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South Pacific

*The Uruguay Round
and the Pacific island countries*

Roman Grynberg

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Abbreviations

ACP	African, Caribbean and Pacific (states)
DSB	Dispute Settlement Body
ECU	European currency unit
EEC	European Economic Community
EU	European Union
GATT	General Agreement on Tariffs and Trade
GDP	gross domestic product
GSP	Generalised System of Preferences
IMF	International Monetary Fund
MFA	Multifibre Arrangement
OECD	Organization for Economic Cooperation and Development
PMC	Pacific Member Country
TRIM	trade-related investment measure
WTO	World Trade Organisation

abstract

This paper considers the implications of the Uruguay Round for the economic growth and trade of the Pacific island countries. It first considers the general arguments regarding the global benefits and costs of the Uruguay Round and then considers some of the technical aspects of individual export sectors including sugar, tree crops, marine products and services. The paper proceeds to a discussion of the specific issues regarding the new World Trade Organisation (WTO) such as whether the administrative changes are likely to result in a further erosion of margins of preference available to Pacific island countries in key markets.

It has been argued by the General Agreement on Trade and Tariffs (GATT) Secretariat that the Uruguay Round would benefit all parties and that there would be no losers from it. Those who benefit from trade liberalisation are those best able to respond to the opportunities created. However, while the Uruguay Round will decrease most-favoured-nation tariffs and other trade barriers, there is no indication from past experience that Pacific island countries will either be willing, or in some cases able, to respond. It is improbable that island countries will provide the appropriate investment climate and incentives that will attract the investment to develop their export potential and hence benefit from trade liberalisation.

Despite fourteen years experience of virtual free-market access to the Australian and New Zealand markets under the terms of the Spartecca treaty, most of the Pacific island countries in general have not only failed to develop their export sectors but real sustainable (non-mineral) exports have actually decreased (Grynberg and Powell 1995). Hence there is reason to believe that decreases in most-favoured-nation tariff rates, resulting from the Uruguay Round, will not be beneficial to those countries highly dependent upon trade preference and those least able to adapt their productive capacity to the opportunities that trade liberalisation creates. It shall be argued that the diminution of margins of trade preference will decrease the trade with regions such as the European Union (EU) which has been a traditional destination for many preferential items. The impact of GATT on trade under the terms of the Lomé Convention will form the basis of this paper.

The hypothesis that multilateral trade liberalisation increases market size and thereby increases exports even from least developed economies such as those of the Pacific island countries will be examined. It will be argued that while some of the countries in the region (most notably Fiji, which has the most developed economy) are able to adjust in a limited way to the opportunities created, others, especially the smallest and least developed island countries, are unlikely to witness any significant trade creation—they have almost no way in which to expand exports, given the poor quality or simple lack of access to factors of production.

This analysis differs from existing studies in that it attempts a sectoral analysis of the implications of the Uruguay Round. Most of the analyses undertaken thus far have been based on large-scale, global macroeconomic models. These models are almost invariably calibrated in such a way that increases in global competition result in increases in exports and global incomes. These benefits accrue to those countries most able to adjust production to the opportunities provided to them.

Views on the overall impact of the Uruguay Round

The GATT Secretariat

The former Director General of GATT, Mr P. Sutherland, has on various occasions stated that he feels that there are no losers from the Uruguay Round.

Well, I think that it (the Uruguay Round) is massively beneficial to the world at large and I think it is also beneficial to all aspects of the world economy. In other words it is not defensible in terms of being positive for one group of countries as opposed to another. The opening of trade is the opening of opportunity and I believe that our internal assessments demonstrate quite clearly that everybody is a winner.¹

While there can be some dispute over the precise meaning of Mr Sutherland's statement since can be understood that, at very least, what is meant by 'everybody' are all the GATT contracting parties.² However, as the Pacific island countries export and produce such a limited range of products it is quite possible that some will actually be losers as contracting parties. That is almost certainly the case with countries that are highly dependent on trade preferences and unlikely to be able to respond to the market opportunities created through trade liberalisation.

The technical papers on this subject by the GATT Secretariat do not suggest that developing countries will suffer any net economic losses from the Uruguay Round. The following discussion considers, on a sector by sector basis, what the effects of the Uruguay Round are likely to be on developing countries as a whole. While the former Director General takes the position that there simply are no losers, there are certain areas where the technical analysis of the Secretariat suggests quite the opposite.

the Uruguay Round and the Pacific island countries

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Industrial product categories

The GATT Secretariat recognises that a reduction in most-favoured-nation rates will result in a decrease in trade in industrial products from countries which are beneficiaries of preferential tariffs or free-trade agreements. In its quantitative assessment of the impact of the Uruguay Round the Secretariat divides trade into three different categories: most-favoured-nation, preferential and free trade. On the basis of its statistical analysis the GATT Secretariat concludes:

The trade effects in each industrial product category are positive for suppliers subject to most-favoured-nation tariffs, as well as suppliers receiving preferential treatment (trade creation more than offsets trade diversion), and are negative for partner country suppliers within free-trade areas. Overall, the expansion of exports from economies which benefit from the Generalised System of Preference (GSP) to the industrial economies through trade creation appears to heavily outweigh any losses through trade diversion resulting from the reduction of preference margins (GATT Secretariat 1993:42).

The Secretariat's own conclusions is that those countries that are exporters of manufactured goods and are in 'free-trade areas' will not be beneficiaries of the Uruguay Round. It would appear that the GATT Secretariat, but perhaps not the then Director General, were themselves willing to admit that the GATT does not benefit countries that already have free-trade areas. While there is strictly speaking no free-trade area either between Pacific island countries or between Pacific island countries and other regions, the Spartecca and Lomé Convention offer what is essentially duty-free access to the Australasian and European markets. For such countries which already have access to these markets there are few benefits from the Uruguay Round other than that of heightened market discipline.

The Multifibre Arrangement

Under the terms of the Uruguay Round, the Multifibre Arrangement (MFA) that has governed the trade in textiles and clothing since 1973 will be phased out. The implication of the liberalisation of trade in textile and clothing is that it will benefit developing countries which have generally been restricted from exporting to the European Union (EU), US and other markets by both tariffs and quotas.

The GATT Secretariat argues that the elimination of the MFA will greatly increase exports from developing countries as a whole:

One estimate for the United States is that imports would rise by 20.5 per cent for textiles and 36.5 per cent for clothing, on an average of 35 per cent in both product groups. Another study estimated developing country exports to the major OECD countries could increase by 82 per cent for textiles and 93 per cent for clothing, while the removal of both tariffs and quotas could increase developing economy exports of clothing by 135 per cent and those of textiles by 78 per cent.³

The MFA quotas for countries exporting to markets such as the United States have been a source of 'quota rents'. The MFA quotas have frequently been traded and sometimes have a real market value. In 1990-91, as the United States was beginning to impose MFA quotas on apparel exports from Fiji, several foreign producers established garment manufacturing facilities in Fiji geared to export to the United States. Their intention was, in part, to seek quotas before they were actually imposed on all types of Fiji apparel.

There is adequate evidence that the MFA, while being distortionary (Giese and Martin 1987; Sampson 1987), has also had the effect of stimulating exports to the United States from small developing countries (Dean 1990:63-9). The disappearance of the MFA will eventually mean that there will be less reason for those wishing to export to the United States to establish garment manufacturing facilities in small countries such as Fiji which have in the past benefited from their exemption from the MFA quota.

Agriculture

One of the most common criticisms heard of the impact of the Uruguay Round on developing countries is that it would result in increases in food import prices. This will occur as Organization for Economic Cooperation and Development (OECD) countries diminish the support given to their own farm sectors which will cause world prices to rise in response to the decrease in supply of temperate food products. The GATT Secretariat does not deny this effect. In fact this has been frequently cited as one of the main benefits for agricultural exporting nations. The GATT Secretariat suggests that:

...using estimates of price effects of a one third reduction in OECD support, one study has estimated that exports of temperate food products by developing economies would rise by 4.4 per cent and the increase is broadly based among developing regions. Net Food importing developing countries may also experience a rise in yields as a result of higher and more stable world market prices for food products, partially or wholly offsetting higher expenditures on food imports (GATT Secretariat 1993:44).

The GATT Secretariat is of the view that increases in the production of food in developing countries are price responsive with regard to changes in the international price. It is by no means evident that the world price increase caused by the decrease in OECD subsidy will necessarily affect developing countries in the way suggested by the GATT Secretariat. An increase in world market prices will not necessarily translate into an increase in producer prices in developing countries. The reason for this is that the transmission mechanism of global to domestic prices is often weak in developing countries and particularly so in Pacific island countries.⁴

The possible effect of trade liberalisation on food prices and security for the least developed countries was recognised at a political level⁵ as the signatories to the Uruguay Round agreed to general measures to mitigate the effects of such price increases (GATT Secretariat 1995:448–9). While many of these measures are within the context of existing food aid and structural adjustment policies of the IMF and the World Bank, their acknowledgement constitutes the most significant and specific recognition at a global level that the Uruguay Round is not without potential losers.

Global economic effects

The Secretariat sees the overall effect of the closure of the Uruguay Round as increasing international trade as well as expanding national incomes:

The Secretariat's estimate of the overall impact of the Uruguay Round is that the level of world merchandise trade would be about 12 per cent higher in 2005 than it would otherwise be...The World Bank and the OECD indicate that the implementation of the market access parts of the Uruguay Round Agreement will add between \$213 million and \$274 million to world income (GATT Secretariat 1993:45).

The GATT Secretariat appears to accept the estimates of the OECD and the World Bank as they pertain to global economic benefits of the closure of the round. However, an examination of the impact of the Uruguay Round on specific sectors and industries indicates that there are substantial differences between the GATT Secretariat and the World Bank report.

The OECD and the World Bank study

The estimates undertaken in the joint OECD/World Bank study (hereinafter referred to as the World Bank Study) of the impact of trade liberalisation and of the closure the Uruguay Round, do not paint as positive a picture for many developing countries as that suggested by the GATT Secretariat. While the World Bank and the OECD in general support the conclusions of the GATT Secretariat, there are some important differences between the two reports. The World Bank study suggests that there clearly will be losers from the process of partial trade liberalisation in the Uruguay Round.

Food importers as we have noted, stand to lose the most from the higher world prices which are expected to result from trade liberalisation (Golden et al. 1993:16).

Not only will there be price increases for temperate food crops as a result of the Uruguay Round but the simulations indicate that tree crop products will decline in price, primarily in the price of cocoa and coffee:

The changes in world prices already indicate some of the regions which stand to gain from agricultural trade reform. Exporters of grain, beef, dairy products and sugar will benefit from the improvement in agricultural terms of trade. Importers

of these same commodities will face a deterioration in their terms of trade. The importers of food also tend to be major exporters of coffee and cocoa. This further aggravates the deterioration in the terms of trade, leading to even greater losses (Golden et al. 1993:17).

The World Bank Study has far fewer compunctions about recognising that there will be losers from the Uruguay Round. From the perspective of the Pacific island countries the similarity to the situation confronted by many exporters in Africa should be quite clear. Papua New Guinea and Solomon Islands are exporters of cocoa and coffee and importers of food and hence in terms of agricultural goods the Uruguay Round does not appear to be immediately beneficial. Table 1 below presents the results of simulations of partial and full trade liberalisation upon agricultural commodity prices undertaken by the World Bank.

Table 1 World agricultural prices following trade liberalisation
(Per cent change in 2002 from base simulation)

Commodity	Partial Liberalisation (% change)	Full Liberalisation (% change)
Wheat	5.9	30.2
Rice	-1.9	5.6
Coarse grains	3.6	19.0
Sugar	10.2	59.3
Beef	4.7	27.0
Other meats	1.0	9.9
Coffee	-6.1	-11.4
Cocoa	-4.0	-9.7
Tea	3.0	17.5
Vegetable oils	4.1	17.7
Dairy products	7.2	52.6
Other food	-1.7	-2.2
Wool	2.0	9.8
Other agriculture	5.9	27.1

Source: Golden, I., Knudsen, O. and van der Mensbrugge, D., 1993. 'Trade Liberalisation: global economic implications', OECD/World Bank, Washington: 101.

The simulation of the effect of trade liberalisation on world sugar prices has been studied in detail by a number of analysts (Wong et al. 1992; Borrell and Duncan 1992:171-94; Jabara and Valdes 1993:135-63). The magnitude of the expected price increase in the world sugar price made by the World Bank as a result of the closure of the Uruguay Round is above many of the other estimates that have been made by other international models of the sugar market. While this does not necessarily put in doubt the accuracy of the World Bank analysis, it is clearly based on a world model that is problematic.

What is significant is that the World Bank Study is quite willing to concede that there will be losers. But clearly the losers are those countries confined to the production and export of a narrow range of traditional tropical tree crop products. In a recent World Bank report that considered the effects of the Uruguay Round on its Pacific member countries the bank argued that:

If temperate product prices rise by 5 to 10 per cent as a result of GATT reforms, this would increase Pacific member country import requirements by between 2 and 4 per cent but at the same time might be some stimulus for domestic food production. This would require, on average, 2 per cent of national income to meet higher food import prices. Existing evidence does not point to a significant rise in global food prices as a result of GATT. At most a short-term slowdown in the long-term decline in food prices is outweighed.⁶

Areas of specific concern to Pacific island countries

There are a number of very important areas where the Uruguay Round will affect the future performance of Pacific island countries. This section of the paper considers several areas critical to the future of trade between Pacific island countries and their major trading partners. Because Pacific island countries' non-mineral exports are almost all sold under preferential or free-trade agreements to either the US, EU or Australasian markets, the reduction of most-favoured-nation rates will almost certainly have a negative impact on the development of Pacific island country trade. Set against this negative effect of the closure of the round is the positive effect, emphasised at length by the GATT Secretariat, of the opportunities made available to those countries able to respond to lowered most-favoured-nation rates. The problem with this argument is that the Pacific island countries have had free-trade access to the Australian and New Zealand markets, for example, for fifteen years but have failed to benefit much beyond the development of the Fiji garment industry.

The Pacific island countries are in no small part responsible for the problem because few have shown any genuine interest in the development of export-oriented industries, beyond paying lip service to the notion. In 1987 there was a liberalisation of the New Zealand⁷ and Australian⁸ garment markets and the only country that significantly

benefited was Fiji: there was a substantial increase in garment export largely because Fiji was simultaneously devaluing its currency and implemented a system of tax-free factories, permitting easy remittance of foreign exchange in an environment where the remittance of foreign exchange was otherwise impossible. The structural adjustment that occurred after 1987 was not a direct policy choice but rather an unintended result of the foreign exchange crisis caused by capital flight following the two coups of that year.

In the section below we consider in detail areas where the Uruguay Round specifically touches upon the immediate trade interests of the Pacific island countries. The following sections will concentrate on the effect of the Round on tree crop products and sugar into the EU market. It will also consider some of the administrative effects of the closure of the Round.

Several reports have been presented to the Pacific island countries on the impact of the Uruguay Round. The most recent and notable has been the World Bank regional report. In that report the World Bank implied that the Uruguay Round would have a small positive effect. It concluded that:

Given the year-to-year volatility in Pacific member country terms of trade, a one to two per cent shift in export earnings due to GATT might well be imperceptible... That the net effect of the GATT Uruguay Round are predicted to be relatively modest is a common finding.⁹

Yet the net effect of the GATT depends very much upon the sensitivity of the national price mechanisms in Pacific island countries to changes in global income and prices. If changes in global incomes do not translate into increases in producer prices and exports then the effect of trade liberalisation will be minimal. This appears to be recognised by the World Bank which admits the fundamental weakness of the transmission mechanism of global incomes and prices into domestic export demand.¹⁰

The GATT consistency of the Lomé Convention

GATT law is fairly clear about what type of trade preference arrangements are legal and GATT consistent. While (at least on paper) the GATT has accepted the principle that for developing countries there is a justification for a departure from the principle of most-favoured-nation reductions in tariffs, this principle remains the ideological core of the GATT process. It must be recalled that in order to permit the Generalised System of Preferences, the developed countries had to seek a waiver from Article 1 provisions (Hudec 1987:108-12), while in the Tokyo Round an Article 1 Enabling clause was negotiated by the contracting parties that rendered Article 25 waivers redundant.¹¹ The principle that underlies the GATT is that the best way to facilitate trade, even for developing economies, is to lower the external (most-favoured-nation)

tariff that is offered to contracting parties. This remains the position of most developed countries and has been repeated frequently by representatives of some of the GSP donor states.¹²

The profound difference between developing and developed countries in GATT over the issue of trade preference as opposed to equal most-favoured-nation reductions for all countries was highlighted in the GATT panel report on the quotas offered to African, Caribbean and Pacific (ACP) producers of bananas in the EU market. Under the terms of the Lomé Convention several Caribbean countries have access to the EU banana market on very preferential terms. Their Central American¹³ competitors have complained to GATT about this arrangement. In February 1994 the second GATT panel on bananas concluded that the Lomé Convention's Banana Protocol is not GATT consistent because it favours one group of countries over another.

The panel concluded that not only was the tariff system inconsistent with Article 1 provisions but the quota was also inconsistent with Article 11 and 13. Seeking a waiver for tariff preference may be relatively easy but the waiver for tariff quotas is more difficult. The European Union argued in its reply that it had notified GATT of the Lomé Convention¹⁴ and it also argued that the Lomé Convention in effect created a free-trade area. The panel rejected this argument as well as the argument that the Banana Protocol was an accepted commodity agreement under Article 20(h).

The second panel report concluded, *inter alia*, that

the preferential tariff rates on bananas accorded by the EEC to the ACP countries was inconsistent with Article 1 and could neither be justified by Article 24 nor by Article 20 (h).¹⁵

The report finally concludes that

The panel **recommends** that the contracting Parties request the EEC to bring its tariffs on bananas and the allocation of quota licenses into conformity with its obligations under the General Agreement.¹⁶

What remains significant is the fact that the panel could only recommend that the contracting parties behave in a certain manner. Now that the World Trade Organisation (WTO) has come into being as the successor to the GATT, the power of the panel report changes. It will no longer be possible for contracting parties to simply disregard a panel report, as was the case with the second panel report on bananas which was not accepted by the European Union and rejected by the GATT governing council in February 1994.¹⁷

One of the most significant changes in the power of the new WTO was the provisions outlined in the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (GATT Secretariat 1993:404–38). The Dispute Settlement Body (DSB) allows

for the creation of panels¹⁸ as well as an Appellate Body. The decisions of the Appellate Body are fundamentally different from that of the panel under the GATT 1947 dispute settlement rules:

An Appellate Body report shall be adopted by the DSB and unconditionally accepted by the parties to the dispute unless the DSB decides by consensus not to adopt the Appellate Body report within 30 days following its circulation to the Members.¹⁹

The power of the DSB is increased further by its power to recommend compensation in the event that recommendations of the panel or Appellate Body are not implemented expeditiously.²⁰ Compensation, while voluntary, will certainly have moral, if not legal authority. The DSB, perhaps as significantly, may permit the suspension of obligations under GATT.²¹

Under the GATT 1947 rules the decisions of the Banana Protocol panel could be disregarded. The problem with the Banana Protocol is that it is not only for a limited number of ACP countries which are signatories: it also violates provisions of the GATT Article 11 relating to quantitative restrictions.²² The Lomé Convention is thus at variance with the GATT principles of generality, most-favoured-nation tariff reductions, equality of treatment, as well as the prohibition on heightened non-tariff measures.

There were a number of reasons why the European Union had throughout 1994 failed to seek a waiver for the Lomé Convention. The first, and the EU's public position, was that it has continually held that the Lomé Convention is an accepted body of international law and has been so for the last twenty years and hence there should be no reason for a waiver.²³ However, another possible reason is that the GATT 1994 waiver is granted for a limited duration of one year and would require the agreement of three-quarters of the GATT membership. This would require agreement from Central Americans which would only be granted in return for improved access to the EU market for Central American bananas. This is exactly the type of situation that the European Union wishes to avoid.

Under the rules of the GATT 1994 waivers are only available on a year-to-year basis. Renewal of the waiver is dependent on progress being made by the country receiving the waiver towards the elimination of the conditions which had made it necessary in the first place. The provisions of the GATT 1947 had allowed for waivers of ten years or longer.²⁴ The GATT 1994 arrangement could leave the Lomé Convention open to annual attack as the non-ACP developing countries seek further access concessions from the European Union. Moreover all GATT waivers granted under GATT 1947 were scheduled to be reviewed within a maximum of two years following the creation of the WTO.²⁵

In October 1994 the European Union, in one of the last acts of the GATT under the 1947 rules, formally sought a waiver for the Lomé Convention.²⁶ In part the reason for the European Union waiver was the widely-held view that if it were not granted the Lomé Convention would come under closer scrutiny following the coming into force of the GATT 1994 rules. Moreover, given the legal precedent that had been established by the second Banana Panel Report, it was almost inevitable that other aspects of the treaty would come under closer scrutiny.²⁷ On 9 December a five-year derogation was granted.²⁸ However, it should be noted that the waiver, while for five years, was not for all the trade provisions of the Lomé Convention:

Subject to the terms and conditions set out hereunder, the provisions of paragraph 1 of Article 1 of the General Agreement shall be waived, until 29th February 2000, to the extent necessary to permit the European Communities to provide preferential treatment for products originating in ACP States as required by the relevant provisions of the Fourth Lomé Convention, without being required to extend the same preferential treatment to like products of any other contracting party.²⁹

The decision which was adopted by the contracting parties unanimously did not provide for any waiver from Article 11 provisions. So the non-tariff measures embedded in the Lomé Convention commodity protocols received no waiver.³⁰ Moreover, the Article 1 waiver comes with the usual GATT proviso that preference only be granted 'to the extent necessary'. There is a long GATT legal tradition regarding the generally narrow interpretation of this, and it would be extremely unlikely that any GATT panel would consider the non-tariff measures of the Lomé Convention as necessary measures required to offer any given measure of trade preference. Of greater significance is the fact that the waiver, in order to receive unanimous passage, was appended with the further proviso that contracting parties still have recourse to the nullification and impairment provisions of Article 23.³¹ The provisions, in effect, allow the Central American complainants in the Banana Protocol Panel to raise the issue at their discretion, as this report of the statement of the Guatemalan delegate to the GATT council shows.

Guatemala would not oppose the consensus, but he made it clear that the waiver would not liberate the Community from its obligation to bring the banana import regime into conformity with GATT obligations. He added that the extension of the Lomé Convention which was of a transitional nature would in no way prejudice Guatemala's rights under the General Agreement nor in the WTO.³²

The unchallenged Guatemalan statement that the extension of the Lomé Convention (Lomé IV) was 'transitional' in nature is significant for a number of reasons. The consensus of informed observers and diplomats appears to be that, despite the fact that no-one is yet willing to openly and officially pronounce *rigor mortis* on the Lomé Convention, it will not be renewed in the year 2000. The European

Union will certainly seek a new type of treaty arrangement. The impending threat to the commodity protocols posed by the Banana Panel Report, combined with the fact that any attempted extension of the current waiver beyond 2000 would be vigorously challenged by countries with substantial vested interests in its demise, will almost certainly mean that the commodity protocols will not be extended. This fact alone will create even greater pressure for alternative structures to be developed between the European Union and the ACP states. Given the position of the GATT panel on these types of commodity agreements it is almost certainly the case that the Commodity Protocols of the Lomé Convention will have to be replaced. The implications of this for Fiji will be considered in the subsequent sections of this paper.

However, it is of more than passing interest that the United States has been one of the principle opponents of the Lomé commodity protocols. The comments of the US delegate to GATT during the council discussions of the waiver give some indication of the interests involved:

...the United States along with many other contracting parties had long believed that the Community should seek a waiver for the tariff preferences which it provided to the ACP countries. Tariff preferences were an appropriate tool in fostering economic development. However, the United States wished to make clear that the United States and other contracting parties had problems with the Community's banana regime...several provisions [of the banana regime] rather than help ACP banana exports, had been designed to protect the economic interest of certain community companies at the expense of non-community companies.³³

What is true of bananas is certainly true of sugar. The Sugar Protocol was very much designed to appease the interests of British sugar industry when that country was negotiating its entry into the European Economic Community (EEC) in 1973. In particular it was designed to appease the firm of Tate & Lyle which had been the traditional refiner of colonial cane sugar and had substantial economic interests in assuring supply of cane sugar despite what was to become a massive EU sugar surplus. Its two refineries in Liverpool and London employed some 2,000 workers and hence the British government negotiated a very favourable supply agreement with ACP producers.³⁴

In theory, the arguments employed by the Central Americans in their case against the EEC banana regime, and by extension, the Lomé, could be applied equally to any of the clauses of the trade sections of the Lomé Convention. The question is whether trade preference provisions granted simply by tariff preference could also ultimately be challenged. If this is the case, Thailand or the Philippines, for example, could argue that the preferences granted to ACP tuna-exporting countries are not GATT legal because they do not receive the most-favoured-nation rate into the European Union.³⁵ What remains unknown is what regime the European Union proposes to replace the Lomé Convention with after the year 2000. At present it is unlikely that there will be

any challenge to trade provisions of the Lomé Convention until such time as the terms of a successor treaty becomes apparent.³⁶

Trade in tree crop products

The most important issue surrounding of the impact of GATT on the benefits of the Lomé Convention is the impact on the trade in tree crop commodities which remain the Pacific island region's most important exports. The two countries most likely to be affected by the GATT in this regard are Papua New Guinea and Solomon Islands which have significant exports of tropical tree crop products to EU markets. The most important products to be affected by the European Union offer on the GATT are palm oil, coffee, and cocoa. Copra already enters the EU market duty-free and hence there is no margin of preference, and most Papua New Guinea tea is sold to Australia. The EU offer on commodities relevant to the Pacific is contained in Table 2. What is relevant is that the existing margin of preference over non-ACP producers is declining. In the case of certain commodities which are low value to weight such as palm oil, and where Pacific island producers are already disadvantaged because of high transportation costs, the elimination or the substantial decrease in the margin of preference may endanger viability even further.

The extent to which the loss of margins of preference is a problem varies from crop to crop. In the case of palm oil where Pacific island country (as well as all ACP) exports are insignificant in comparison to exports from non-ACP countries such as Malaysia and Indonesia, the small margin of preference currently being obtained by Papua New Guinea and the Solomon Islands is not sufficient to affect the market price of the commodity. In the case of other commodities, the margin of preference becomes part of the overall negotiated price and can be extracted by either the producer or the trader. Traders in palm oil indicate that the margin of preference is never passed on to the consumer.

The beneficiary of the margin of trade preference for other commodities is more complex. Cocoa commodity traders indicate that they themselves are not clear how the preference is divided between the various interested parties. In the case of cocoa, the vast bulk of bean exports to the EU market are from ACP states and as a result the world market price would tend to more closely reflect the tariff status of the commodity. The EC Coffee Contract³⁷ states that import duty is the responsibility of the buyer. The question that arises is whether the price is adjusted so as to reflect the margin of preference.

There are two possibilities: either the margin is passed on to the producer who is in many cases a smallholder, or it becomes a part of the trading margin of the exporter or importer. In the former case, where the smallholder and producer get the actual

Table 2 Present European Union most-favoured-nation rates of import duty and GATT offer

Commodity	Present Most-favoured-nation Rate (%)	GATT Offer (%)
Cocoa beans	3	0
Cocoa shells	3	0
Cocoa paste	15	9.6
Cocoa butter	12	7.7
Cocoa powder	16	8
Coffee		
—not roasted	5	3
—not roasted (decaf)	13	8.3
Coffee		
—Not Decaf	15	7.5
—Decaf	18	9
Instant Coffee		
—concentrates	18	9
—preparations		
Basis: extracts	18	11.5
—other	13	9
Tea: green		
>3kg	0	0
<3kg	5	3.2
Tea: black		
>3kg	0	0
<3kg	5	
Tea: essences	12	6
Tea: preparations		
—of essences	12	6
—tea, mates	13	6.5
Copra	0	0
Coconut Oil (crude-technical)	5	2.5
Coconut oil: other		
—<1kg	20	12.8
—>1kg	10	6.4
Palm Kernel Oil (crude-technical)	5	3.2
Palm Kernel Oil (other)		
—<1kg	20	12.8
—>1kg	10	6.4

Source: European Community.

margin, then the Uruguay Round will result in a diminution in the incentive to produce tropical tree crop products that are affected by the EU offer. Moreover, under most commodity supply contracts, the shipping cost is paid by the exporter which simply increases the competitive disadvantage faced by Pacific island commodity exporters. If a large part of the margin of preference is captured by the importer, as is certainly the case with complex commodities such as cocoa, it is quite possible that this will decrease the incentive to source from ACP countries in general and Pacific island countries in particular.

The outcome for coffee will depend on the bargaining power of those negotiating the contract. Where a substantial portion of EU coffee comes from ACP countries, the price would reflect the margin of preference. However, the European Union also grants duty-free access to the EU market to Latin American countries to assist their attempts to fight the drug trade. Who receives this margin of preference depends on the particular commodity and the particular market conditions. However, the loss or diminution of this margin can only serve to further reduce the incentive to produce coffee or other tropical tree crops or to source them from distant and relatively high-cost Pacific island countries. The table below shows the percentage of total domestic exports coming from tree crop products.

Table 3 Tropical tree crop exports as a percentage of total exports

Year	Papua New Guinea	Solomon Islands	Vanuatu
1980	35	33	78
1981	32	30	85
1982	33	31	75
1983	36	28	84
1984	48	46	89
1985	37	42	78
1986	35	17	68
1987	24	20	62
1988	43	23	69
1989	26	30	57
1990	20	25	53
1991	14	20	48
1992	14	24	44

Source: South Pacific Economic and Social Database, National Centre for Development Studies, Australian National University.

The data is only for the three Melanesian countries most dependent on exports of tree crop products.³⁸ This does not completely correspond to the degree to which tree crop exports are trade preference dependent as some of the tree crop products go into markets that receive no trade preference. However, in the case of Papua New Guinea (coffee, tea, palm oil and coconut oil), Solomon Islands (copra, cocoa and palm oil) and Vanuatu (cocoa and copra), the vast majority goes into the European Union or into Australia and New Zealand under the Spartecca and Pactra Treaties.³⁹

The decrease in margins of trade preference for tree crop products also affects revenue from the EU's commodity stabilisation program, Stabex. Payments to countries under the scheme depend on the volume of commodity exports.⁴⁰ Clearly the smaller the margin of preference into the EU market, the greater the incentive that exporters will have to find markets within the Pacific region, rather than in the European Union. As a result the decrease of margin of preference will have a secondary effect upon Stabex earnings.

The Blair House Accord has also affected the EU's offer to GATT on tree crop products, for example, for elimination of the margin of preference on cocoa. In the case of unroasted coffee the decrease is 40 per cent, slightly greater than the 36 per cent required under Blair House. However the decrease in agricultural import duties under the terms of the accord must be for groups of commodities rather than for tariff lines. There is a minimum 15 per cent reduction per tariff line. As a result, for some commodities where the European Union faces competition (such as edible oils), the decrease in import duties will be the minimum decrease specified by the Blair House Accord. The European Union has met some of its Uruguay Round commitments on agriculture by decreasing tariff preference margins for ACP states by more than 36 per cent in some areas. Some of those decreases will have a direct impact on Pacific island countries such as Papua New Guinea, Solomon Islands and Vanuatu.

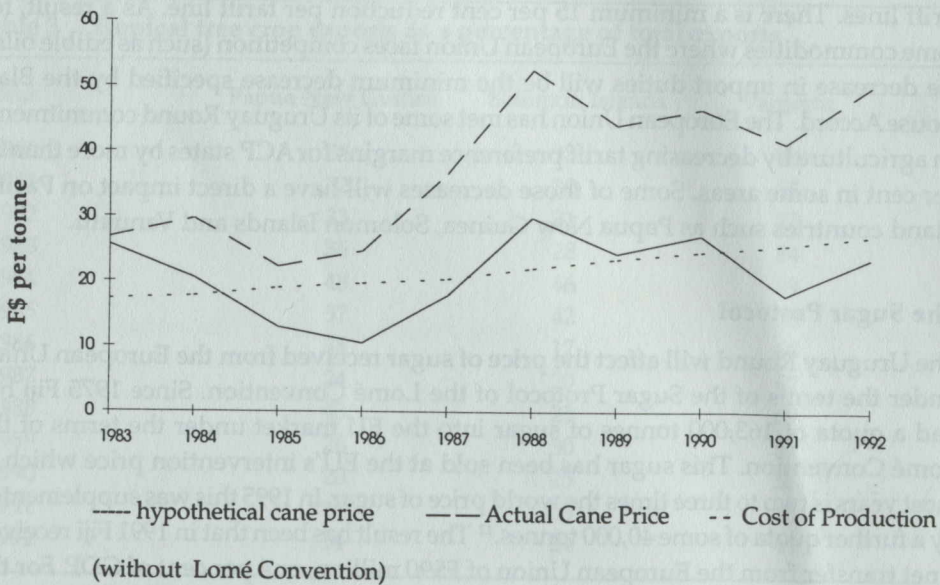
The Sugar Protocol

The Uruguay Round will affect the price of sugar received from the European Union under the terms of the Sugar Protocol of the Lomé Convention. Since 1975 Fiji has had a quota of 163,000 tonnes of sugar into the EU market under the terms of the Lomé Convention. This sugar has been sold at the EU's intervention price which in most years is two to three times the world price of sugar. In 1995 this was supplemented by a further quota of some 40,000 tonnes.⁴¹ The result has been that in 1991 Fiji received a net transfer from the European Union of F\$90 million, or 4 per cent of GDP. For the average Fiji sugar farmer this translates into a net operating profit of about F\$20 per tonne of cane.

It is expected that the price of sugar will decline by approximately 12 per cent by the year 2000 as a result of the Uruguay Round agreement.⁴² This will mean a permanent decrease of GDP of approximately 1 per cent. The effects on the producer price paid to Fijian cane farmers if the Sugar Protocol were to be removed is shown in Chart 1 below. The average Fiji sugar farm would move from being profitable⁴³ to being very marginal.

One of the few immediately beneficial effects of the Uruguay Round has been that the European Union included the Sugar Protocol in its offer to the GATT; which means that it will be even more difficult for the European Union to remove the Sugar Protocol because of the minimum access provisions of GATT⁴⁴ which would prohibit the European Union from reducing access from current levels. This does not preclude the European Union from decreasing the intervention prices which are paid to Fijian and other ACP imports.⁴⁵

Figure 1 Fiji sugar cane producer prices with and without the EU Sugar Protocol



Source: Fiji Sugar Corporation.

The sugar quota was designed to ensure a supply of cane sugar to refineries in London and Liverpool.⁴⁶ This dependence on cane sugar led the EC to agree originally to the Sugar Protocol in 1975. The Sugar Protocol costs the European Union between 500–700 million European Currency units (ECU) per annum⁴⁷ (25 per cent of the annual cost of the entire Lomé Convention⁴⁸). The European Union is one of the world's largest sugar exporters so it is importing sugar from the ACP states only because of the interests of cane refiners in the European Union.⁴⁹ However, there exists an important legal imperative that will require the European Union not to abrogate its obligations under the terms of the Sugar Protocol even should political reasons exist to do so. The relevant section of the Sugar Protocol states:

The provisions of this Protocol shall remain in force after the date specified in Article 91 [the expiry date of the Lomé IV Convention] of the Convention. After that date the Protocol may be denounced by the Community with respect to each ACP State and by each ACP State with respect to the Community, subject to two year's notice.⁵⁰

The interpretation of this Article is crucial because it has been interpreted to mean that the European Union cannot abrogate the agreement unilaterally but must seek the agreement of the sugar-producing ACP States.⁵¹ Given that current intervention prices remain between two and three times the world price, such agreement is unlikely to be forthcoming without significant compensation.

The European Union will keep sugar intervention prices high for the foreseeable future because sugar remains one of the few highly profitable crops in Europe. By extension this will also benefit Fiji and other sugar-producing ACP farmers. One other reason why the EU sugar prices will be maintained at high levels is that the Common Sugar Policy—which governs the production and pricing of sugar in the European Union—puts no immediate pressure on the EU budget because it is self-financing. Price support regimes for other products under the Common Agricultural Policy fall upon the consumer as well as the European Union but the full cost of the sugar policy is borne by the consumer and hence there is less political pressure for its reform.

Tuna processing

Potentially one of the most important export industries in the Pacific is canned tuna. Approximately 45 per cent of the world's canning tuna comes from the waters of Forum Fisheries Agreement nations. The tuna is canned and exported from two canneries in Fiji and Solomon Islands. Both canneries rely on the export of canned tuna to the EU market, largely because of the 24 per cent margin of preference that they have over and above their principle competitors from Thailand and Philippines under the terms of the Lomé Convention.

The consequence of the Uruguay Round will mean that OECD tariffs on fish and fish products will be cut by 39–41 per cent over five years.⁵² However, the decreases in tariff rates are by no means uniform and in sensitive areas some of the contracting parties have made significantly lower offers than this average.⁵³ In the Uruguay Round the European Union made no offer to lower the rate of import duty on tuna fish, despite considerable pressure from Asian exporters. The European Union has its own tuna canning industry that it wishes to protect from competition from very low cost and efficient producers in Thailand and the Philippines. Thus the situation for Pacific island tuna exports is akin to that of sugar where the reason why island countries are able to sustain high levels of nominal trade preferences is because of a coincidence of interests between the Pacific island countries and that of the EU producers.

While canned tuna exports appear insignificant when compared to Fiji's sugar industry or Papua New Guinea's mining sector, they are crucial to the Solomon Islands economy: after timber, fish is its second largest export. Any diminution of the EU margin of preference would have devastating effects upon the Solomon Taiyo cannery in Solomon Islands.⁵⁴

In any trade negotiations the Pacific island countries will try to preserve their margin of preference. But a concerted attempt to increase the efficiency of canning operations is essential if the industry is to survive. For the moment the industry is surviving on the assumption that the European Union will be willing to offer a blanket of protection to its own producers as well as those from ACP states. Such an assumption is unwarranted and it could put at risk the whole Pacific island country canning industry.

Trade-related investment measures

However it is not only the tariff bindings of the process of trade liberalisation which are potential risks to the Pacific island country tuna industry: other aspects of GATT 1994 put the tuna export industry, among others, at considerable risk. One of the most significant changes in GATT 1994 has been the prohibition on trade-related investment measures (TRIMS). The TRIMS are specific in the type of measures that are prohibited:

TRIMS that are inconsistent with the obligation of general elimination of quantitative restrictions provided in paragraph 1 of Article 11 of GATT 1994 include those which are mandatory or enforceable under domestic law or under administrative rulings, or compliance with which is necessary to obtain an advantage, and which restrict [*inter alia*]:

c) the exportation or sale for export by an enterprise of products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production (GATT Secretariat 1995:167).

The Pacific island country tuna industry has recently attempted to impose controls on the Distant Water Fishing Nations that fish in the Exclusive Economic Zones to trans-ship and export all tuna through designated points. This would oblige the Distant Water Fishing Nations to purchase services from the Pacific island country involved. Such a measure could arguably be construed as being in violation of Article 2(c) above.⁵⁵ The Pacific island countries are also considering limiting access to their Exclusive Economic Zones unless Distant Water Fishing Nations agree to hire Pacific island country nationals. Subject to sufficiently broad interpretation of the Article 2(c) such a measure may also be GATT inconsistent.

There are however more obvious cases that would appear to be quite unambiguous. The Annex to the TRIMs also outlines measures deemed to be specifically inconsistent with the obligations of national treatment. These include, *inter alia*,

(a) the purchase or use by an enterprise of products of domestic origin or from any domestic source, whether specified in terms of products, or in terms of a proportion of volume or value of its local production;⁵⁶

The Australian Yazaki factory in Western Samoa is that country's main source of manufactured exports and virtually its last major export sector. Two cyclones in the early 1990s destroyed the copra industry⁵⁷ and the recent taro blight has destroyed the taro export industry. The Yazaki factory employs between 500 and 1,000 workers producing electrical harnesses for the Australian automobile industry. It exists because the Australian Motor Vehicle Plan specifically links imports of vehicles and parts to domestic production of motor vehicles. The company left Australia in 1990 with the introduction of the plan which allowed Pacific island country content to be counted as part of Australian content. Australia may eventually have to amend its Motor Vehicle Plan if it is in violation of the TRIMs.

Trade in intellectual property

One of the important issues that Pacific island countries must confront over whether they are to become contracting parties to the WTO is the possibility that membership of the WTO may well be a criteria for the supply of technology in future. Given that the developed countries are deeply concerned about the possibility of illegal copying and duplication of computer software, technology and even videos, it is likely that in future countries that are not contracting parties to the WTO will be unable to receive such technology. Moreover the GATT clearly specifies the procedures that contracting

parties must follow in order to be in compliance with international patent and intellectual property rules.

Will the Pacific island countries benefit from the growth effects of the Uruguay Round?

As is evident from the earlier discussion the GATT Secretariat does not accept that the Uruguay Round creates losers and certainly feels that developing countries in general will benefit: the GATT Secretariat dismisses the loss of trade preference as being of minor significance as compared to the benefits that will be derived by all countries from an expansion of global income.

Ultimately the GATT position rests on the argument that rising real incomes resulting from trade liberalisation will necessarily benefit all countries because of increases in export earnings resulting from increases in export prices and production. This argument is worthy of some further consideration because it bears directly on what constitutes an appropriate policy response to global trade liberalisation. One would logically expect that if increases in real income do benefit all exporting countries, there would be a strong and positive correlation between real income and exports. The table below presents the coefficient of correlation between real global output (as measured by the International Monetary Funds's global GDP index) and exports for selected Pacific island countries.

Table 4 Coefficient of correlation between global real income and exports (1970-92)

Papua New Guinea	0.947863
Fiji	0.882145
Tonga	0.787381
Western Samoa	0.209762
Solomon Islands	0.68788
Vanuatu	0.08496
Kiribati	0.095814

Source: International Monetary Fund, 1994. *International Financial Statistics, Annual Year Book*, Washington, DC.

A strong correlation between real income and exports is found for the largest countries. The apparently low correlation coefficients in the smallest Pacific island countries would support the hypothesis that the smallest of the island countries are unable to benefit from the improvements in the global trading system. Whether this is so because these countries have not created the investment climate to generate investment, or because they are so small that the effect of diseconomies of scale make it structurally impossible for them to attract the necessary investment, cannot readily be determined from the available data.

However Tonga seems to be a clear exception to the rule that smallness is associated with a country not benefiting from an increase in global income. If we consider only Tonga's exports from 1970-88, the coefficient of correlation decreases to 0.48 and the results then conform more closely to the general hypothesis. While this could be a statistical aberration, these last four years correspond to Tonga's squash export boom.⁵⁸ Tonga thus represents a case of a country where there has been clear export success. Does this then constitute support of the hypothesis that the observed inverse correlation is a result of policy measures rather than the inherent constraints of smallness? Again, no firm conclusion is possible from this sort of analysis, but the results for the other countries seem to suggest that smallness has generally been associated with a low correlation between export earnings and global income. What Tonga demonstrates is that despite smallness, isolation and the resulting high cost structure, it is possible for Pacific island countries to benefit from the expanding global trading system. However, against this is the weight of evidence from the other island states that have not benefited from rising real incomes.

Furthermore, there is the whole question of the negative impact of GATT on trade preferences which has been discussed in the sections above. There is no dispute that trade liberalisation will adversely affect countries dependent on trade preference. In the case of Solomon Islands approximately 35 per cent of 1992 exports were trade preference dependent. The goods include canned fish, palm and coconut oil as well as cocoa. Fiji is even more trade preference dependent than Solomon Islands: virtually all its garments, 70 per cent of its sugar exports, as well as 60 per cent of its canned tuna exports, were dependent upon preferential trading arrangements in the importing countries. In 1992 at least 60 per cent of Fiji's exports were dependent upon trade preference agreements.⁵⁹

Thus while the income-creating effects of the Uruguay Round will be small, their transmission to Pacific island countries will be limited. Moreover, in the case of at least two of the Pacific island countries, the negative impact of decreases in trade preference could have very adverse economic effects.

Policy responses by Pacific island countries

The completion of the Uruguay Round will mean that if the Pacific island countries are not to become marginalised even further in the global trading system they must consider appropriate policy responses. There are issues of vital interest to the Pacific island countries negotiated and discussed at the WTO, but only Fiji, which does not have a permanent representative in Geneva, is a member. This section considers some of the possible policy options available to Pacific island countries. These are just some of the options available and are not mutually exclusive. The options include

- doing nothing and remaining outside the WTO
- seeking membership
- seeking compensation for the economic losses
- putting into place structural adjustments needed to take advantage of the opportunities provided by trade liberalisation.

However, it may be useful to put the Uruguay Round in the general perspective of the global trend of liberalisation. When viewed in this context the Uruguay Round is part of the global process whereby developed and developing countries are lowering their external tariffs. In the process, developing countries that have depended upon trade preference are seeing their margins of trade preference being eroded. In the particular case of the Pacific island countries there is a clear diminution in the value of the Lomé Convention, the Generalised System of Preferences and the Spartecca Agreement. In the case of the last, Australia and New Zealand are lowering their external tariffs and this will significantly exacerbate Fiji's trade position in garments.⁶⁰

In the case of the Pacific island countries there is also the further problem that the high levels of official development assistance currently received are also in decline. The Pacific island countries receive the highest levels of overseas development assistance per capita in the world.⁶¹ Within the last year the United Kingdom has announced its departure as a direct bilateral donor from the region and has also left the South Pacific Commission. The United States has announced the closure of the USAID office in Suva and the Canadians have also closed their cooperation office in Suva. While Australia and Japan are maintaining nominal levels of aid to the Pacific island countries there will certainly be less choice of possible donors in the years to come.

To compound the situation confronting the Pacific island countries, regional trading blocs have emerged in the past few years. These include the Association of Southeast Asian Nations (ASEAN) group, which will probably come to include Australia and New Zealand,⁶² the North American Free Trade Area and the creation of the European Union as one market. While initially these appear to have no direct bearing on the development of trade in Pacific island countries, they will serve to further decrease

the margins of trade preference available to Pacific island countries as more countries liberalise. The development of trading blocs and alliances, especially ASEAN and Asia Pacific Economic Cooperation, could well mean that Pacific island countries will either have to lower tariffs to very competitive Asian economies in order to seek membership or they will have to remain outside these emerging trade areas.

The combination of decreased trade preference, emerging—and potentially exclusionary—trade blocs as well as the decrease in aid levels will leave the Pacific island countries with less options as to their future economic development than at any time in their post-independence history. The most important question is how to address the challenges created by a more liberal trading environment.

Status quo or membership in the World Trade Organisation

At present only Fiji is a member of the WTO. Solomon Islands and Papua New Guinea are almost certain to become members by 1996 and are well on the way to completing their offers. For many of the Pacific island countries not heavily involved in international trade (such as Kiribati and Tuvalu), membership of the WTO is not likely to affect their predicament. However, Western Samoa with its reliance on trade preference into the Australian market for electrical harnesses, Tonga with its vanilla exports into the EU market, Fiji with garments, sugar and tuna, and Solomon Islands, Vanuatu and Papua New Guinea with tree crop exports and tuna, all rely on trade preferences, and hence the WTO remains vital to their interests.

As the international trade environment changes, staying out of the WTO could mean that Pacific island countries would forfeit any opportunity to influence global trade negotiations. Moreover, to remain outside the WTO will mean that there will be no mechanism for redress should Pacific island countries be discriminated against by their larger trading partners. They will also suffer from reduced access to technology as countries will be less willing to deal with countries that do not have intellectual property obligations.

The question then arises that if the Pacific island countries seek to become contracting parties will they have any more influence on the process of global trade negotiations than they have now? The answer must be that they will have no influence unless there is a permanent representative at the WTO representing all Pacific island countries. This could be a South Pacific Forum-funded position, much like the representative at the WTO of the Eastern Caribbean States. If there is no representative in Geneva, membership will be of little overall benefit in terms of influence. However, membership will offer the possibility of redress in trade matters which is not available to non-contracting parties.⁶³

The question of compensation for GATT

As the panel report on the EU banana import regime so poignantly demonstrates, if further demonstration was at all necessary, there is no homogeneous group of developing countries and there is certainly no homogeneous trade policy interest. The more developed newly-industrialised countries clearly have objectives that are often quite at odds with many of the less developed countries that are signatories to the Lomé Convention. The dispute between the Latin American countries and the Caribbean ACP countries over the Banana Protocol is itself adequate illustration of the differences that arise between developing countries over trade issues.

It is precisely in this domain that ACP countries must try to establish a recognition among developed countries that there are countries which are not necessarily winners in the process of trade liberalisation: this in itself would be a major achievement.⁶⁴

It is a widely accepted principle in economics that losers from economic change can be compensated from changes in economic policy that result in a net increase in social welfare. However there is no existing formal compensatory mechanism at an international level that could compensate losers from the Uruguay Round. There are good economic reasons for proposing such a facility to assist trade development. The difficulty with such a proposal is that there is no recognition at a global political level that there are losers. The dominant economic thinking argues that all countries will be beneficiaries.

There have been discussions of possible compensation for the loss of trade preference with the European Union within the context of the Mid-term Review of the Lomé Convention. It is doubtful that the European Union will make more than token gestures regarding compensation. It is even more doubtful that, given the current political and economic climate, any global facility would have the slightest chance of success as most countries remain unwilling to accept the possibility that developing and least-developed economies may be losers from the process of trade liberalisation.

Economic adjustment to the post-Uruguay Round world

Thus far, what has been considered are either compensatory or administrative responses to the Uruguay Round. While these are important, what the Round brings home is the question of the place of the Pacific island countries in the global economic system. As mentioned above, and emphasised by virtually every international agency, the Uruguay Round provides opportunities for the expansion of trade. However the experience of Pacific island countries with trade expansion to countries such as Australia and New Zealand indicate that despite free trade, which the Uruguay Round

does not create, the Pacific island countries have not been able to increase their share of renewable (non-mineral) trade in those markets.

In order to take advantage of the opportunities created by the Uruguay Round and by the whole process of global trade liberalisation, Pacific island countries will almost certainly need to undertake policies of structural adjustment and economic reform to make investment attractive. However, in the case of smaller Pacific island countries there is realistically no possible adjustment that will generate substantial investment in productive capacity. The analysis above has indicated, though by no means conclusively, that most of the smaller Pacific island countries will not benefit.

With the creation of regional trade blocs globally it is time for the Pacific island countries to consider the possibilities of creating regional or sub-regional trade agreements⁶⁵ which would attempt to create larger economic entities. There is no doubt that a regional trade agreement that offered free-trade access to Pacific island country exports would have limited trade-creation effects. However, its importance would lie in the fact that island countries would be subject to the discipline of even modest competition with their neighbours. As APEC eliminates tariffs by 2020, the Pacific island countries will have observer status and will probably be unable to stay out of this trade area with the virtually certain entry of Australia and New Zealand. The Pacific island countries remain small as economies only because they choose to act individually.⁶⁶ While political considerations may militate against economic integration among Pacific island countries, the failure to do so will only mean that the economic adjustments that individual island countries will have to make will be far greater as trade preference decreases work together with aid decreases to cause a substantial decline in living standards towards the end of the current decade.

There are very good economic reasons for the creation of a regional economic entity, at least as an interim measure prior to greater economic integration in the next century. Such an entity would decrease the diseconomies of scale of operating in the region as well as increase the potential political and economic power of the region as a whole. Even with such an entity it is very doubtful that Pacific island countries will be able to avoid making painful economic adjustments that will come as their economies emerge from their post-independence structures. If they fail to make these adjustments now, they will occur anyway with the decline in living standards caused by the coincidence of trade liberalisation and aid decreases. These will probably occur towards the end of the decade, and further exacerbate social and economic tensions within Pacific island countries.

Notes

¹*The Courier*, No. 144, March/April 1994:2.

²It is unlikely that the Director General's statement was meant to imply that every producer and consumer would benefit.

³GATT Secretariat 1993:43. See also United States International Trade Commission 1989; Kirmain, Molajoni and Mayer 1984; and UNCTAD 1986.

⁴This poor transmission mechanism between world and domestic prices is well understood and documented in the case of Pacific Island raw material exports. See World Bank 1995.

⁵GATT Secretariat 1995:448 states:

'Ministers recognize that during the reform programme leading to greater liberalization of trade in agriculture least developed and net food-importing developing countries may experience negative effects in terms of the availability of adequate supplies of basic foodstuffs from external sources on reasonable terms and conditions, including short term difficulties in financing normal levels of commercial imports of basic foodstuffs'.

⁶World Bank 1995:21. In large part the failure of the Uruguay Round to have substantial impact on world commodity prices in the way that had been expected is a direct result of the Blair House Accord between the European Union and the United States which resulted in only modest reforms in global agricultural trade.

⁷On 1 July 1988 New Zealand removed all its restrictions on apparel imports from Pacific island countries and thereby increased the margin of preference on those imports.

⁸In 1988 the Australian government announced its plan for the Textile Clothing and Footwear industries under which tariffs would be eliminated and quotas abolished under a phased liberalisation up to the year 2000. The quota costs for garments were paid by importers from the islands as they had never established a market in Australia. The out-of-quota cost could, depending upon the item, be greater than the general tariff itself. Thus the announcement of the liberalisation policy was in effect an increase in the margin of preference for Pacific island country garment exports. While the announced liberalisation was to begin in 1992, it was sufficient incentive to send Australian importers into the Pacific island countries looking for duty-free sources of supply.

⁹World Bank 1995:21-2. The World Bank's positive conclusion regarding the net impact of the Uruguay Round on the Pacific islands does not appear to flow from any quantitative analysis that is evident in its report.

¹⁰*Ibid.* p. 21. In its most recent report on Fiji the bank emphasises the loss of trade preference and its impact upon the economy. See 'Fiji: restoring growth in a changing global environment', June 1995, Report No. 13862-FIJ, p. 41.

¹¹Decision of the Contracting Parties of 28th November, 1979, 26S/203.

¹²At the 58th Session of the Committee on Trade and Development one representative stated that in the view of her authorities 'the Enabling clause has provided a useful mechanism for permitting temporary departures from the most-favoured-nation principle, and this had been achieved with the minimum of damage to the integrity of the General Agreement. However, this would only be the case if the use of preferential treatment were phased out.' (L/5913).

¹³While it was developing countries which challenged the privileges of ACP banana-exporting countries, the prime supporters were the US fruit-exporting companies that were pushing their host governments in Latin America to challenge the EU Banana regime.

¹⁴L/7153 and Add 1, 15 Dec. 1989.

¹⁵Panel Report 'EEC—Import Regime for Bananas, Feb. 1994, p. 52, DS38/R. There had also been an earlier panel report on the same matter (DS32/R). The first report was necessary because each of the member states of the European Union had maintained different import regimes, and following the first panel report the European Union imposed a single regime that was condemned in the second panel report.

¹⁶Ibid.

¹⁷The European Union viewed the Banana Protocol decision as undermining the trade preference provisions of the Lomé Convention. It left open the possibility of subsequent challenges to all other such commodity agreements in the Convention, and by possible extension, all the other trade provisions including tariff preference provisions.

¹⁸GATT Secretariat 1995, Articles 6 & 8, Annex 2.

¹⁹Ibid. Article 17(14), Annex 2.

²⁰Ibid. Article 22(1), Annex 2.

²¹Ibid. Article 22, Annex 2. This allows the DSB to appoint an arbitrator over the dispute if both parties are in agreement.

²²See Article 11 (1) which prohibits the use of quantitative restrictions against other contracting parties. This provision has often been the subject of exceptions such as the MFA. Many of the agricultural policies of the European Union and the United States are in direct contravention of this GATT provision. In 1955 the United States sought and received a blanket and indefinite waiver from Article 2 and 11 provisions for Section 22 of the United States Agricultural Adjustment Act.

²³The European Union had notified the GATT of Article 4 provisions of the Lomé Convention in 1975 and has continued to do so with each subsequent renewal of the Convention.

²⁴Some of the early waivers that were granted were indefinite though waivers were normally granted for periods of ten years.

²⁵See 'Understanding in Respect of Waivers of Obligations under the GATT 1994' in GATT Secretariat, GATT Secretariat 1995, pp. 34–5.

²⁶10 October 1994, L/7539 and Corr.1.

- ²⁷Following the Banana Protocol decision the government of Brazil was considering a legal challenge to the Sugar Protocol of the Lomé Convention.
- ²⁸L/7604. 19 December, 1994, GATT Secretariat.
- ²⁹Ibid., p. 2.
- ³⁰See Lomé Convention IV, 1990, Protocols 5–8 on bananas, rum, beef or veal and sugar.
- ³¹L/7604, Item 6, p. 2. These provisions state that a contracting party has recourse in the event that it feels that benefits accruing to it under the agreement are being nullified or impaired by the actions of another party.
- ³²SR.50/1 1995, p. 14.
- ³³Ibid. pp.14–5. It should be noted that despite the US objection to the Banana Protocol, the United States itself maintains a similar quota-based sugar import regime for developing as well as developed countries. *Mutatis mutandis*, the US sugar regime would be of equally dubious GATT legality had it not been for the indefinite 1955 GATT Article 11 waiver of the Section 22 provisions of the United States Agricultural Adjustment Act.
- ³⁴P. Chalmin, 1990. *The Making of a Sugar Giant—Tate & Lyle, 1859–1989*, Harwood Academic Publishers, Switzerland:474–5:
Let there be no mistake: the Sugar Protocol of the Lomé Convention was first and foremost a Tate & Lyle Protocol. The British firm was the main partner of the ACP countries which could not afford to take too many liberties. The skill of Tate & Lyle lay in never appearing directly in the controversy unless it was to play a conciliatory role... Thanks to the support lent by the various British governments, concerned by the possible consequences of the closures of refineries in zones already affected by unemployment such as London and Liverpool, thanks also to the paradoxical support of militant pro-Third World circles, Tate & Lyle managed to maintain an illogical compromise in the face of all odds.
- ³⁵As the 1994 Lomé waiver is unambiguous with regards to tariff preference measures as they apply to commodities such as tuna, where there are no non-tariff measures employed, then such a challenge would only be possible after the year 2000 if there was an agreement to extend the tariff preference measures.
- ³⁶The European Union must begin negotiations with the ACP states in 1997 for a successor treaty to the Lomé Convention.
- ³⁷The EC Coffee Contract is a standard contract used for the purchase of coffee in the European Union.
- ³⁸Kiribati, Tuvalu and the Marshall Islands remain more export-dependent upon copra than the three Melanesian states. However, their exports of copra stem from the fact that virtually no other exportable crop will grow on small tropical atolls in sufficient volume to justify an export trade.
- ³⁹There is no margin of preference for most tree crop products originating in Pacific island countries as the same access provisions are available under the Australian GSP.
- ⁴⁰Article 189, Lomé IV, provides for an all-destinations derogation so that there would be no distortion of trade. This however has not eventuated, and distortions in trade continue.

- ⁴¹The extra 40,000 tonne quota stems from commitments under Lomé IV to allocate extra quota to sugar-producing ACP States as European countries with cane refining capacity join the European Union. Portugal and Finland both have such capacity and it is from this that the increase in quota is allocated. It should however be noted that the access to the Portuguese market is on terms and conditions less favourable than the access provided to the United Kingdom and French markets. See *Joint Declaration on Sugar in the Portuguese Market*, Article 28, Lomé IV.
- ⁴²personal communication, London Sugar Group, 1994. The precise effect upon EU prices of the Uruguay Round commitments remains an internal EU policy decision because of the discretion permitted under the Blair House Agreement. The precise magnitude of the decrease is uncertain, and could be as low as 5–10 per cent as suggested in the recent World Bank report on Fiji, *op. cit.*, p. 29.
- ⁴³The average cane farmer made an operating profit of F\$20 per tonne in 1992.
- ⁴⁴See Article 4, Part III, *Agreement on Agriculture*, GATT, 1994.
- ⁴⁵The inclusion of the Sugar Protocol terms in the EU's offer does not legally preclude a subsequent GATT challenge to the Sugar Protocol.
- ⁴⁶The Sugar Protocol was negotiated when sugar prices were at their highest point this century and there was substantial insecurity of supply.
- ⁴⁷The actual 1993 cost of the Sugar Protocol to the European Union is estimated to be 600 million ECU. See World Bank, *op. cit.*, p. 21.
- ⁴⁸The funding for the Sugar Protocol and the other commodity protocols that are part of the Lomé Convention does not come through the normal channel of the European Development Fund.
- ⁴⁹On the basis of purely financial calculations that the European Union could close the Thames and Liverpool refineries, pay compensation and within the space of ten to fifteen years all parties (with exception of the ACP states) would be better off with United Kingdom sugar needs being met from continental European imports.
- ⁵⁰Article 10, Protocol 8, Lomé IV, 1990.
- ⁵¹It is the use of 'and' rather than 'or' in the final sentence of the paragraph that means that agreement by both parties is required.
- ⁵²Statement by the OECD Observer at GATT to the OECD Committee for Fisheries 10 February 1994, Paris.
- ⁵³In the case of fish products, where there is a high cross-elasticity of demand between many of the tariff lines, the change in tariffs in one tariff heading will still have a substantial effect on items upon which no or only nominal offers were made.
- ⁵⁴Between 1993 and 1994, the Pafco cannery in Fiji began to shift away from exports to the United Kingdom and has mainly exported its tuna to Canada where its margins of preference are lower, but prices appear to be higher. The loss of the United Kingdom market is not entirely a matter of choice as Pafco has, in the last few years, been unable to procure adequate supplies of pole-and-line fish to supply both markets.
- ⁵⁵Article 1 of the TRIMs restricts the coverage to investment measures related to the trade in goods only. However the article, as well as subsequent articles, is ambiguous as to whether the restriction is on the trade in goods or whether the

TRIMs cannot relate to services. Throughout the Annex that describes the prohibited TRIMs there is a referral to the purchase of products rather than simply goods.

⁵⁶Ibid., p. 166.

⁵⁷By the end of 1995, however, the Western Samoa copra industry had shown some clear signs of recovery in production and exports.

⁵⁸In the last four years Tonga has found a substantial niche market for squash in Japan in October and November when other countries are unable to supply. The prices that farmers receive have generally been very high and sufficient to cause a major increase in that country's exports.

⁵⁹Since 1994 Fiji's cannery, Pafco, has moved away from exports to the United Kingdom under the Lomé Convention and exports tuna to Canada. The shift has been in large part a result of the inability of the state owned fishing company to provide adequate quantities of pole and line caught tuna for the top end of the market.

⁶⁰The Australian Textile Clothing Footwear Plan foresees the decreases in the effective rate of industry assistance in clothing from 55 per cent in 1990 to 20 per cent in 2000.

⁶¹World Bank 'Pacific Island Economies—building a resilient economic base for the twenty first century', op cit., p. 7:

'Aid has been a dominant feature in the Pacific member country economies during the last fifteen years. On average, official development assistance amounted to almost 27 per cent of GDP during 1980–1992. This average conceals much variation. At one extreme, aid amounted to only around 3.3 per cent of GDP for Fiji while, at the other extreme, it amounted to 56 per cent for Kiribati.'

It should be noted that the World Bank analysis covers only its eight member countries (Solomon Islands, Vanuatu, Fiji, Tonga, Western Samoa, Kiribati, Marshall Islands, FSM) and excludes some of the smaller and very aid dependent countries such as Tuvalu, Cook Islands, Niue as well countries such as Papua New Guinea and Nauru which have low aid dependency ratios.

⁶²In 1995 Australia and New Zealand began negotiations with ASEAN for trade integration of the Australia and New Zealand Closer Economic Relations Agreement and ASEAN areas.

⁶³The financial implications of membership are minimal as subscriptions are based on world trade volumes.

⁶⁴There are in fact two ministerial decisions that pertain directly to the situation confronted by developing countries. These are *Decision in Favour of Least Developed Countries* and *Decisions on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food Importing Developing Countries*. The latter decision in particular refers to countries that experience 'short-term' adjustment problems to the 'adjustment programs' of the IMF and the World Bank.

- ⁶⁵In 1992 the Melanesian Spearhead Group signed a nominal trade agreement which eliminated tariffs on three commodities—tea, tuna and beef between Solomon Islands, Vanuatu and Papua New Guinea. In 1995 negotiations are continuing to expand coverage to include 150 tariff lines.
- ⁶⁶In August 1995 Fiji again refused to join the Melanesian Spearhead Group despite the substantial moves that that group is making towards sub-regional trade liberalisation. Fiji participates in the Melanesian Spearhead Group as an observer and despite three invitations to become a member, has declined to do so.

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