

A Review of The Uruguay Round Agreements

Table 1 sets out the UR negotiating groups and their agenda items. In all there were fifteen groups, though in the latter stages of the Round this was slimmed down to eight negotiating areas in an attempt to make trade-offs more transparent. The details of the negotiations, the evolution of bids and offers and the convergence to an agreement need not concern us here – reviews at various stages can be found in Greenaway (1993), Hoekman (1993), Rayner, Ingersent and Hine (1993). What is of greater interest is the final outcome. The main features are summarised in Table 2. Details are as follows:

2.1 Market Access

Given the experience which GATT has in tariff negotiations and the fact that they are relatively straightforward, the tariff accommodation took a surprisingly long time to reach – until July 1993 in fact. There are essentially three ingredients: a zero for zero component which will result in tariff-free trade in some eleven sectors¹; a liberalisation component reflected in the fact that mean tariffs on industrial goods will decline by some 38 per cent (on a trade-weighted basis); and a harmonisation component which results in higher tariffs being subject to deeper cuts. Notwithstanding the inevitable exemptions and the fact that tariffs are already at a relatively low base, this is an impressive achievement. As a result, the trade-weighted average tariff in industrial countries will decline from 6.4 per cent to 4 per cent and some 40 per cent of imports will enter duty free. Although it has not been widely

commented upon, another crucial outcome is that the proportion of tariffs which are bound in industrial countries will increase from 78 per cent to 97 per cent; even more significantly, the proportion bound in developing countries will increase from 21 per cent to 65 per cent.

As tariffs have declined over the post-war period, so reliance on NTBs has increased, most notably since the mid-1970s. Their discriminatory application (largely against Japan, the NICs and LDCs) and their opacity have been eroding the GATT foundations. Although there was a separate NTBs negotiating group, the issue crossed over with agriculture, safeguards and anti-dumping negotiations. The outcome involved important commitments, not the least of which was the prohibition on the use of voluntary export restraints (VERs), orderly marketing agreements and other extra legal instruments. The importance of this should not be underestimated and will be discussed further below.

2.2 Sectors

Agriculture was the single most contentious issue in the entire Round. The inability of the EU and US to reach an accommodation was the proximate cause of the December 1990 breakdown and threatened to undermine an agreement right up until the final days. Since this is the first occasion on which temperate zone agriculture has been subject to liberalisation under GATT, any outcome is arguably worthwhile: it ensures the issue is on the agenda for future negotiations. The market access agreement requires the tariffication of existing NTBs, the binding of the resultant tariffs and their reduction by 36 per cent over six years in DMEs and over ten years in LDCs, with

¹ These are: pharmaceuticals, construction equipment, medical equipment, farm equipment, spirits, wood, paper, toys.

Table 1: Uruguay Round Negotiating Groups

Negotiating Group	Negotiating Objectives
Market Access	
Tariffs	Reduction/elimination; bindings; credit elimination; equivalence; GATT consistency
Sectors	
Natural resource-based products	Tariff escalation; quantitative restrictions; access
Tropical products	Liberalisation; GSP versus MFN (most-favoured nation); reciprocity
Textiles and clothing	Integration into GATT
Agriculture	Market access; subsidies
GATT System	
Safeguards	Criteria; conditions; GATT compatibility
Subsidies and countervailing duties	Review of VI + XVI; disciplines
GATT Articles	II, XXIV, XXVII, XVII, XXV, XXXV, XII, XVIII
MTNs	Codes; developing countries
Functioning of the GATT System	Surveillance; ministerial activity; IMF/IBRD
Dispute settlement	Effectiveness; enforcement
New Issues	
Trade related intellectual property rights	Disciplines; disputes
Trade related investment measures	Disciplines
Services	Coverage; approach; investment; migration

the least developed being exempted. Domestic support measures are to be reduced by 20 per cent in DMEs and 13.3 per cent in LDCs, with an exemption for interventions which are decoupled from production, or which have a minimal impact on trade. Export subsidies are to be reduced by 36 per cent in value terms and 21 per cent in volume terms (on 1986-90 bases) in DMEs. Lower reductions of 24 per cent and 14 per cent are required of LDCs, with no further concessions from the least developed. However, there are special provisions relating to food aid and assistance for the least developed and net food importing LDCs. Although these reforms are to be phased in over a six to ten-year period, they represent a potentially very significant liberalisation in an erstwhile completely sheltered sector.

Trade in textiles and clothing has been subject to a legal derogation from GATT non-discrimination requirements for over 30 years. The web of quotas which comprise the MFA imposes significant costs on northern consumers

and southern producers (see Silberston, 1991, Trela and Whalley, 1990). The UR agreement commits Contracting Parties to a phased run-down of the MFA over the period 1995-2005 and the complete integration of textiles and clothing into the GATT system. Four phases are envisaged: 1995-98, 1999-2002, 2003-2005, post 2005. At the beginning of Phases I, II and III, Contracting Parties (CPs) will be required to have integrated products accounting for not less than 16 per cent, 17 per cent and 18 per cent respectively of their total imports of textiles and clothing. Post 2005, all products will be fully integrated. Annual growth rates for quotas of products still subject to MFA provisions within each phase have been set at 16 per cent, 25 per cent and 27 per cent above the growth rates in each of the previous phases. There will be a limited safeguard provision available for a maximum three-year duration, in instances where serious injury can be established. To oversee the phase out, ensure that the safeguards

Table 2: Uruguay Round Agreements

Negotiating Area	Outcomes
Market Access	
Tariffs	<ul style="list-style-type: none"> • Average tariffs on industrial products cut by 38% • Elimination of duties in 11 sectors • Increase in proportion of bound duties in DMEs and LDCs
Non-tariff measures	<ul style="list-style-type: none"> • Prohibition of grey area measures • Tariffication of NTBs in agriculture
Sectors	
Natural resource-based products	<ul style="list-style-type: none"> • Tariff reductions
Tropical products	<ul style="list-style-type: none"> • Tariff reductions
Textiles and clothing	<ul style="list-style-type: none"> • Four stage phase out of MFA • Transitional safeguards • Constraints on circumvention
Agriculture	<ul style="list-style-type: none"> • Tariffication of NTBs and gradual reduction thereof • Constraints on non-decoupled domestic support • Reduction in value and quantity of products subject to export subsidies • Affirmation of rights and obligations in sanitary and phytosanitary measures • Concessions for less developed and least developed
GATT System	
Safeguards	<ul style="list-style-type: none"> • Prohibition of grey area measures • Explicit sunset arrangements • Tighter criteria for application • Limited provision for discrimination
Subsidies and countervailing duties	<ul style="list-style-type: none"> • Traffic light system introduced • Disciplines on use of countervailing duties • Exemptions for least developed
GATT Articles	<ul style="list-style-type: none"> • Requirement that interventions under Articles XVIII B and XII be price-based • Clarification and reinforcement of Article XXIV criteria • Strengthening of procedures for calculating dumping margin under Article VI; as well as strengthening injury test and dispute settlement • Strengthening of provisions on rules of origin and pre-shipment inspection
MTNs	<ul style="list-style-type: none"> • New procedures for negotiation of compensation when bindings are modified to assist LDCs in negotiations
Functioning of the GATT System	<ul style="list-style-type: none"> • Commitment to sustain trade policy review mechanism • Creation of WTO and shift to biennial Ministerial meeting
New Issues	
TRIMs	<ul style="list-style-type: none"> • Prohibition of TRIMs inconsistent with Articles III and XI • Phase out of existing TRIMs • Concessions for LDCs

continued overleaf

Table 2: Uruguay Round Agreements *continued*

Negotiating Area	Outcomes
TRIPs	<ul style="list-style-type: none"> • General commitment to MFN where possible • Specific provisions on copyrights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits, trade sectors • Phased transition for LDCs
Services	<ul style="list-style-type: none"> • General commitment to MFN where possible • Arrangements for progressive liberalisation • Specific institutional provisions for: air transport, financial services, telecommunications

provision is not abused and look after the interests of special groups like the least developed and new entrants, a Textiles Monitoring Body will be established.

Natural resource-based products and tropical products are of obvious interest to LDCs. In both, further tariff liberalisation and a reduction in tariff escalation has been agreed. Indeed, the agreement on tropical products (together with the Trade Policy Review Mechanism (TPRM)) very early in the Round constituted an early harvest. The deeper cuts on processed tropical and natural resource-based products are especially welcome to developing countries.

2.3 GATT System

These negotiations were the least glamorous area of the entire UR negotiations, at least as judged by visibility and press coverage. Yet the agreements reached are among the most important. On safeguards, several commitments were made to strengthen Article XIX and encourage its use (in preference to recourse to extra-legal interventions). First there is an outright prohibition of grey area measures, a vitally important outcome given the proclivity of DMEs towards instruments like VERs. Second, the criteria for recourse to Article XIX have been tightened, with tougher injury tests and a scheduled commitment to phase out. Third, explicit arrangements for the termination of existing measures were agreed. Fourth, discriminatory

action is to be permitted under certain tightly defined circumstances. The last of these is a fundamental departure from the principle of non-discrimination and one which many LDCs are uneasy about. The potential for abuse is intended to be circumscribed by tougher criteria for application, a shorter termination date of four years and careful monitoring by the Safeguards Committee.

Subsidies and countervailing duties (CVDs) have been contentious for some time, in part because the Tokyo Round Code on the former has not worked effectively and in part because the latter, like anti-dumping, has become a form of contingent protection in DMEs. For the first time the UR agreement actually defines subsidies and identifies three categories: prohibited, actionable and non-prohibited. The first are specific export subsidies tied to export promotion and import substitution; the second are those which could cause injury to another (CP); the third are specific or non-specific subsidies which are unlikely to have important trade effects or which involve assistance to R and D, disadvantaged regions, environmental protection and so on. This traffic light approach should prove altogether more effective than the Tokyo Round Code. Moreover, it will be complemented by strengthened disciplines on the use and termination of CVDs. A very important exemption on the prohibited category is LDCs with a per capita GDP of less than \$1,000, i.e. this group of poorest countries can use export subsidies.

A whole series of GATT Articles were reviewed and in some cases amended. To constrain abuse of balance of payments intervention, it will henceforth be required that actions under Articles XII and XVIII be price-based. Article XXIV, which permits the establishment of regional trading arrangements, has had its criteria clarified and reinforced to make agreement to regional trading arrangements less automatic than at present. The arrangements regarding Article VII's provisions for customs valuation have been tightened. All of these are significant. However, potentially the most important development is the strengthening of anti-dumping provisions in Article VI. There is a growing body of evidence (e.g. Finger and Murray 1990, Messerlin 1990, 1991), to indicate that the US and EU are using anti-dumping procedures as an instrument of protection, rather than a fair trade measure. Moreover, the evidence strongly suggests that the interventions are being used in a discriminatory fashion against Japan and the NICs. The agreement strengthens the procedures for calculating the dumping margin, as well as strengthening the injury test whereby the appellant has to establish a clear causal connection between alleged dumping and injury. New terminal conditions are set and new dispute settlement procedures specified. Since many NICs and LDCs have been subject to anti-dumping action, more effective policing arrangements should be helpful.

The group of the Functioning of the GATT system (FOGs) was also unglamorous yet delivered two constitutional changes which will have a profound impact on the institutional arrangements governing world trade – the Trade Policy Review Mechanism (TPRM) and the World Trade Organisation (WTO). The TPRM gives GATT an explicit audit function. All CPs will have their trade policies reviewed on a regular basis, from every two years in the case of the large ones (the EU, Japan and USA), through to every seven years in the case of the smallest. An independent audit of this form will serve to assist in making more transparent the interventions of

all CPs. As such they are proving to be and will continue to be, an important source of pressure for reform.

The WTO is the first serious systemic reform of the institutional structure since the inception of GATT in 1947. Following clearance of all the major legislative hurdles, the agreement became operational in 1995. At its heart is a Ministerial Conference which will meet at least biennially. It embraces GATT, GATS, the new bodies like the Safeguards Committee and the Textile Surveillance Body and all of the UR agreements. The organisation is only open to those GATT CPs which signed up to the Uruguay Round. As with GATT it seeks to adopt resolutions by consensus, but is able to take a wide range of decisions on the basis of qualified majority. Unlike some other regimes (e.g. the European Union or the IMF) voting rights are not weighted; the system is one vote per CP. From a developing country standpoint this is rather important. Although the WTO will have enhanced powers over the GATT, these do not include sanctions; enforcement will be effected by authorisation of MFN withdrawal.

2.4 New Issues

For a time it looked as though the TRIMs negotiations might resolve themselves with a traffic light approach, like the subsidy agreement. In fact the key feature is essentially an affirmation of the applicability of existing disciplines, notably Articles III and XI. Those TRIMs which are inconsistent with these Articles are prohibited. They include some widely used investment measures like local content and trade-balancing requirements. The Agreement actually does provide an illustrative list. Pre-existing measures have to be phased out within two years (DMEs), five years (LDCs) or seven years (least developed). Arrangements for monitoring phase out and uncovering cases of instrument substitution will be put in place. More importantly, there is a commitment to evaluate the role of TRIMs in the wider context of competition policy in the

medium term. This is rather important given the symbiosis between TRIMs and other forms of anti-competitive interventions like restrictive business practices (see Morrissey and Rai, 1995).

The TRIPs agreement is a complicated one but given the inherently difficult nature of protection of intellectual property that was inevitable. The general provisions and basic principles do include national treatment and MFN. In addition specific provisions relate to: copyrights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and trade secrets. The obligations on the part of governments to ensure enforcement are set out in each case. The transition period for DMEs is relatively short (one year), the assumption being that most have pre-existing regimes. The transition is somewhat longer for LDCs (at five years) and longest for the least developed (at 11 years). There will also be a longer transition for countries not having production capabilities in some areas (e.g. pharmaceuticals).

Services were controversial from the launch of the Round. Given the diversity of philosophies and of regulatory regimes, it was also a

complicated area for the negotiators. The General Agreement on Trade in Services (GATS) is more limited in scope than seemed possible but takes an important first step in bringing disciplines to the area. The agreement specifies a range of basic obligations which, as with TRIPs, include national treatment and MFN commitments. A schedule is established for progressive liberalisation and the specific institutional provisions required to accomplish this. Finally, for a number of sectors: financial services, telecommunications, air transport services, detailed schedules are provided.

2.5 Unfinished Business

Although the Uruguay Round was comprehensive, it was not all-embracing and there are a number of issues which did not make the agenda and will be for the next round to address. These issues include: environmental regulation; competition policy; investment measures; labour standards. Some of them are already issues in negotiations on regional trading arrangements and will certainly make it to the multilateral agenda in the near future.