Services

While the Punta del Este Declaration accommodated these different and very often conflicting concerns, there was also a common awareness that a great deal of further work had to be done in articulating the concepts and in gathering detailed information in order to achieve the negotiating objectives set out in the Punta del Este Declaration.

Thus, following the adoption of the Punta del Este Declaration, the negotiating group which was established for carrying out these negotiations (Group of Negotiations on Services, or GNS) agreed to a program for the initial phase of negotiations. This program consists of the following elements:

- a) Definitional and statistical issues.
- b) Broad concepts on which principles and rules for trade in services, including possible disciplines for individual sectors, might be based.
- c) Coverage of the multilateral framework for trade in services.
- d) Existing international disciplines and arrangements.
- e) Measures and practices contributing to or limiting the expansion of trade in services, including specifically any barriers perceived by individual participants, to which the conditions of transparency and progressive liberalization might be applicable.

Issues

five elements. Further, views differ as to the extent to which it is necessary to deal with one element before another can be adequately addressed. The discussion, however, reflects a general awareness of the linkages that exist between the issues that emerge when dealing with the elements.

Definitional and Statistical Issues

One view is that trade in services should be treated as relating strictly to transfers across national frontiers. Supporters of this view would accept including, for example, transactions in transborder data flows in the definition of trade in services, but not the movement of the producers and consumers of services across national frontiers.

On the other hand, it has been argued that a large number of international services transactions take place without the service itself actually crossing the frontier (e.g., tourism) and with the means of producing the service (permanently or temporarily) moving to the country of purchase.

A practical problem relating to trade in services is obtaining detailed information, even after the question of definition is settled. There has been a considerable amount of discussion on the availability and suitability of existing statistics and on efforts being undertaken to improve them by national administrations and international organizations.

The GNS has been attempting to agree on an approach that would ensure that participants receive improved information, keep in touch with efforts being made elsewhere, such as by the IMP and the UNSO, to provide for identification and the aggregation of different categories of services flows, and see how further work carried out elsewhere can take into account the needs of the process in Geneva.

A Basis for Principles and Rules

A number of concepts have been advanced on which principles and rules for trade in services may be based. The concepts include, for example, national treatment, transparency and nondiscrimination. There are at least two important considerations that have been brought up in the discussions.

First, what is to be included as a concept on which the principles and rules might be

based? For example, while national treatment has been included as a concept for consideration by governments, the

question has been raised as to whether this concept should have the same interpretation as in the case of goods. While for trade in goods there may be a barrier at the frontier to protect domestic producers from imported products, in the case of services, the protection comes at the level of the *producer*. The protection of the national *production* of services through differential treatment for foreigners is the counterpart to border protection for trade in goods.

Second, the question has been raised as to how far the concepts under discussion (national treatment, transparency and nondiscrimination) relate to the development objectives of the Punta del Este Declaration, namely, "promoting economic growth of all trading partners and the development of developing countries," and which concepts could further these objectives.

Coverage of the Multilateral Framework

The point has been made that, at this stage of the discussions, there should be no *prima facie* exclusion of *any* sector.

The question has been raised as to how far the concepts which have been presented (nondiscrimination, national treatment and transparency) would apply not only to services involving essentially the movement of capital, but also to what may be described as labor-intensive activities and labor itself. This could of course touch on the broader question of the possibility of devising a framework and disciplines both globally and for individual sectors which would provide an adequate tradeoff between the interests of different countries.

Existing International Disciplines and Arrangements

International arrangements and disciplines in services are being reviewed by the GNS with a view to ascertaining the extent to which these can provide a framework within which the objectives of the Punta del Este Declaration can be met, or whether there is a need to establish new arrangements for particular sectors.

Multilateral discussion of specific international service activities is not new. There are, for example, intergovernmental sectoral arrangements to maintain and develop the technical, legal and economic environment for international civil aviation (International Civil Aviation Organization), maritime transport (Intergovernmental Maritime Organization) and telecommunications (International Telecommunications Union).

Limits and Barriers

In the course of these discussions, a broad issue which has been raised is the role of a regulatory system in services activities and the circumstances in which a regulatory practice can be treated as a barrier to trade.

A practical problem is how to set about identifying those regulatory practices which could be the subject of negotiation.

Stocktaking

At the December 1987 meeting of the GNS, the negotiating group carried out a stocktaking in order to determine how to carry forward the negotiating program. This exercise consisted of two parts.

First, in taking stock of the work carried out in the initial phase of the negotiations, participants outlined their perception of the work done during the past year. A number of participants noted that considerable progress has been made, largely due to the active participation of delegations which presented oral and written submissions on various subjects. It was, however, still clearly the view of certain countries that some of the major issues (e.g., definition, statistics, coverage) have not been sufficiently discussed and

that a better understanding is needed.

Second, there was a general recognition that, subsequent to the stocktaking, the negotiating program will have to be carried forward on the basis of the examination of the five elements, as well as other issues arising therefrom. In this process, submissions and statements by delegations will be addressed in the coming meetings with a view to achieving concrete progress in the negotiations in accordance with the negotiating objectives in the Punta del Este Declaration on trade in services.

Conclusion

While much ground has been covered in the first year of GNS discussions, the reality is that the negotiating process is still at a preliminary stage, and not all the concepts and other elements have been put on the table and fully elaborated or explored. The GNS has before it a number of proposals that address the various concepts and elements, and there is no doubt that this work will facilitate further progress toward the completion of a conceptual framework.

CHAPTER 14

Optimum Package for Negotiations on Services

Kenneth K. S. Dadzie

What is the most practical strategy and the optimum package for negotiations on services for the developing countries?

Since the Sixth UNCTAD Conference in 1983, UNCTAD has been studying the role of services in the development process. This mandate was given more precision in the Trade and Development Board and confirmed and broadened at UNCTAD VII.

UNCTAD studies have touched upon wide-ranging aspects of the services/development relationship. They have involved an examination of the changing role of services in production and trade and the implications for the developing countries. UNCTAD's mandate to provide technical assistance to individual member states in their studies of the role of services in their own economies has provided an opportunity to test our preliminary ideas in specific and varied cases.

From these studies, it has been possible to derive a certain idea of how developing countries could take services more effectively into account in designing their development strategies. While it is still rather difficult to translate these perceptions into precise negotiating proposals, they lay out a general set of criteria against which the outcome of the Uruguay Round negotiations on trade in services should be measured. They also suggest general approaches which should be taken if the crucial aim of these negotiations - the development of the developing countries - is to be effectively pursued.

Role of the Services Sector in Developing Countries

The first criterion is that developing countries should be permitted to, and assisted in, maximizing the contribution of the services sector to economic growth and development. The recognition that infrastructural services such as transportation, communications, education and essential financial services are a prerequisite to industrialization and social and economic development is obviously

not new. However, recent technological developments have altered the role of services in production in trade. This means that more services are incorporated into the conception, production, sale and distribution of manufactures, processed agricultural products and other services. The development of what has been termed "upstream," "onstream" and "downstream" services and effective links between them would appear to be a major factor in achieving international competitiveness.

In this context, many studies are being addressed to a new service sector, i.e., that of "producer services" - that is, those services which assist the other sectors in incorporating new technologies, adopting new competitive strategies, moving into new lines of production, meeting new competition, etc. While these services are not all, or even

in their majority, what could be described as "new" or "high-tech" services, they certainly have been enhanced by developments in information and communication technology. In developed countries, this advanced "services infrastructure" has encouraged a process described as externalization - i.e., the tendency for enterprises to depend on externally supplied rather than on "in-house" services, and the consequent growth of small, dynamic, specialized service firms.

This tendency would seem to be of crucial relevance to developing countries. In their efforts to increase productivity, restructure their industries, provide improved employment opportunities and adapt to new technologies, the development of this sector would seem to be of paramount importance, and more research must be undertaken to see whether the necessary conditions can be created in developing countries. This would presumably involve considerable investment in information, communications and educational infrastructure, for which assistance from the international community should be forthcoming.

The development of this producer service sector in developing countries should be a major element in development strategies. Such policies would have to take into account the need for developing country producers to have access to advanced producer services from industrialized countries where necessary. However, this should be undertaken as an element of clearly defined strategies designed to stimulate an indigenous producer service sector while improving productivity and increasing the transfer of technology.

These views may draw comments from the proponents of more traditional concepts of "comparative advantage," particularly those

who suggest that one could *envisage* an *international* division of labor in which some countries specialize in goods and others in services. *However*, there has been a recent wave of excellent studies, the most recent being that prepared by the Office of Technology Assessment of the United States Congress, which recognize that a strong domestic services sector is a key to international competitiveness in manufactures. In other words, one cannot choose between goods and services, as strength in one is a condition for competitiveness in the other.

Equal Opportunity in Competition

The second criterion for a solution consistent with the development objectives of the negotiations is that developing countries should be given an equal opportunity to compete in the world market for services. It must be admitted that the driving force behind multilateral negotiations on trade in services were those TNCs whose human and financial capital and information and communication technology permitted them to penetrate any foreign market for services, where not impeded by national regulations. To date, the negotiations appear to have mainly focused on regulations which inhibit the international operations of these firms, drawing upon concepts and principles developed in the OECU context, such as national treatment for foreign firms, etc. - in other words, services where market access is associated with movements of capital.

One cannot subscribe to the viewpoint that developing countries are not competitive in services at all. The problem is that for most, their competitiveness lies in those services with a high component in goods - for example, repairs and assembly, and above all, labor. Both of these factors encounter greater difficulty in crossing national frontiers than do capital or information. Any optimum result of the negotiations would have to provide an opportunity for services exports transmitted by these factors or media.

Labor-intensive services do not necessarily imply low-skill or "low-tech" services. The advances in information and communication technology have already begun to provide opportunities for developing countries in the export of data services, software, translation services, etc. These technologies can help developing countries to overcome traditional handicaps arising *from* geographical location, etc. This is an exciting area with immense possibilities, and it is essential that the results of the negotiations *serve* to assist developing

countries to move into these fields, including through providing them with greater access to information and to information networks.

In this context, it should be borne in mind that for a considerable number of developing countries, services may represent a major opportunity to increase their foreign exchange earnings and upgrade their employment opportunities. It is essential that the results of the negotiations be such as to permit and encourage developing countries to formulate and implement new strategies for increasing their production capacities and exports of services. Cooperation among developing countries on a subregional, regional and interregional basis could also contribute to this objective.

An Optimum Package

These comments suggest both the contents of an optimum package and a strategy for developing countries to pursue. It is clear that any package should include solutions to the problems that developing countries face in exporting services, or perhaps more accurately, "delivering" their services to world markets. Liberalization measures primarily directed to solving the problems of developed-country service transnationals might not effectively accomplish this.

The package should also ensure that developing countries' efforts to develop crucial service sectors, particularly those directly related to the production process, are not only not hindered but are actively stimulated by the results of the negotiations.

As far as negotiating strategy is concerned, it would seem that countries should concentrate on the negotiations of a multilateral framework which will adequately reflect the provisions of the Uruguay Round Declaration, i.e., promoting the economic growth of all trading partners and the development of developing countries, as well as expansion of services trade under conditions of transparency and progressive liberalization. It is essential that developing countries reinforce their efforts in defining the elements of a framework which would accomplish these objectives.

CHAPTER 15

Policy Issues in Services: Concluding Remarks

Sidney Dell

In chapter 4 of this volume, Professor Nau advises the NICs to recognize that including new issues in the Uruguay Round is a bargaining and not a theological matter.' This question was settled at Punta del Este along Solomonic lines by providing for parallel negotiations on trade in goods and in services, with the Group on Services reporting to the Trade Negotiations Committee. This degree of agreement was sufficient to permit the Contracting Parties to proceed to the next stage, but it did not, of course, constitute even a beginning to the solution of the underlying problems. Nor did it indicate what kind of negotiations would constitute "bargaining" and what "theology"

Professor Nau is undoubtedly well aware of the difficulties with his own approach. "The more the developing countries give in services and other new sectors, particularly intellectual property," he says, "the more concessions the U.S. should offer by way of restraining its actions outside the GATT." The trouble with this, of course, is that it appears to imply that the NICs, or perhaps the developing countries as a whole, should provide material incentives to the U.S. and other industrial countries to comply with an international agreement, namely the GATT, which they had freely and voluntarily accepted and to discontinue activities inconsistent with that agreement.

Perhaps this objection comes under the heading of what professor Nau would regard as "theology." The objection is nevertheless quite a rational one (not all theologians are irrational), and what Professor Nau is proposing is moral hazard: once there is a case in which concessions are extracted as the price of compliance with the law, the incentive to further violations is obvious. The point that Professor Nau makes about encouraging the U.S. Congress is no doubt well taken, and he could also have said that

the U.S. is pre-

pared to drive a hard bargain on this matter. But facts are stubborn things, and the difficulty of restoring the rule of law in world trade is bound to be complicated by bargaining conducted along such lines.

Background

The Commonwealth Secretariat has described the background to the services issue as follows:

Over the past five years, the USA has persistently sought the extension of coverage of the CATT to include trade in services. This was prompted by the importance of services to the U.S. economy and by the implicit U.S. belief that this was an area in which it has a comparative advantage at a time when its competitiveness in agriculture and manufacturing is in decline. Secondly, the U.S. authorities took the view that there are barriers to trade in services which could be reduced by multilateral actions

The Commonwealth Secretariat further describes the positions of various countries on this matter. At one end of the spectrum, the U.S., supported by Canada, the EEC and Japan, has been calling for negotiations on an "umbrella agreement" covering all services and under which specific sectoral agreements would be negotiated. The main elements proposed for this "umbrella" include transparency of regulatory procedures, competitiveness of public monopolies and the right to sell, national treatment and market access, investment and rights of establishment, and a dispute settlement mechanism.

The Commonwealth Secretariat suggests that the majority of GATT Contracting Parties, both developed and developing, have been taking a middle position. They are concerned by the lack of agreement on a definition of the sector, the paucity of technical information, and uncertainty as to the scope of barriers to trade in services, as well as by implications for national sovereignty. They appear, however, to accept that certain GATT principles (MFN treatment, transparency, national treatment and dispute settlement) might eventually be extended to services and are therefore more or less willing to explore the matter further in a longer time frame, but without holding up the resolution of outstanding issues in the field of trade.

At the other end of the spectrum, according to the Commonwealth Secretariat, are a number of developing countries that are opposed to any extension of the GATT to cover trade in services. Their concerns are national sovereignty, the possible demands of

reciprocity, infant industry agreements, and the role of TNCs in the services, sector. They hold the view that the GATT is not the appropriate institution for discussion of this matter, which should rather be dealt with in UNCTAD or in sector-specific bodies such as ITU or ICAO.

Is GATT the Appropriate Forum?

One does not necessarily have to agree with the third group of countries mentioned to recognize that proposals for trade in services raise a whole complex of issues that go well beyond the usual scope of a trade negotiation in the GATT. This results in part from the fact that exports of services by the industrial countries are, on the whole, only a small percentage of the sales of services abroad by foreign affiliates of transnational corporations (TNCs) headquartered within those countries. It has been estimated that U.S. exports of private nonf actor services in 1982 amounted to about \$33 billion, compared to approximately \$178 billion in sales by foreign affiliates of U.S. TNCs. Similarly, U.S. imports of services in 1982 amounted to about \$33 billion, compared to approximately \$125 billion in sales by foreign affiliates of non-U.S. TNCs in the United States.' Estimates for Canada, Japan and the U.K, suggest that the volume of sales of foreign affiliates of TNCs headquartered in these countries is about twice as high as the volume of their services exports: in the Federal Republic of Germany the sales of services affiliates exceeded exports from the home country, though by a smaller margin. Thus for several of the industrial countries, and particularly for the U.S., conventional trade in services is far less important than the overseas sales of services by affiliates of home-based TNCs.

Thus, any process of bargaining about the services sector, whether in the GATT or anywhere else, cannot fail to raise a whole host of issues connected with the overseas

operations of TNCs. These are questions that have occupied various agencies of the United Nations for many years, and relatively few of these issues can be said to have been settled. If the same issues are taken up in the GATT, the same disputes will arise, and the same ground and bargaining process will have to be retraced.

It is, of course, true that certain kinds of leverage may be available in the GATT that were not available in the U.N. agencies dealing with these matters. Presumably the concessions referred to by Professor Nau will be brought into play, and perhaps some negative sanctions as well. Time will tell.

It would, however, be a mistake to suppose that negotiations are at a standstill in the agencies involved, and that it will be necessary to bring the matter to the GATT in order to achieve a solution. Despite the carrots and sticks, there is a danger that attempts to reinvent the wheel by government trade representatives who have not previously had contact with TNC-related issues in a multilateral setting will put the clock back instead of advancing matters.

A good example is provided by the negotiations on a Code of Conduct on Transnational Corporations that are taking place in the U.N. Commission on Transnational Corporations. In his article on "A Simple Plan for Negotiations on Trade in Services," written in 1982, Ambassador William Brock listed a number of principles derived from the GATT that might guide future negotiations on trade in services. These included, among others, the following:

- a) Restrictive regulations should be applied on a "national treatment" basis.
- b) Consultations and dispute settlement should be provided *for*.
- c) Regulations, and alterations in them, should be transparent.
- d) A negotiated framework should entail both rights and obligations, with especially the right of renegotiation, compensation or retaliation provided in cases of breach of agreement.

All these issues have been thoroughly discussed in the UNCTC. On some of them, full agreement has been reached, while on others, initial differences in position have been substantially reduced. The OECD countries have stated repeatedly in informal discussions that residual differences on these and other matters could be solved quickly if there were agreement on one other issue not included in Ambassador Brock's list. That issue relates to the applicability of international law to matters dealt with in the code. In the view of several OECD countries, customary international law contains, for example, provisions regarding approaches to be adopted in cases of nationalization, including dispute settlement and standards of compensation. One version of a text on this issue that is acceptable to the U.S. and some other OECD countries is the following: "In all matters relating to the code, States shall fulfil in good faith their obligations under international law."

This matter is, however, still in dispute, because the developing countries do not agree that customary international law includes provisions along the above lines. While they are prepared to accept a text that would allow the industrial countries to maintain their position of principle on this matter in the event of disputes arising, they are unwilling to concede the point of principle itself. A proposal has been tabled by France that seems to have met with widespread, but not universal, support among both developed and developing countries. It reads as follows: "In all matters relating to the code, States shall fulfil in good faith their international obligations."

None of these related questions can be solved without overcoming the above stumbling block. On the other hand, it is doubtful whether restarting the discussion in the GATT is the best way forward.

Developed-country vs. Developing-country Interests

On the question of national treatment, the point of principle has been accepted on all sides, but the developing countries wish to introduce qualifications relating to the safeguarding of national security, and the promotion of economic development. Both of these qualifications have in turn been accepted in principle by the developed countries, but

the drafting of the development qualification has encountered the difficulty of how to recognize the validity of the development objective without in effect undermining the principle of national treatment itself. Here again, it is by no means obvious that solution of the problem will be reached more easily if it is transferred to the GATT.

Similar questions arise in relation to the work of UNCTAD on restrictive business practices (RBPs) and the transfer of technology (TOT). As far as RBPs are concerned, a code was adopted by unanimous vote of the U.N. General Assembly in December 1980. It will clearly not be necessary for the GATT to reconsider the matters covered in the RBP Code, though it may conceivably be necessary to deal with additional questions not covered in that code. The code lays down standards of behavior for corporations and governments and provides for a continuing program of activities at the international level to improve the control of RBPs. However, UNCTAD has not been given the power to investigate allegations of anticompetitive behavior or to review the antitrust policies of a particular country. The fact remains that an international agreement on RBPs does exist and that it contains provisions that permit evolution. As pointed out by Joel Davidow," who has represented the U.S, in UNCTAD's work on both RBPs and TOT, world trade tensions have made protectionism and national industrial policy strategies more

popular than liberal, procompetitive approaches such as antitrust. Also, the conflict between regulatory and laissez-faire approaches to TNCs and investment has been intensified, according to Davidow, by the strict defense of laissez faire by the present U.S. administration. Further progress would seem to depend on an improvement in general economic conditions and a new spirit of compromise.

In the case of TOT, the situation is somewhat paradoxical. On the one hand, the benefits of free trade in high-technology services are being recommended to the developing countries for the Uruguay Round, On the other hand, it has proved impossible thus far to reach agreement on the prohibition of restrictive licensing practices in the proposed code of conduct on TOT. As regards the latter, the developed countries have insisted on a commercial "rule of reason" to justify many licensing restrictions. The developing countries, on the other hand, reject this approach and wish to leave it to national authorities to make exceptions. Alternatively, these countries seek a standard for judgment under which the development interests of the recipient country would weigh far more heavily than the commercial interests of the licensing enterprises.

In addition, the developing countries have for many years insisted on an absolute ban on export restrictions, while the developed market economies have urged that export restrictions are justified in a variety of situations, such as where they are designed to protect the exclusivity of rights being granted or utilized in other countries.'

All this illustrates rather neatly the point made by liarald Malmgren to the effect that information has value only if it is not freely available, and that the more restricted the access to information, the more valuable it is likely to be .S It is hardly surprising that the developing countries are reluctant to forgo the creation of their own capabilities in high-technology service industries if they cannot rely on gaining access to such technology through the *free* market. One striking illustration of this problem occurred in India, where IBM decided to discontinue its activities rather than comply with a new Indian law requiring majority domestic ownership of TNC affiliates unless the latter were engaged in substantial transfer of technology. In the view of the Indian government, IBM was not transferring technology to the extent that would have been needed to qualify as an exception to the rule.

Even the industrial countries have had difficulties with one another over this kind of issue, as evidenced by the concern ex-

pressed by Lord Kearton, former chairman of the British National Oil Company, that foreign companies operating in the North Sea were not transferring their technology to the U.K., so that in the event that they gave up their holdings, the U.K. would have difficulty in taking over from them. Some years later, in May 1981, Conservative government Trade Minister Cecil Parkinson stated that the fact that the original technology for the development of North Sea oil was American was "causing some concern" in Britain. He said, "There should be a greater transfer of research and development capacity into U.K. subsidiaries."

Thus in many countries, developed as well as developing, there is concern about the potential costs and benefits of a liberalization of international services, particularly since much depends on the policies pursued by the respective TNCs and the extent to which such TNCs would seek to exploit the advantages flowing from liberalization. *Many* countries see the need for some kind of regulatory framework, and since there is for the time being little chance of the establishment of such a framework at the international level, they feel it is all the more necessary to maintain their national rules and restrictions. This does not mean that negotiations could not take place on an easing of restrictions on both sides, but the types of negotiation that would have to take place on TOT, transborder data flows and other complex matters would not necessarily lead to the best results if conducted in the environment of GATT preoccupations rather than in the institutions that have been seized of these questions for many years. It should not be beyond the bounds of human ingenuity to devise an arrangement whereby the GATT negotiations could rely, to the extent necessary, on other institutions in dealing with some of the questions arising under Part II of the Punta del Este Ministerial Declaration.

The discussion thus far has not taken full account of the case for infant industry protection of high-technology industries in some of the developing countries, nor of the problems of national economic management that would arise if banking services were liberalized. It is often taken for granted that because the industrial countries have a long head start in telecommunications, informatics and related high-technology service industries, they also have a long-run comparative advantage in these areas. As Rachel McCulloch has pointed out:

While scale economies increase the potential benefits from liberalization, they also complicate the issue of how these benefits are shared. In

particular, the possibility that a given nation may lose by expanding trade even though global efficiency is improved is more difficult to rule out when scale economies are important. Mutual gains are assured only *if each* country is able, on average, to expand production in industries with scale economies.

Information-based and knowledge-based services are the areas in which U.S. firms and U.S. policymakers seem most confident of expanding global sales. These services are likely to exhibit strong economies of scale.

The theoretical analysis of comparative advantage and gains from trade suggests both that the apparent U.S. advantage in these industries (as measured by domestic prices) may be overstated under current conditions and that the cautious approach of other nations toward the liberalization of trade in services may have a firm economic basis.¹

The stakes are high in banking and insurance as well. In the case of insurance, for developing countries it is a simple question of retaining domestic savings for use at home, although there are certain areas of reinsurance in which costs and risks may be sufficiently high to justify recourse to TNCs in one or more of the industrial centers. In banking, the integrity of national macroeconomic management is involved, but in addition, countries are bound to be concerned as to how far domestic savings may be drawn off or diverted away from domestic priorities. This is a case where the desire of TNCs *for* "national treatment" within the host country encounters particular difficulty. If TNCs had access to local banking resources on terms as favorable as those available to domestic companies, there might well be a serious diversion of domestic resources to the TNCs, if only because of the greater confidence of banks in the creditworthiness of the foreign companies. Moreover, countries under severe balance-of-payments pressure would have considerable grounds for concern that TNCs might have an incentive to borrow in the local market while transferring their profits abroad.

The essential point is not to say that negotiations in the services sector are impossible, but rather that the complexity and variety of nontrade issues involved argue in favor of not limiting the negotiations exclusively to the Uruguay Round.

Note.

1. See chapter 4. pp. 41.62.
2. Ibid., p. - .
3. Commonwealth Secretariat "The Uruguay Round of Multilateral Trade Negotiations; Commonwealth Interests and Opportunities" (November 1986).
4. P. Sauvart. "Services TDF and the Code;" *CTC Reporter* no. 22 (Autumn 1986).
5. William Brook, "A simple Plan for Negotiating on Trade in Services," *World Economy*, November 1992.
6. Joel Davidow, "Antitrust and Transfer of Technology Rules; Recent Development;" *CTC Reporter* no. 19 (Spring 1985).
7. Ibid.
8. Harald B. Melmgren, "Negotiating International Rules for Services," *World Economy* 8, no. 1 (March 1985).
9. Financial Times, 5 May 1981.
30. Rachel McGrloch, *International Competition in Services*, Working Paper no. 2235 (National Bureau of Economic Research, May 1987).

APPENDICES

APPENDIX A

MINISTERIAL DECLARATION ON THE URUGUAY ROUND

GATT Press Release, September 25, 1986

Ministers, meeting on the occasion of the Special Session of Contracting Parties at Punta del Este, have decided to launch Multilateral Trade Negotiations (The Uruguay Round). To this end, they have adopted the following Declaration. The multilateral trade negotiations (MTN) will be open to the participation of countries as indicated in Parts I and II of this Declaration. A Trade Negotiations Committee (TNC) is established to carry out the negotiations. The Trade Negotiations Committee shall hold its first meeting not later than 31 October 1986. It shall meet as appropriate at Ministerial level. The Multilateral Trade Negotiations will be concluded within four years.

PART I NEGOTIATIONS ON TRADE IN GOODS

The Contracting Parties meeting at Ministerial level

DETERMINED to halt and reverse protectionism and to remove distortions to trade

DETERMINED also to preserve the basic principles and to further the objectives of the GATT

DETERMINED also to develop a more open, viable and durable multilateral trading system

CONVINCED that such action would promote growth and development

MINDFUL of the negative effects of prolonged financial and monetary instability in the world economy, the indebtedness of a large number of less-developed contracting parties, and considering the linkage between trade, money, finance and development

DECIDE to enter into Multilateral Trade Negotiations on trade in goods within the framework and under the aegis of the General Agreement on Tariffs and Trade.

A. OBJECTIVES

Negotiations shall aim to:

(i) bring about further liberalization and expansion of world trade to the benefit of all countries, especially less-developed contracting parties, including the improvement of access to markets by the reduction and elimination of tariffs, quantitative restrictions and other non-tariff measures and

obstacles;

(ii) strengthen the role of GATT, improve the multilateral trading system based on the principles and rules of the GATT and bring about a wider coverage of world trade under agreed, effective and enforceable multilateral disciplines;

(iii) increase the responsiveness of the GATT system to the evolving international economic environment, through facilitating necessary structural adjustment, enhancing the relationship of the GATT with the relevant international organizations and taking account of changes in trade patterns and prospects, including the growing importance of trade in high-technology products, serious difficulties in commodity markets and the importance of an improved trading environment providing, *inter alia*, for the ability of indebted countries to meet their financial obligations;

(iv) foster concurrent co-operative action at the national and international levels to strengthen the interrelationship between trade policies and other economic policies affecting growth and development, and to contribute towards continued, effective and determined efforts to improve the functioning of the international monetary system and the flow of financial and real investment resources to developing countries.

B. GENERAL PRINCIPLES GOVERNING NEGOTIATIONS

(i) Negotiations shall be conducted in a transparent manner, and consistent with the objectives and commitments agreed in this Declaration and with the principles of the General Agreement in order to ensure mutual advantage and increased benefits to all participants.

(ii) The launching, the conduct and the implementation of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage *may* be implemented on a provisional or a definitive basis by agreement prior to the formal conclusion of the negotiations. Early agreements shall be taken into account in assessing the overall balance of the negotiations.

(iii) Balanced concessions should be sought within broad trading areas and subjects to be negotiated in order to avoid unwarranted cross-sectoral demands.

(iv) CONTRACTING PARTIES agree that the principle of differential and more favourable treatment embodied in Part IV and, other relevant provisions of the General Agreement and under the Decision of the CONTRACTING PARTIES of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries applies to the negotiations. In the implementation of standstill and rollback, particular care should be given to avoiding disruptive effects on the trade of less-developed contracting parties.

(v) The developed countries do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of developing countries, i.e. the developed countries do not expect the developing countries, in the course of trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs. Developed contracting parties shall therefore not seek, neither shall less-developed contracting parties be required to make, concessions that are inconsistent with the latter's development, financial and trade needs.

(vi) Less-developed contracting parties expect that their capacity to make contributions or negotiated concessions or take other mutually agreed action under the provisions and procedures of the General Agreement would improve with the progressive development of their economies and improvement in their trade situation and they would accordingly expect to participate more fully in the framework of rights and obligations under the General Agreement.

(vu) Special attention shall be given to the particular situation and problems of the least-developed countries and to the

need to encourage positive measures to facilitate expansion of their trading opportunities. Expedient implementation of the relevant provisions of the 1982 Ministerial Declaration concerning the least-developed countries shall also be given appropriate attention.

C. STANDSTILL AND ROLLBACK

Commencing immediately and continuing until the formal completion of the negotiations, each participant agrees to apply the following commitments:

Standstill

(i) not to take any trade restrictive or distorting measure inconsistent with the provisions of the General Agreement or the Instruments negotiated within the framework of GATT or under its auspices;

(ii) not to take any trade restrictive or distorting measure in the legitimate exercise of its GATT rights, that would go beyond that which is necessary to remedy specific situations, as provided for in the General Agreement and the Instruments referred to in (i) above;

(iii) not to take any trade measures in such a manner as to improve its negotiating positions.

Rollback

(i) that all trade restrictive or distorting measures inconsistent with the provisions of the General Agreement or Instruments negotiated within the framework of GATT or under its auspices, shall be phased out or brought into conformity within an agreed timeframe not later than by the date of the formal completion of the negotiations, taking into account multilateral agreements, undertakings and understandings, including strengthened rules and disciplines, reached in pursuance of the objectives of the negotiations;

(ii) there shall be progressive implementation of this commitment on an equitable basis in consultations among participants concerned, including all affected participants. This commit-

ment shall take account of the concerns expressed by any participant about measures directly affecting its trade interests;

(iii) there shall be no GATT concessions requested for the elimination of these measures.

Surveillance of standstill and rollback

Each participant agrees that the implementation of these commitments on standstill and rollback shall be subject to multilateral surveillance so as to ensure that these commitments are being met. The Trade Negotiations Committee will decide on the appropriate mechanisms to carry out the surveillance, including periodic reviews and evaluations. Any participant may bring to the attention of the appropriate surveillance mechanism any actions or omissions it believes to be relevant to the fulfilment of these commitments. These notifications should be addressed to the GATT secretariat which may also provide further relevant information.

D. SUBJECTS FOR NEGOTIATIONS Tariffs

Negotiations shall aim, by appropriate methods, to reduce or, as appropriate, eliminate tariffs including the reduction or elimination of high tariffs and tariff escalation. Emphasis shall be *given* to the expansion of the scope of tariff concessions among all participants.

Non-tariff measures

Negotiations shall aim to reduce or eliminate non-tariff measures, including quantitative restrictions, without prejudice to any action to be taken in fulfilment of the rollback commitments.

Tropical products

Negotiations shall aim at the fullest liberalization of trade in tropical products, including in their processed and semi-processed forms and shall cover both tariff and all non-tariff measures affecting trade in these products.

CONTRACTING PARTIES

recognize the importance of trade in tropical products to a large number of less-developed contracting parties and agree that negotiations in this area shall receive special attention, including the timing of the negotiations and the implementation of the results as provided for in E(ii).

Natural resource-based products

Negotiations shall aim to achieve the fullest liberalization of trade in natural resource-based products, including in their processed and semi-processed forms. The negotiations shall aim to reduce or eliminate tariff and non-tariff measures, including tariff escalation.

Textiles and clothing

Negotiations in the area of textiles and clothing shall aim to formulate modalities that would permit the eventual integration of this sector into GATT on the basis of strengthened GATT rules and disciplines, thereby also contributing to the objective of further liberalization of trade.

Agriculture

CONTRACTING PARTIES

agree that there is an urgent need to bring more discipline and predictability to world agricultural trade by correcting and preventing restrictions and distortions including those related to structural surpluses so as to reduce the uncertainty, imbalances and instability in world agricultural markets.

Negotiations shall aim to achieve greater liberalization of trade in agriculture and bring all measures affecting import access and export competition under strengthened and more operationally effective GATT rules and disciplines, taking into account the general principles governing the negotiations, by:

- (i) improving market access through, *inter alia*, the reduction of import barriers;
- (ii) improving the competitive environment by increasing discipline on the use of all direct and indirect subsidies and other measures affecting directly or indirectly agricultural trade, including the phased reduction of their negative effects and dealing with their causes;
- (iii) minimizing the adverse effects that sanitary and phytosanitary regulations and barriers can have on trade in agriculture, taking into account the relevant international agreements.

In order to achieve the above objectives, the negotiating group having primary responsibility for all aspects of agriculture will use the Recommendations adopted by the CONTRACTING PARTIES at their Fortieth Session, which were developed in accordance with the GATT 1982 Ministerial Programme and take account of the approaches suggested in the work of the Committee on Trade in Agriculture without prejudice to other alternatives that might achieve the objectives of the negotiations.

GATT Articles

Participants shall review existing GATT Articles, provisions and disciplines as requested by interested contracting parties, and, as appropriate, undertake negotiations.

Safeguards

- (i) A comprehensive agreement on safeguards is of particular importance to the strengthening of the GATT system and to progress in the MTNs.

(ii) The agreement on safeguards;

- shall be based on the basic principles of the General

Agreement;

shall contain, *inter alia*, the following elements: transparency, coverage, objective criteria for action including the concept of serious injury or threat thereof, temporary nature, degressivity and structural adjustment, compensation and retaliation, notifications, consultation, multilateral surveillance and dispute settlement; and

- shall clarify and reinforce the disciplines of the General Agreement and should apply to all contracting parties.

MTN Agreements and Arrangements

Negotiations shall aim to improve, clarify, or expand, as appropriate, agreements and arrangements negotiated in the Tokyo Round of Multilateral Negotiations.

Subsidies and countervailing measures

Negotiations on subsidies and countervailing measures shall be based on a review of Articles VI and XVI and the MTN agreement on subsidies and countervailing measures with the objective of improving GATT disciplines relating to all subsidies and countervailing measures that affect international trade. A negotiating group will be established to deal with these issues.

Dispute settlement

In order to ensure prompt and effective resolution of disputes to the benefit of all contracting parties, negotiations shall aim to improve and strengthen the rules and the procedures of the dispute settlement process, while recognizing the contribution that would be made by more effective and enforceable GATT rules and disciplines. Negotiations shall include the development of adequate arrangements for overseeing and monitoring of the procedures that would facilitate compliance with adopted recommendations.

Trade-related aspects of intellectual property rights, including trade in counterfeit goods

In order to reduce the distortions and impediments to international trade, and taking into account the need to promote effective and adequate protection of intellectual property rights, and to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade, the negotiations shall aim to clarify GATT provisions and elaborate as appropriate new rules and disciplines.

Negotiations shall aim to develop a multilateral framework of principles, rules and disciplines dealing with international trade in counterfeit goods, taking into account work already undertaken in the GATT.

These negotiations shall be without prejudice to other complementary initiatives that may be taken in the World Intellectual Property Organization and elsewhere to deal with these matters.

Trade-related investment measures

Following an examination of the operation of GATT Articles related to the trade restrictive and distorting effects of investment

measures, negotiations should elaborate, as appropriate, further provisions that may be necessary to avoid such adverse effects on trade.

E. FUNCTIONING OF THE GATT SYSTEM

Negotiations shall aim to develop understandings and arrangements:

(i) to enhance the surveillance in the GATT to enable regular monitoring of trade policies and practices of contracting parties and their impact on the functioning of the multilateral trading system;

(ii) to improve the overall effectiveness and decision-making of the GATT as an institution, including, *inter alia*, through involvement of Ministers;

(iii) to increase the contribution of the GATT to achieving greater coherence in global economic policy-making through strengthening its relationship with other international organizations responsible for monetary and financial matters.

(a) Negotiations will be open to:

(1) all contracting parties,

(2) countries having acceded provisionally,

(3) countries applying the GATT on a *de facto* basis having

announced, not later than 30 April 1987, their intention

to accede to the GATT and to participate in the nego-

tiations,

(4) countries that have already informed the CONTRACTING PARTIES, at a regular meeting of the Council of Representatives, of their intention to negotiate the terms of their membership as a contracting party, and

(5) developing countries that have, by 30 April 1987, initiated procedures for accession to the GATT, with the intention of negotiating the terms of their accession during the course of the negotiations.

(b) Participation in negotiations relating to the amendment or application of GATT provisions or the negotiation of new provisions will, however, be open only to contracting parties.

G. ORGANIZATION OF THE NEGOTIATIONS

A Group of Negotiations on Goods (GNG) is established to carry out the programme of negotiations contained in this Part of the Declaration. The GNG shall, *inter alia*;

(i) elaborate and put into effect detailed trade negotiating plans prior to 19 December 1986;

(ii) designate the appropriate mechanism for surveillance of commitments to standstill and rollback;

(iii) establish negotiating groups as required. Because of the interrelationship of some issues and taking fully into account the general principles governing the negotiations as stated in B(iii) above it is recognized that aspects of one issue may be discussed in more than one negotiating group. Therefore each negotiating group should as required take into account relevant aspects emerging in other groups;

(iv) also decide upon inclusion of additional subject matters in the negotiations;

(v) co-ordinate the work of the negotiating groups and supervise the progress of the negotiations. As a guideline not more than two negotiating groups should meet at the same time;

(vi) the GNG shall report to the Trade Negotiations Committee.

In order to ensure effective application of differential and more favourable treatment the GNG shall, before the formal completion of the negotiations, conduct an evaluation of the results attained therein in terms of the Objectives and the General Principles Governing Negotiations as set out in the Declaration, taking into account all issues of interest to less-developed contracting parties.

F. PARTICIPATION

PART II NEGOTIATIONS ON TRADE IN SERVICES

Ministers, also decided, as part of the Multilateral Trade Negotiations, to launch negotiations on trade in services.

Negotiations in this area shall aim to establish a multilateral framework of principles and rules for trade in services, including

elaboration of possible disciplines for individual sectors, with a view to expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting economic growth of all trading partners and the development of developing countries. Such framework shall respect the policy objectives of national laws and regulations applying to services and shall take into account the work of relevant international organizations.

GATT procedures and practices shall apply to these negotiations. A Group on Negotiations on Services is established to deal with these matters. Participation in the negotiations under this Part of the Declaration will be open to the same countries as under Part I. GATT secretariat support will be provided, with technical support from other organizations as decided by the Group on Negotiations on Services.

The Group on Negotiations on Services shall report to the Trade Negotiations Committee.

IMPLEMENTATION OF RESULTS UNDER PARTS I AND II

When the results of the Multilateral Trade Negotiations in all areas have been established, Ministers meeting also on the occasion of a Special Session of CONTRACTING PARTIES shall decide regarding the international implementation of the respective results.

APPENDIX a

AN INFORMATION NOTE

(The following material, excerpted from a GATT information note distributed at the Punta del Este Ministerial Meeting, was compiled by the Commonwealth Secretariat for the London Trade Roundtable of December 1986.- ED.1

Standstill and Rollback

"Standstill" can be defined as an undertaking by governments not to introduce new restrictive or trade distortive measures that are inconsistent with the General Agreement or, according to one view, with arrangements negotiated under the GATT. Additionally, it could be extended to a requirement that measures taken in conformity with the General Agreement should not go beyond what is necessary to remedy situations expressly provided for in the rules and should not be introduced to improve negotiating positions.

"Rollback" or "phase-out" refers to the gradual elimination of existing inconsistent GATT measures or their transformation to eliminate the inconsistency. It is thus the next stage on from standstill.

It is recognized that the development of protectionism since the end of the 1970s has made necessary the adoption of firm commitments in this field, going beyond simple efforts by governments to do their best to avoid the adoption or maintenance of such measures. There is also a generally accepted view that credible machinery will be necessary in order to observe and ensure the enforcement of these commitments.

Previous Standstill' Commitments

Standstill commitments were undertaken in GATT's first tariff conferences, in particular the Dillon Round (1960-62). In the Kennedy Round (1963-67), such a commitment was introduced *for* the benefit of the developing countries only, subject to reservations in the case of "special and compelling circumstances." In fact, there was no need for it, because in both the Kennedy and the Tokyo Round (1975-79), the negotiators had established a base *year* for calculating tariff reductions.

As far as tariffs are concerned, standstill commitments have lost their importance, because more than 90 percent of the customs duties of most industrialized countries

are bound in the General Agreement - which in effect constitutes a permanent standstill arrangement. On the other hand, nontariff measures restricting or disturbing trade have become the principal elements of trade policy and can more usefully be made the subject of standstill commitments.

The Ministerial Declaration of November 1982 contains, in paragraph 7(i), an individual and collective commitment by the Contracting Parties "to make determined efforts to ensure that trade policies and measures are consistent with GATT principles and rules and to resist protectionist pressures in the formulation and implementation of national trade policy and in proposing legislation; and also to refrain from taking or maintaining any measures inconsistent with GATT and to make determined efforts to avoid measures which would limit or distort international trade." However, the nature of this commitment seems to have been interpreted in different ways, and it has not prevented the subsequent introduction of measures which, whether or not consistent with the General Agreement, have limited or distorted trade.

Special and Differential Treatment

Special and differential treatment for developing countries derives from recognition of the difficulty of ensuring equality of rights and obligations - the basis of the General Agreement - between Contracting Parties at different stages of development. The principle is contained in Article XVIII and, since 1966, in Part IV of the General Agreement. It was reaffirmed in the Tokyo Round (1973-1979) by the agreement reached on an "Enabling Clause."

In the context of multilateral trade negotiations, this principle means that the developed countries do not expect reciprocity and do not seek to obtain concessions inconsistent with the development, financial and trade needs of developing countries. Moreover, developed countries should pay particular attention to the trading problems of developing countries and seek to accord them, whenever possible and appropriate, more favorable treatment than their developed partners.

The Enabling Clause also provides that less developed countries expect that their capacity to make contributions or negotiate conces-

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The high level of debt now burdening developing countries has given a new dimension to the need for these countries to benefit from increased access to export markets.

Previous Experience in the GATT

The first tariff negotiations took place on the basis of equal treatment. Experience showed, however, that developing countries had not been able to participate effectively. It was only with the opening of the Kennedy Round (1963-67) that the developed countries indicated that they would not expect reciprocity from developing countries and that they would consider the contributions of such countries in the light of their economic, development and trade needs.

The principle of special and differential treatment in favor of developing countries was reaffirmed in the Tokyo Round (1973-79); the tropical products sector received special and priority attention, and concessions granted by the developed countries in this area were implemented ahead of schedule; from 1977. Nevertheless, at the end of both the Kennedy and the Tokyo Rounds, developing countries felt that they had not gained substantial advantages from the negotiations. The reductions in tariffs ultimately proved to be less for products having an export interest for developing countries, while the codes on nontariff measures contain special provisions for developing countries which they consider inadequate.

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During the Tokyo Round, attempts were made to reach *agreement* on the application and interpretation of Article XIX, in particular, to resolve the longstanding difference between the Contracting Parties who believes that action must be taken on a nondiscriminatory basis - i.e., against all suppliers - and those who believe that it should also be possible to direct such action solely at a single supplier. Other related issues *have* concerned the duration of safeguard action; the criteria to be used in assessing injury to the domestic producer; whether or not the government taking such action should undertake commitments concerning structural adjustment in the industry concerned; and questions relating to the transparency of the measures taken.

Current Discussions in the GATT

The GATT Ministerial Declaration of 1982 envisaged a comprehensive understanding on safeguards, including the issues mentioned above. Although successive chairmen of the Contracting Parties undertook consultations to achieve such an understanding in the years following the Ministerial Meeting, there was little progress, in particular because of the failure to reconcile the fundamental difference of approach on the question of the selective or nonselective use of safeguards.

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Agriculture

At present, trade in agricultural products accounts for approximately 10 percent by value of world trade. This proportion declined slightly in 1955, owing to a decrease of 2-1/2 percent in agricultural exports by volume, and certainly more in terms of value. At the same time, however, agricultural production has continued to expand, with

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The 1952 Ministerial Meeting called upon GATT members to bring agriculture more fully into the multilateral trading system by improving the effectiveness of GATT rules and disciplines and, through their common interpretation, to seek to improve terms of access to markets and bring export competition under greater discipline.

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On the basis of these directives, the Contracting Parties adopted, in November 1984, a series of recommendations prepared by the Committee on Trade in Agriculture. These recommendations seek to promote the liberalization of trade in agriculture and to bring all measures affecting trade in agriculture under more operationally effective rules and disciplines, with particular reference to improving terms of access to markets, bringing export competition under . greater discipline and reinforcing the linkages between national policies and trade measures (especially between quantitative restrictions governed by Article XI and subsidies under Article XVI). The more effective implementation off special and differential treatment for developing countries would also be an objective.

The Committee on Trade in Agriculture concentrated on three major areas:

- a) Quantitative restrictions and other measures affecting imports and exports.
- b) Subsidies affecting trade in agriculture.
- c) Sanitary and phytosanitary regulations and other technical barriers to trade.

It also drew attention to the need for ensuring fuller transparency of policies and measures affecting trade in agriculture. The Committee further agreed that account should be taken of the need for a balance of rights and obligations among GATT members, as well as of the special needs of developing countries and of the specific characteristics and problems in agriculture.

The initial agreement on agriculture in the Committee has been the subject of much further detailed work which was designed to elaborate possible approaches to negotiation.

Tropical Products

Although trade in tropical products does not represent a large percentage of world trade, it is important to those developing countries which are the principal suppliers. The sector covers items like beverages (coffee, tea, cocoa), spices and essential oils, cut flowers, plants, certain oilseeds, vegetable oils, tobacco, rice and tropical roots (e.g., manioc), fruits such as bananas and fruit juices, tropical wood and rubber, jute and hard fibers. It is a sector in which the principle of more favorable treatment for developing countries can be applied, as was the case in the Tokyo Round. However, some of these products (e.g., vegetables and oilseeds) are substitutable and

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World trade in tropical products and their prices have generally declined appreciably in recent years, with severe consequences for the export earnings of developing countries.

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Consultations for further liberalizing the tropical products sector were held following the November 1982 Ministerial Meeting. Certain potential improvements were identified, but it was not possible to make further progress toward concrete results.

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The Ministerial Declaration of November 1982 contains, in paragraph 7(i), an individual and collective commitment by the Contracting Parties "to make determined efforts to ensure that trade policies and measures are consistent with GATT principles and rules and to resist protectionist pressures in the formulation and implementation of national trade policy and in proposing legislation; and also to refrain from making or maintaining any measures inconsistent with GATT and to make determined efforts to avoid measures which would limit or distort international trade." However, the nature of this commitment seems to have been interpreted in different ways, and it has not prevented the subsequent introduction of measures which, whether or not consistent with the General Agreement, have limited or distorted trade.

Special and Differential Treatment

Special and differential treatment for developing countries derives from recognition of the difficulty of ensuring equality of rights and obligations - the basis of the General Agreement - between Contracting Parties at different stages of development. The principle is contained in Article XVIII and, since 1966, in Part IV of the General Agreement. It was reaffirmed in the Tokyo Round (1973-1979) by the agreement reached on an Enabling Clause."

In the context of multilateral trade negotiations, this principle means that the developed countries do not expect reciprocity and do not seek to obtain concessions inconsistent with the development, financial and trade needs of developing countries. Moreover, developed countries should pay particular attention to the trading problems of developing countries and seek to accord them, whenever possible and appropriate, more favorable treatment than their developed partners.

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manufactures and for wood and paper products at all stages of processing.

This approach - which was not finally adopted - was also of interest to developing countries, in particular because it would have enabled them to develop their raw material processing

industries, especially leather and leather products, wood, pulp, copper and handicrafts, as well as fish and fisheries products.

The 1982 Ministerial Declaration took up the question in a new form by providing for an examination of the trade problems in certain natural resource products within the competence of the GATT (nonferrous metals and ores, forestry products, fish and fisheries products). The examination dealt with tariff and nontariff barriers and other measures affecting trade. The working party concerned was able to make recommendations for greater liberalization only for some of these products, since trade in fisheries products appeared to be influenced by noncommercial factors, such as access to fishing grounds.

Treatment in a New 'Dade Round

It is proposed that the new Round should seek to reduce or to eliminate barriers to trade in these products and to create a more predictable environment for trade and investment in industries based on the use of natural resources. Several questions will have to be answered, however. What would be the products involved? Should there be a sectoral approach, or should this liberalization be sought within the framework of general negotiations? In that case, should special negotiating procedures be established? Should a broadening be envisaged in the field of application of the Generalized System of Preferences, which already partly covers these products? Some of these questions may, however, be left to be dealt with in the course of the negotiations and need not be the subject of decisions at Punta del Este.

Tariffs

Tariffs have been the GATT's traditional and most successful field of activity. While there are exceptions, the tariff is, in principle, the *only* instrument of protection allowed by the General Agreement. Under Article II, Contracting Parties can "bind" their tariffs - meaning *they* are fixed and can only be raised if compensation is negotiated under the terms of Article XXVIII.

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The initial agreement on agriculture in the Committee has been the subject of much further detailed work which was designed to elaborate possible approaches to negotiation.

Tropical Products

Although trade in tropical products does not represent a large percentage of world trade, it is important to those developing countries which are the principal suppliers. The sector covers items like beverages (coffee, tea, cocoa), spices and essential oils, cut flowers, plants, certain oilseeds, vegetable oils, tobacco, rice and tropical roots (e.g., manioc), fruits such as bananas and fruit juices, tropical wood and rubber, jute and hard fibers. It is a sector in which the principle of more favorable treatment for developing countries can be applied, as was the case in the Tokyo Round. However, some of these products (e.g., vegetables and oilseeds) are substitutable and

can compete with products of temperate zones, while others (e.g., rice, sugar, tobacco) are grown by both developed and developing countries.

World trade in tropical products and their prices have generally declined appreciably in recent years, with severe consequences for the export earnings of developing countries.

Previous Treatment in the GATT

In the Tokyo Round, tropical products were treated as a special and priority sector. Of 4,000 dutiable items for which requests for concessions were made by developing countries, most-favored-nation concessions and GSP contributions were granted with respect to 2,930. Most of these concessions were implemented ahead of schedule in 1976-77.

Liberalization was particularly marked for coffee and tea and their extracts, spices, cocoa and cocoa products, and miscellaneous meat and animal products. The results of the negotiations were less favorable in respect of nontariff barriers, in particular, domestic taxes on coffee, cocoa, tea and bananas.

Consultations for further liberalizing the tropical products sector were held following the November 1982 Ministerial Meeting. Certain potential improvements were identified, but it was not possible to make further progress toward concrete results.

During the meetings of the Preparatory Committee, it was suggested that the tropical products sector should be regarded as a special sector calling for priority attention in the forthcoming negotiations. It remains to be seen whether these negotiations should be finished and their results implemented before completion of the negotiations on other topics, whether any reciprocity will be expected for concessions granted in this sector, what products would be covered and what liberalization measures would be taken.

Natural Resource-based Products

Trade of natural resource products at their various stage of processing is of great importance both for developing countries and for certain developed countries producing these products.

Canada was one of the principal promoters of a sectoral approach in the Tokyo Round, with a view to obtaining a greater degree of liberalization of trade for certain ores, metals and metal manufactures and for wood and paper products at all stages of processing.

This approach - which was not finally adopted - was also of interest to developing countries, in particular because it would have enabled them to develop their raw material processing industries, especially leather and leather products, wood, pulp, copper and handicrafts, as well as fish and fisheries products.

The 1982 Ministerial Declaration took up the question in a new form by providing for an examination of the trade problems in certain natural resource products within the competence of the GATT (nonferrous metals and ores, forestry products, fish and fisheries products). The examination dealt with tariff and nontariff barriers and other measures affecting trade. The working party concerned was able to make recommendations for greater liberalization only for some of these products, since trade in fisheries products appeared to be influenced by noncommercial factors, such as access to fishing grounds.

Treatment in a New 'Dade Round

It is proposed that the new Round should seek to reduce or to eliminate barriers to trade in these products and to create a more predictable environment for trade and investment in industries based on the use of natural resources. Several questions will have to be answered, however. What would be the products involved? Should there be a sectoral approach, or should this liberalization be sought within the framework of general negotiations? In that case, should special negotiating procedures be established? Should a broadening be envisaged in the field of application of the Generalized System of Preferences, which already partly covers these products? Some of these questions may, however, be left to be dealt with in the course of the negotiations and need not be the subject of decisions at Punta del Este.

Tariffs

Tariffs have been the GATT's traditional and most successful field of activity. While there are exceptions, the tariff is, in principle, the *only* instrument of protection allowed by the General Agreement. Under Article II, Contracting Parties can "bind" their tariffs - meaning *they* are fixed and can only be raised if compensation is negotiated under the terms of Article XXVIII.

Although the seven Rounds of trade negotiations that have been held in the GATT since 1947 have considerably reduced the level of tariff protection in industrialized countries, there are still some peaks of tariff protection for sensitive goods whose export is often of interest to developing countries. The level of tariff protection for agricultural products is generally higher than for manufactures. In developing countries, not only is the level of customs duties higher than in developed countries, on average, but the degree to *which* such duties are bound is much less; as a result, they can be raised without engaging in negotiations for granting compensations provided by Article XXVIII.

The value of trade affected by tariff reductions resulting from the Tokyo Round amounted to some US\$ 300 billion. The weighted average of the duties (i.e., *the level* of duty weighted by the volume of trade in the product concerned) of the nine main industrial markets was brought down from 7.0 to 4.7 percent for industrial products, a reduction of 34 percent. In contrast, the comparative average was 35 percent before the creation of the GATT and 15 percent before the Dillon Round, at the end of the 1950s. In general, the largest reductions affected the *highest* duties, with the result that the customs tariffs of the principal countries have largely been drawn closer to one another or "*harmonized*." On the *other* hand, reductions were smaller in the agricultural sector, having been made *through* a different negotiating procedure.

The implementation of the tariff reductions agreed on in the Tokyo Round was, in principle, to be staggered until January 1, 1987, but some developed countries have already completed all their duty reductions.

Tariff Problems Outstanding

Although tariff negotiations have been somewhat overshadowed by more recent interest in nontariff measures, they are expected to retain considerable importance in a new Round of negotiations. The main questions at the present time are the following:

- a) Should "nuisance" duties be eliminated, i.e., customs duties of less than 5 percent, whose cost of collection is greater than the fiscal receipts they produce?
- b) Should a harmonizing formula of tariff reduction be adopted similar to that of the Tokyo Round? Should it also apply to agricultural products?

As far as tariffs are concerned, standstill commitments have lost their importance, because more than 90 percent of the customs duties of most industrialized countries are bound in the General Agreement - which in effect constitutes a permanent standstill arrangement. On the other hand, nontariff measures restricting or disturbing trade have become the principal elements of trade policy and can more usefully be made the subject of standstill commitments.

The Ministerial Declaration of November 1982 contains, in paragraph 7(i), an individual and collective commitment by the Contracting Parties "to make determined efforts to ensure that trade policies and measures are consistent with GATT principles and rules and to resist protectionist pressures in the formulation and implementation of national trade policy and in proposing legislation; and also to refrain from taking or maintaining any measures inconsistent with GATT and to make determined efforts to avoid measures which would limit or distort international trade." However, the nature of this commitment seems to have been interpreted in different ways, and it has not prevented the subsequent introduction of measures which, whether or not consistent with the General Agreement, have limited or distorted trade.

Special and Differential Treatment

Special and differential treatment for developing countries derives from recognition of the difficulty of ensuring equality of rights and obligations - the basis of the General Agreement - between Contracting Parties at different stages of development. The principle is contained in Article XVIII and, since 1966, in Part IV of the General Agreement. It was reaffirmed in the Tokyo Round (1973-1979) by the agreement reached on an "Enabling Clause."

In the context of multilateral trade negotiations, this principle means that the developed

countries do not expect reciprocity and do not seek to obtain concessions inconsistent with the development, financial and trade needs of developing countries. Moreover, developed countries should pay particular attention to the trading problems of developing countries and seek to accord them, whenever possible and appropriate, more favorable treatment than their developed partners.

The Enabling Clause also provides that less developed countries expect that their capacity to make contributions or negotiate concessions will improve with the progressive development of their economies and improvement in their trade situation.

The high level of debt now burdening developing countries has given a new dimension to the need for these countries to benefit from increased access to export markets.

Previous Experience in the GATT

The first tariff negotiations took place on the basis of equal treatment. Experience showed, however, that developing countries had not been able to participate effectively. It was only with the opening of the Kennedy Round (1963-67) that the developed countries indicated that they would not expect reciprocity from developing countries and that they would consider the contributions of such countries in the light of their economic, development and trade needs.

The principle of special and differential treatment in favor of developing countries was reaffirmed in the Tokyo Round (1973-79); the tropical products sector received special and priority attention, and concessions granted by the developed countries in this area were implemented ahead of schedule; from 1977. Nevertheless, at the end of both the Kennedy and the Tokyo Rounds, developing countries felt that they had not gained substantial advantages from the negotiations. The reductions in tariffs ultimately proved to be less for products having an export interest for developing countries, while the codes on nontariff measures contain special provisions for developing countries which they consider inadequate.

In November 1985, the Contracting Parties identified definition of the treatment to be accorded developing countries in a new Round of international trade negotiations as being a matter of priority importance,

Safeguards

Discussions on the safeguards issue has been focused on Article XIX - sometimes referred to as the "escape clause" - of the GATT. This article permits, in defined circumstances, emergency action to be taken against imports which are causing, or threatening to cause, serious injury to domestic producers of the products in question. The Contracting Parties affected by such action are able to seek compensation for lost exports through consultations with the country taking

safeguard action. Where compensation cannot be agreed in this way, they are entitled to retaliate, in equivalent terms, against the trade of that country.

During the Tokyo Round, attempts were made to reach *agreement* on the application and interpretation of Article XIX, in particular, to resolve the longstanding difference between the Contracting Parties who believes that action must be taken on a nondiscriminatory basis - i.e., against all suppliers - and those who believe that it should also be possible to direct such action solely at a single supplier. Other related issues *have* concerned the duration of safeguard action; the criteria to be used in assessing injury to the domestic producer; whether or not the government taking such action should undertake commitments concerning structural adjustment in the industry concerned; and questions relating to the transparency of the measures taken.

Current Discussions in the GATT

The GATT Ministerial Declaration of 1982 envisaged a comprehensive understanding on safeguards, including the issues mentioned above. Although successive chairmen of the Contracting Parties undertook consultations to achieve such an understanding in the years

following the Ministerial Meeting, there was little progress, in particular because of the failure to reconcile the fundamental difference of approach on the question of the selective or nonselective use of safeguards.

Matters have also been complicated by the fact that in recent years there has been a tendency for Contracting Parties to take emergency actions which are not consistent with the terms of the General Agreement, in particular through discriminatory bilateral agreements providing for export restraints and other market-sharing arrangements. Around 120 arrangements of this kind are known to the GATT Secretariat, although because both the importing and the exporting countries have agreed to them, they are seldom scrutinized or discussed in formal GATT bodies. So-called "voluntary" restraint arrangements - often also termed "*grey-area*" measures - are especially common in the steel, domestic electronics, automobile and machine tool sectors. What is done to deal with these problems also depends on the terms of the "rollback" commitment built into the Declaration and the action taken to implement it.

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At present, trade in agricultural products accounts for approximately 10 percent by value of world trade. This proportion declined slightly in 1955, owing to a decrease of 2-1/2 percent in agricultural exports by volume, and certainly more in terms of value. At the same time, however, agricultural production has continued to expand, with the result that the surpluses in international markets have helped to fuel tension and a *form* of guerilla warfare in subsidies between the major exporters.

GATT rules as regards quantitative restrictions and subsidies are more flexible for agricultural products. It is generally recognized that, in some respects, these rules lack precision and leave room for different interpretations which often hamper the definitive settlement of disputes affecting agricultural trade.

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Agriculture was somewhat neglected in earlier negotiations, although the nontariff barrier codes adopted after the Tokyo Round apply also to agricultural products, and two sectoral arrangements, covering dairy products and bovine meat trade respectively, were negotiated. In general, protection, enforced by a wide variety of measures, is greater than in the industrial sector, and the degree of binding of customs duties is less.

The 1952 Ministerial Meeting called upon GATT members to bring agriculture more fully into the multilateral trading system by improving the effectiveness of GATT rules and

disciplines and, through their common interpretation, to seek to improve terms of access to markets and bring export competition under greater discipline.

On the basis of these directives, the Contracting Parties adopted, in November 1984, a series of recommendations prepared by the Committee on Trade in Agriculture. These recommendations seek to promote the liberalization of trade in agriculture and to bring all measures affecting trade in agriculture under more operationally effective rules and disciplines, with particular reference to improving terms of access to markets, bringing export competition under . greater discipline and reinforcing the linkages between national policies and trade measures (especially between quantitative restrictions governed by Article XI and subsidies under Article XVI). The more effective implementation off special and differential treatment for developing countries would also be an objective.

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- a) Should "nuisance" duties be eliminated, i.e., customs duties of less than 5 percent, whose cost of collection is greater than the fiscal receipts they produce?
- b) Should a harmonizing formula of tariff reduction be adopted similar to that of the Tokyo Round? Should it also apply to agricultural products?
- e) Should tariff escalation, which means the application of higher duties as the degree of processing of a product increases, be tackled? Tariff escalation covers sectors of special interest to developing countries such as textiles and clothing, leather and leather products, tropical products and processed agricultural products.
- d) What commitment should be undertaken with respect to the binding of tariffs, which is important for their predictability?

Codes and Arrangements after the Tokyo Round

Apart from the Code on Anti-Dumping Practices, which goes back to the Kennedy Round (1964-67), all of the agreements or "codes" on nontariff barriers resulted from the Tokyo Round (1973-79). Most are based on provisions of the General Agreement, which they clarify or supplement. That is the case in particular for the Codes on Subsidies and Countervailing Duties (Articles VI and XVI), on Anti-Dumping Practices (Article VI), on Customs Valuation (Article VII), on Import Licensing (Article VIII) and on Technical Barriers to Trade (Article XX(b)). Furthermore, the Code on Government Procurement constitutes an extension of the GATT's activities, while the Code on Trade in Civil Aircraft represents a sectoral free-trade agreement. Lastly, two international arrangements bring trade in dairy products and bovine meat under agreed international disciplines.

Past and Current Discussion in the GATT

The 1982 Ministerial Declaration invited each Committee responsible for administering a Tokyo Round agreement or arrangement to examine the difficulties encountered in the implementation of its code and the reasons why a larger number of countries had not accepted it. A working party was created to carry out an overall review of the question; in addition, in view of the fact that the Code on Subsidies and Countervailing Duties had given rise to special difficulties, a working party has recently been established to promote discussion in this sector. The working party on MTN Agreements and Arrangements has not identified general obstacles or generic problems inherent in the codes; it felt that the low participation of developing countries in the codes was due to questions of economic

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During the Tokyo Round, attempts were made to reach *agreement* on the application and interpretation of Article XIX, in particular, to resolve the longstanding difference between the Contracting Parties who believes that action must be taken on a nondiscriminatory basis - i.e., against all suppliers - and those who believe that it should also be possible to direct such action solely at a single supplier. Other related issues *have* concerned the duration of safeguard action; the criteria to be used in assessing injury to the domestic producer; whether or not the government taking such action should undertake commitments concerning structural adjustment in the industry concerned; and questions relating to the transparency of the measures taken.

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- b) Subsidies affecting trade in agriculture.
- c) Sanitary and phytosanitary regulations and other technical barriers to trade.

It also drew attention to the need for ensuring fuller transparency of policies and measures affecting trade in agriculture. The Committee further agreed that account should be taken of the need for a balance of rights and obligations among GATT members, as well as of the special needs of developing countries and of the specific characteristics and problems in agriculture.

The initial agreement on agriculture in the Committee has been the subject of much further

detailed work which was designed to elaborate possible approaches to negotiation.

Tropical Products

Although trade in tropical products does not represent a large percentage of world trade, it is important to those developing countries which are the principal suppliers. The sector covers items like beverages (coffee, tea, cocoa), spices and essential oils, cut flowers, plants, certain oilseeds, vegetable oils, tobacco, rice and tropical roots (e.g., manioc), fruits such as bananas and fruit juices, tropical wood and rubber, jute and hard fibers. It is a sector in which the principle of more favorable treatment for developing countries can be applied, as was the case in the Tokyo Round. However, some of these products (e.g., vegetables and oilseeds) are substitutable and

can compete with products of temperate zones, while others (e.g., rice, sugar, tobacco) are grown by both developed and developing countries.

World trade in tropical products and their prices have generally declined appreciably in recent years, with severe consequences for the export earnings of developing countries.

Previous Treatment in the GATT

In the Tokyo Round, tropical products were treated as a special and priority sector. Of 4,000 dutiable items for which requests for concessions were made by developing countries, most-favored-nation concessions and GSP contributions were granted with respect to 2,930. Most of these concessions were implemented ahead of schedule in 1976-77. Liberalization was particularly marked for coffee and tea and their extracts, spices, cocoa and cocoa products, and miscellaneous meat and animal products. The results of the negotiations were less favorable in respect of nontariff barriers, in particular, domestic taxes on coffee, cocoa, tea and bananas.

Consultations for further liberalizing the tropical products sector were held following the November 1982 Ministerial Meeting. Certain potential improvements were identified, but it was not possible to make further progress toward concrete results.

During the meetings of the Preparatory Committee, it was suggested that the tropical products sector should be regarded as a special sector calling for priority attention in the forthcoming negotiations. It remains to be seen whether these negotiations should be finished and their results implemented before completion of the negotiations on other topics, whether any reciprocity will be expected for concessions granted in this sector, what products would be covered and what liberalization measures would be taken.

Natural Resource-based Products

Trade of natural resource products at their various stage of processing is of great importance both for developing countries and for certain developed countries producing these products.

Canada was one of the principal promoters of a sectoral approach in the Tokyo Round, with a view to obtaining a greater degree of liberalization of trade for certain ores, metals and metal

manufactures and for wood and paper products at all stages of processing.

This approach - which was not finally adopted - was also of interest to developing countries, in particular because it would have enabled them to develop their raw material processing industries, especially leather and leather products, wood, pulp, copper and handicrafts, as well as fish and fisheries products.

The 1982 Ministerial Declaration took up the question in a new form by providing for an examination of the trade problems in certain natural resource products within the competence of the GATT (nonferrous metals and ores, forestry products, fish and fisheries products). The examination dealt with tariff and nontariff barriers and other measures affecting trade. The working party concerned was able to make recommendations for greater liberalization only for some of these products, since trade in fisheries products appeared to be influenced by noncommercial factors, such as access to fishing grounds.

Treatment in a New Trade Round

It is proposed that the new Round should seek to reduce or to eliminate barriers to trade in these products and to create a more predictable environment for trade and investment in industries based on the use of natural resources. Several questions will have to be answered, however. What would be the products involved? Should there be a sectoral approach, or should this liberalization be sought within the framework of general negotiations? In that case, should special negotiating procedures be established? Should a broadening be envisaged in the field of application of the

Generalized System of Preferences, which already partly covers these products? Some of these questions may, however, be left to be dealt with in the course of the negotiations and need not be the subject of decisions at Punta del Este.

Tariffs

Tariffs have been the GATT's traditional and most successful field of activity. While there are exceptions, the tariff is, in principle, the *only* instrument of protection allowed by the General Agreement. Under Article II, Contracting Parties can "bind" their tariffs - meaning *they* are fixed and can only be raised if compensation is negotiated under the terms of Article XXVIII.

Although the seven Rounds of trade negotiations that have been held in the GATT since 1947 have considerably reduced the level of tariff protection in industrialized countries, there are still some peaks of tariff protection for sensitive goods whose export is often of interest to developing countries. The level of tariff protection for agricultural products is generally higher than for manufactures. In developing countries, not only is the level of customs duties higher than in developed countries, on average, but the degree to *which* such duties are bound is much less; as a result, they can be raised without engaging in negotiations for granting compensations provided by Article XXVIII.

The value of trade affected by tariff reductions resulting from the Tokyo Round amounted to some US\$ 300 billion. The weighted average of the duties (i.e., *the level* of duty weighted by the volume of trade in the product concerned) of the nine main industrial markets was brought down from 7.0 to 4.7 percent for industrial products, a reduction of 34 percent. In contrast, the comparative average was 35 percent before the creation of the GATT and 15 percent before the Dillon Round, at the end of the 1950s. In general, the largest reductions affected the *highest* duties, with the result that the customs tariffs of the principal countries have largely been drawn closer to one another or "*harmonized*." On the *other* hand, reductions were smaller in the agricultural sector, having been made *through* a different negotiating procedure.

The implementation of the tariff reductions agreed on in the Tokyo Round was, in principle, to be staggered until January 1, 1987, but some developed countries have already completed all their duty reductions.

Tariff Problems Outstanding

Although tariff negotiations have been somewhat overshadowed *by more recent interest* in nontariff measures, they are expected to retain considerable importance in a new Round of negotiations. The main questions at the present time are the following:

- a) Should "nuisance" duties be eliminated, i.e., customs duties of less than 5 percent, whose cost of collection is greater than the fiscal receipts they produce?
- b) Should a harmonizing formula of tariff reduction be adopted similar to that of the Tokyo Round? Should it also apply to agricultural products?
 - e) Should tariff escalation, which means the application of higher duties as the degree of processing of a product increases, be tackled? Tariff escalation covers sectors of special interest to developing countries such as textiles and clothing, leather and leather products, tropical products and processed agricultural products.
- d) What commitment should be undertaken with respect to the binding of tariffs, which is important for their predictability?

Codes and Arrangements after the Tokyo Round

Apart from the Code on Anti-Dumping Practices, which goes back to the Kennedy Round (1964-67), all of the agreements or "codes" on nontariff barriers resulted from the Tokyo Round (1973-79). Most are based on provisions of the General Agreement, which they clarify or supplement. That is the case in particular for the Codes on Subsidies and Countervailing Duties (Articles VI and XVI), on Anti-Dumping Practices (Article VI), on Customs Valuation (Article VII), on Import Licensing (Article VIII) and on Technical Barriers to Trade (Article XX(b)). Furthermore, the Code on Government Procurement constitutes an extension of the GATT's activities, while the Code on Trade in Civil Aircraft represents a sectoral free-trade agreement. Lastly, two international arrangements bring trade in dairy products and bovine meat under agreed international disciplines.

Past and Current Discussion in the GATT

The 1982 Ministerial Declaration invited each Committee responsible for administering a Tokyo Round agreement or arrangement to examine the difficulties encountered in the implementation of its code and the reasons why a larger number of countries had not accepted it. A working party was created to carry out an overall review of the question; in addition, in view of the fact that the Code on Subsidies and Countervailing Duties had given rise

to special difficulties, a working party has recently been established to promote discussion in this sector. The working party on MTN Agreements and Arrangements has not identified general obstacles or generic problems inherent in the codes; it felt that the low participation of developing countries in the codes was due to questions of economic interest and to their reluctance to accept additional obligations without clearer indication of the additional benefits which they would obtain.

In general, it is believed that the codes have had a beneficial effect on the trading system by strengthening existing disciplines, but that improvements could be made in them, such as the clarification of certain ambiguous terms in the Subsidies Code, the mutual acceptance of test results in the matter of standards for the Code on Technical Barriers, and the broadening of the sphere of application of the Code on Government Procurement.

The main question that arises is how to bring about these improvements and whether a closer relationship can be established between the codes and the GATT so as to strengthen the unity and the consistency of the GATT system. Some countries feel that these codes cannot simply be included in the GATT as, in general, a two-thirds majority is required for amendment of the rules of the General Agreement. Some countries also feel that any improvements to be made in the codes should be within the competence of the Committees administering them. For others, these questions should be dealt with in multilateral trade negotiations.

As to greater participation by developing countries in the codes and arrangements, some countries feel that an overall study would be appropriate, while others think that it would be more profitable for each Committee or Council to examine, case by case, the specific problems faced by developing countries in accepting the code or arrangement in question. Some of these, again, are issues that may be addressed in the course of the negotiations themselves.

APPENDIX C

TRADE ROUNDTABLE PARTICIPANTS AND CONTRIBUTORS

(All participants attended in their personal capacities. Participants' affiliations given here are those at the time of the meeting and not necessarily their present affiliations. An asterisk (*) after a name indicates a contributor to this volume. A double asterisk (**) indicates a contributor who could not attend the meeting.]

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APPENDIX D

THE NORTH SOUTH ROUNDTABLE AND ITS PUBLICATIONS

The North South Roundtable, established in 1978 under the auspices of the Society for International Development, is an independent intellectual forum in which academics, researchers and policy makers from around the world come together to discuss global development issues. The Roundtable brings together experts from every continent in many fields, all sharing a commitment to orderly progress in human affairs, for the advancement of a constructive dialogue between North and South, developed and developing, rich and poor nations, in search of a more just and stable world order. In its various sessions the North South Roundtable seeks to identify and analyze the most significant issues and to develop policy proposals in the mutual interest of North and South. The ideas evolved in the Roundtable process are disseminated to concerned individuals, national decision makers and international organizations through Roundtable publications and through direct briefings.

NSRT activities are funded by governments, international organizations and foundations; its policies are determined by a Steering Committee. Currently the Chairman of the North South Roundtable is Richard Jolly, and the Executive Director is Khadija Haq. The address of the Roundtable Secretariat is P.O. Box 2006, Islamabad, Pakistan.

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Books (Paperbound)

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