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LATIN AMERICAN AND CARIBBEAN INTERESTS  
IN THE WTO

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## 1. Introduction

Before the failure of the WTO (World Trade Organization) ministerial in Seattle to launch the Millenium Round of multilateral trade negotiations it was already possible to detect a very significant gap between the positions of developing and developed member countries of the WTO concerning priorities to be considered in the new round.<sup>2</sup> The position of Latin American members tended to converge with that of other developing economies. Latin America made considerable concessions in the Uruguay Round. Many economies bound their tariffs at relatively low levels. Even in the middle of macroeconomic turmoil in the late 1990's, with the successive financial crises in Asia, Russia and Brazil, commitment to liberal trade policies has been on the whole preserved. The liberalization process has, of course, raised severe problems related to the accommodation of conflicting interests. Problems arising out of the political economy of trade are not a monopoly of developed economies. After the very significant reduction of high tariffs entailed by the Uruguay Round, tariff concessions by developing countries by further lowering their bound tariff levels shall severely affect established interests which are favoured by protectionist policies. Most of the region's economies may face problems in adjusting in the mid-term to substantial additional tariff reduction undertakings. To adequately deal with such obstacles, and contribute to create the political conditions required for further liberalization, Latin American governments need to be able to show to domestic interests that the developed countries are willing to make significant concessions by opening their markets in all sectors.

The attempt to launch a new Millenium Round in Seattle in the end of last year was mainly wrecked by the stances adopted by the European Union, Japan, and the United States. The European Union and Japan persistently resisted to consider the possibility of a significant additional reduction of protection affecting agricultural products. The United States, on the other hand, made it clear, in a surprising move, that it would consider as a *sine qua non* the inclusion of labour standards in the new round.

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<sup>2</sup> See, for instance, Abreu (1999), *passim*, which was the first draft of this paper dated 15 October 1999.

Liberalization entailed by future multilateral trade negotiations should in principle affect in a balanced way both industrial and agricultural products. There is, for instance, no economic reason to limit offers of total tariff dismantlement to industrial products. In the same way that developing economies in the Uruguay Round were expected, and did fall in line with more liberal trade regimes affecting industrial products, a new round will have to remove the obstacles which still affect agricultural trade at a much faster pace than further liberalization affecting industrial products. Convergence in the direction of less distorted world agricultural markets may, however, require the international mobilization of resources to cope with the consequences of price rises on vulnerable food importers.

On the other hand, efforts by developed economies to include in a new round's agenda a number of new issues, such as environment and labour rights, which have not been traditionally dealt with by the World Trade Organization and the General Agreement on Tariffs and Trade in the past, introduce a new range of difficulties. The situation is not dissimilar to that before the launching of the Uruguay Round in the early 1980's concerning trade-related intellectual property, trade-related investment measures and services. The important difference is that the economic arguments for the inclusion of such themes then were sounder than those which are used today in the policy harmonization debate.

In spite of initial suggestions by developing countries in the Uruguay Round negotiations there is no essential difference between arguments in favour of the liberalization of goods or services if due account is taken of the differences concerning different modes of supply as liberalization of the provision of services necessarily raises a lot of problems related to the treatment of foreign investment. Similarly, there is little doubt about the importance of protection of intellectual property to foster invention. The arguments in favour of linking labour and environmental standards to trade measures are much more controversial as there are significant doubts on what would be the end impact on exactly those targets which are thought to be worthwhile to pursue. Compulsory minimum standards enforced through trade retaliation measures may end up further

hurting abused workers and the environment, a result which is directly in contradiction with the alleged aims of such trade measures<sup>3</sup>.

In the first section after the introduction of this paper attention will focus on the analysis of concrete interests of groups of economies in terms of market access. Account will be taken of the potential differences between Latin American countries in terms of the balance of interest between multilateral negotiations and regional integration. The third section will consider other negotiating issues of interest for Latin America, especially the themes not traditionally dealt with in the WTO/GATT such as: environment, labour rights and competition policies. The next section will include an assessment of how to cope with the issue of special and differential treatment taking into account the different level of development of different groups of the Latin American economies. This will also consider how such provisions worked under the arrangements negotiated in the Uruguay Round. Section 5 will deal with the progress of trade liberalization agreed in the Uruguay Round which is of specific interest of developing economies such as those undertakings affecting textiles and clothing as well as agriculture. Section 6 will cover issues related to rules whose solution is essential for the success of the next round of multilateral trade negotiations. The first issue is related to the need to improve international disciplines concerning the application of anti dumping duties. The second issue relates to the core of the WTO activities and involves strengthening the multilateral capacity to restrain the adoption of unilateral measures by specific high leverage specific countries. The final section includes the conclusions in the form of a first attempt to establish taxonomies according to specific interests of particular Latin American and Caribbean countries in specific issues under negotiation.

2. Market access: potential interest in multilateral negotiations and trade geographical concentration

To gauge what is at stake in the next round of multilateral trade negotiations in the World Trade Organization from a Latin America perspective it important to have a

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<sup>3</sup> See Bhagwati and Srinivasan (1996) and Brown, Deardorff and Stern (1996).

clear idea of the present trade flows and size of domestic markets of Latin American economies. Table 2.1 summarizes such information, presenting statistics on gross national product at purchasing power parity rates and total (imports plus exports) trade for most Latin American and Caribbean economies. While the impact on trade of further liberalization is likely to be greater in economies with greater trade flows, the impact of liberalization concerning many issues under discussion in the World Trade Organization, such as intellectual property or services, is likely to be proportional to the size of the domestic markets of member economies.

What emerges from such trade data is that Mexico is by far the most important trading economy in Latin America: its total trade is almost 40% of total Latin American trade (on a gross basis), more than 25% higher than total Mercosur trade and almost double total trade of the second Latin American trading nation which is Brazil. Mercosur's total trade is only some 15% below total trade of all other Latin American and Caribbean economies, Mexico excepted.

In terms of size of the economies, Mercosur corresponds to 44.4% of the total GNP-PPP (of which Brazil 31.9%), Mexico to 24.1%, the Andean group as a whole to about 20% and Chile to 5.5%. All other economies together thus account for around 6% of the aggregate. These data may say something about comparative leverage in the negotiations, even if at a rather low level of leverage given the small size of all Latin American and Caribbean economies if compared with the main developed economies. But they say little on the importance of multilateral negotiations for each particular economy.

While it is useful to try to establish taxonomies of Latin American and Caribbean economies according to specific interests in particular issues to begin to answer this second question it is important to remember that negotiations related to the creation of the Free Trade Area of the Americas, encompassing all the Western hemisphere economy with the exception of Cuba, are, at least in principle, supposed to end by 2005. It seems reasonable to believe that the more concentrated is the trade of a given economy or set of economies in Western Hemisphere markets the more intense will be the interest of such

Table 2.1 Latin America and the Caribbean: Gross National Product and total trade data

	GNP in US\$ billion*	Total trade in US\$ billion**
Andean Group	631	95.4
Bolivia	18.8***	3.2
Colombia	251.7	27.0
Ecuador	57.5	10.6
Peru	108.7	14.3
Venezuela	194.3	40.3
Caricom	26.5	17.2
Bahamas	3.3****	3.2
Barbados	1.7****	1.3
Belize	0.6****	0.5
Dominica	0.3	0.3
Grenada	0.4	0.2
Guyana	2.4	1.1
Jamaica	8.9	4.9
St Vincent and Grenadines	0.5	0.4
Trinidad and Tobago	8.4	5.3
CACM	107.1	29.8
Costa Rica	22.5	8.5
El Salvador	16.7	5.6
Guatemala	43.1	7.1
Honduras	13.8	6.6
Nicaragua	11.0	2.0
Mercosur	1421.9	181.5
Argentina	355.0	55.6
Brazil	1019.9	115.3
Paraguay	19.7	4.2
Uruguay	27.3	6.4
Nafta		
Mexico	770.3	220.2
Other		
Chile	176.6	35.9
Dominican Republic	36.8	11.2
Haiti	8.6	1.1
Panama	19.2	19.7
Suriname	1.2	1.1

\*GNP PPP in 1997 from World Bank, *World Development Report* 1998.

\*\*Trade data: exports plus imports in 1997 from International Monetary Fund, *Direction of Trade Statistics Yearbook* 1998.

\*\*\* 1995.

\*\*\*\*Uncorrected GNP data.

an economy or set of economies in a regional hemispheric integration initiative as opposed to multilateral negotiations. Indeed, in the case of Mexico, already a member of

a preferential trade area which includes the United States, this adjustment in evaluating the issues at stake is essential.

Table 2.2 below presents data on the relative importance for each economy or set of economies in Latin America and the Caribbean of both intra-FTA trade and of trade within the Western Hemisphere. Interpretation of the data change quite dramatically when account is taken of trade orientation. The concentration of Mexican and, to a lesser extent, Central American trade with Western Hemisphere partners, and especially the United States, reduces significantly their potential stake in new multilateral negotiations. What makes a difference between the two cases is that while Central American economies would wish to be included in an FTAA, Mexico is already a member of NAFTA. On the other hand, Mercosur and Chile, with about half of their total trade with economies outside the hemisphere, would in principle have more at stake in the new multilateral round in spite of Mercosur being less open than many other Latin American economies. This is indeed the reciprocal of the argument which rationalizes the less than enthusiastic stance of a country such as Brazil concerning the FTAA. The bottom line argument is that there is not trade enough with the hemisphere to justify becoming a partner of an FTAA at least in the time span which seemed to be initially preferred by the United States and in competition with multilaterally agreed liberalization. The Andean Group, especially Colombia, as well as Caricom economies, are in the intermediate group in terms of share of trade with the hemisphere. But much of the Caricom trade outside the hemisphere is explained by special arrangements under the European Union preferential regime for ACP countries.

From the viewpoint of many of the Latin American economies most likely to consider multilateral negotiations as vital for their interests, since a significant share of their current trade is with countries outside the hemisphere, the main distortion to be removed in relation to market access is the asymmetrical treatment between agricultural and industrial products. This is certainly the case for Mercosur members and also to a lesser extent for Colombia. In the other extreme of the spectre, Chile, Peru and some of

the Central American and Caribbean economies may be rather less enthusiastic about collective commitments to reduce agricultural protection rapidly.<sup>4</sup>

Table 2.2

Share of intra-FTA trade in total trade and share of trade outside the Western Hemisphere for selected economies and selected FTAs

	Share of intra-FTA trade in total trade*	Share of trade outside the Western Hemisphere*
Andean Group	0.109	0.293 (0.329**)
Colombia	0.147 (Andean)	0.346
Venezuela	0.079 (Andean)	0.179
Caricom	0.108	0.368 (0.407**)
CACM	0.123	0.217 (0.248**)
Mercosur	0.228	0.494 (0.640**)
Argentina	0.297 (Mercosur)	0.460
Brazil	0.166 (Mercosur)	0.528
Mexico	0.821 (Nafta)	0.137
Chile	0.141 (Mercosur)	0.532

\*In 1997. Data from International Monetary Fund, *Direction of Trade Statistics Yearbook 1998*.

\*\*Excluding intra-FTA trade.

Negotiation strategies outlined by the major trading economies have reflected their intention to preserve such distortions. The United States has stated its interest in a selective approach based on sectoral liberalization showing, implicitly, its resistance to the application of tariff reduction formulae which would affect tariff peaks which protect sensitive products. On the other hand, the European Union ventilated its preference for the application of formulae to reduce tariffs such as to assure automatic trade liberalization over the board. But this explicitly excluded agricultural products.

While further agricultural trade liberalization is part of the built-in agenda the

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<sup>4</sup> See van der Mensbrugghe and Guerrero (1998) for an excellent summary of agricultural protection in the Americas.



expansion of the agenda on market access to include industrial products shall meet much resistance from developing economies unless a credible quid pro quo can be presented. The effects of recent financial crises in most Latin American economies have given a new lease of life to protectionist lobbies under pressure following unilateral trade liberalization in the 1980's and early 1990's partly bound in the tariff schedules which resulted from the Uruguay Round. The political leverage of protectionist lobbies in Latin America has been strengthened but it is counterbalanced by the export interests committed to a reduction of the persistent industrial tariff peaks which significantly affect the exports of most economies in Latin America, especially those with a higher share of manufactured exports in total exports: Mexico, Brazil, Colombia, Argentina.

New empirical work by Hertel and Martin (1999) in spite of limitations of which perhaps the most important is the adoption of applied rather than current tariff schedules. has shown that a standard tariff cut of 40% in the next round of multilateral trade negotiations would benefit relatively more the developing economies as possible welfare gains would amount to a maximum in the region of 1.5-2.0% of total income for some Asian economies contrasted to 0.1-0.2% for most developed economies. Brazil's income would increase by 0.5% and that of other Latin America by 0.2-0.3%. This among other things reflects the fact that tariffs on industrial products in developed economies are much lower than those raised in developing economies.

A complication involving market access is that most Latin American and Caribbean economies are applying tariffs which are below bound tariff levels agreed in the Uruguay Round. There have been suggestions that developed countries would be unwilling to accept that additional liberalization commitments by developing economies would take bound tariff levels as reference and that applied rates should be a more appropriate benchmark. This, besides being a rather innovative interpretation of what a bound tariff rate is, would introduce an undesirable additional source of unequal treatment between developing and developed economies as in most cases developed countries applied and bound tariff rates coincide. Many countries in the region bound

their rates at 35% in the Uruguay Round but applied rates are typically below 15% for most of the bigger economies.

The application of any of the two tariff reduction methodologies proposed by the United States and the European Union would assure that tariff peaks remain as unwarranted exceptions in the long-term trend towards over the board trade liberalization which should be the main feature of the multilateral negotiation effort. Ideally tariffs should be reduced by the application of formulae but in such a way as to assure that tariff (or tariff equivalent) levels above a relatively high threshold, say 30 or 40%, mainly agricultural products but also industrial tariff peaks, would rapidly converge to such a threshold while a formula (of the Swiss type?) would be applied to reduce tariff levels under the threshold. In a second stage of trade liberalization a formula could be universally applied without the exclusion of any product.

Such a big effort to liberalize agricultural trade in relation to market access will have to be accompanied by the elimination of export subsidies and the curtailment of domestic support. But in Seattle it has proved impossible to mention the elimination of export subsidies as a target and to exclude multifunctionality, a concept which is bound to provide a pretext to delay the dismantling of agricultural protectionism. Some Latin American and Caribbean economies which are food importers, especially in Central America and the Caribbean, will probably have a strong interest in contingent measures of financial support to cope with possible price rises. New estimates of the impact of agricultural liberalization on the price of agricultural commodities, however, have tended to qualify the results obtained earlier which suggested a significant rise in world prices. A recent paper by Anderson, Erwidodo and Ingco (1999) has once again stressed the benefits of agricultural liberalization and the fact that one third of the gains entailed in a total liberalization scenario would result from removing distortions in the market for agricultural products in OECD economies in spite of the share of only 4% of agriculture in OECD global GDP.

The emphasis placed by recent work by Mattoo (1999) on the importance to stress competition in the provision of services rather than simply increasing the scope for

foreign ownership is welcomed. The joint main target of assuring competition together with widening the scope for foreign ownership depends crucially on effective regulation. The scope for technical assistance here is very wide. Indeed, if some developed economies have been reticent on any multilaterally agreed commitments on competition policy based on argument that a condition for such an initiative is the removal of the inter-country heterogeneity of the institutional maturity of the legal framework and of enforcement agencies, exactly the same arguments should be applied to regulatory framework in developing economies. The services agenda includes both negotiation of rules such as those on safeguards and subsidies and commitments covering new sectors. There are important discrepancies between developed and developing countries on the desired timing of such negotiations as the latter would of course prefer to further the negotiation of rules that would enhance their capacity to compete both domestically and abroad. Of special interest to developing economies, and especially of the bigger Latin American economies with a particular interest in the market for construction services, is the improvement of rules on temporary presence of natural persons.

### 3. Non-traditional issues

In principle quite a few themes not traditionally dealt by the GATT or the WTO could be eventually included in the agenda. A stance adopted by many developing countries before Seattle was that there was already too much to be done in relation to the built-in agenda and pending implementation and that it would not be a first priority to broaden the agenda. The previous WTO ministerial meeting at Singapore in 1996 agreed to have work programmes in four issues which were strong candidates to be included in the negotiating agenda of the aborted new round: competition policies, trade facilitation, transparency in government procurement and investment. There seems to be no particularly strong objection by most developing countries on the possible inclusion of competition policies and trade facilitation. In the case of competition policies difficulties are more likely to occur among developed economies because of the extreme disparity in the maturity of institutions and policies related to competition policy. Developing economies have traditionally resisted to sign multilateral agreements on government

procurement and it is unlikely that such a stance will change radically. It is reasonable to suppose that the relatively bigger economies in Latin America would tend to resist more to undertakings related to public procurement as present domestic suppliers would be more likely to be displaced by foreign suppliers. On the investment issue, Latin American countries are unlikely to have resistance to the very cautious stance which is likely to be adopted by most WTO members limiting efforts to desirability of “educational and analytical work” on FDI.

In relation to the other important non-traditional issues such as labour rights and environment not only it was difficult to see a *demandeur* role for Latin America but they seem to provide a strong case for the adoption of obstructionist stances by most Latin American and Caribbean economies. Especially in the case of labour rights as it is difficult to single out a developing country which is not suspicious of a possible misuse of a so-called harmonized approach to labour standards. This explains why the US insistence in the creation of a working group on labour standards in Seattle in fact blocked the launching of a new round of multilateral trade negotiations. The obstructionist stance of Latin America and the Caribbean in relation to trade-related environmental matters is likely to be less homogeneous. In contrast with the history of US-Mexico difficulties on environmental matters in the NAFTA negotiations, cross-border issues tend to be unimportant for other Latin American countries and the potential difficulties would be more likely to be in the policy harmonization context concerning global externalities generated by the emission of gases due to fuel consumption and also deforestation. The bigger economies are more likely to be targeted as generator of undesirable externalities and the more so countries such as Brazil where environmental issues related to the preservation of the rain forest are superimposed to the more general problem of fuel emission.

The fact that relatively more damage to the environment per unit of output results from economic activity in developing economies than in developed economies is not a valid argument for the adoption of policies targeting the overall minimization of impact on the environment which are not the result of multilateral agreements. An effective

system of incentives to curb pollution multilaterally does not include the possibility of creating WTO-legal obstacles to trade conditional on the attainment of minimum emission standards. It probably includes side payments, mainly funded by developed economies, to foster the preservation of resources now facing depletion at an undesirable rate.

It is ironical that environment and labour standards, exactly those issues which raise more clearly the implicit danger of damage to the fabric of multilateral negotiation consensus slowly built in the last fifty years, that there is more pressure to open the debate to include groups of pressure purporting to democratically represent the interests at stake, especially in the developed economies. Given the political economy of protectionism in such economies and the fundamental role played by asymmetrical perceptions between different economic actors on the impact of protection on their income it is not unreasonable to have sympathy with those who are skeptical about a positive role (from an efficiency point of view) which could be played by such pressure groups and their allies. Inefficient steel makers, say in the US, are able to obtain protection from the US government in the form of antidumping duties in spite of the cost entailed by higher steel prices in the domestic market because steel consumers have more diffuse interests and are unable to resist their lobbying power. There is nothing to assure that the NGOs involved in the “harmonization” of environment and labour standards are not captured by such protection lobbies which are keenly seeking a modernization of arguments used to cover up their lack of competitiveness.

At the same time it seems highly artificial that the theme of democracy and the WTO is raised in connection with the role of the NGOs and the near riot atmosphere which marked the Seattle ministerial. It is only reasonable that many members of the organization vented their dissatisfaction with a situation where there was the suspicion of manipulation of aggressive NGOs with a platform which tended to coincided with that of the host country. Some observers did not fail to mention that if the theme of democracy in the WTO was to be considered seriously, analysis should start with the different

weight attached to the participation of member countries as attested by “green room” negotiations and other traditional WTO practices.

#### 4. Special and differential treatment

The S&D issue remains one of most difficult to deal adequately with in a new round. In the Uruguay Round S&D was mostly confined to the adoption of extended periods to cope with new rules if compared to the periods allowed in the case of developed economies as well as to possible provision of technical assistance. Typically extended periods for full implementation has been generally assured to developing country members and exemption from implementation has been granted to least-developed countries. In many cases the treatment of least developed and other developing countries has been different.

This differentiation of adjustment periods affects agricultural liberalization commitments concerning both domestic support and export subsidies, application of sanitary and phytosanitary measures, customs valuation, withdrawal of existing trade related investment measures, imposition of safeguards, use of export subsidies and commitment to trade-related intellectual property disciplines. In the case of trade-related investment measures departures from rules which establish the nature of TRIMs which are prohibited are regulated by the same regime of exceptions as those under article XVIII GATT 1994, the relevant Understanding on the Balance-of-Payments Provisions of GATT 1994 and the Declaration on the Measures Taken for Balance of Payments Purposes adopted in 1979 as a result of the framework negotiations. As indicated by Casaburi, Henderson, Quintiloni and Tussie (1999) for Argentina it is likely that industrial interests in most Latin American economies with a more developed industrial base would welcome a revision of the constraints imposed by the present commitments on TRIMs, especially in the case of the automotive industry which expects that their main offices are going to engage in the defense of their interests to extend special arrangements favouring the industry in many Latin American economies. The economic rationality of such arrangements, which generally involve subsidies tied to export performance, is scant

from the point of view of the country which attracts foreign investment. The inclusion of such an instrument in the negotiating agenda in spite of its inefficiency is a reflection of the clout of such sectors in the political economy of protection rather than of any genuine “national interest”.

TRIPs is an issue which is of more general interest for Latin American and Caribbean economies than TRIMs. There is a much better case for the inclusion of TRIPs in a revision agenda from a social point of view as the increased cost of the relevant protected products is likely to affect the poor and the very poor in developing economies, especially in the case of pharmaceutical products. However, in contrast with TRIMs there is no hope that the bargaining power of multinationals could be used to further a revision of the agreed implementation periods. Rather the reverse is the case, as pharmaceutical multinationals are very keen on the importance of the agreed implementation period to assure increased revenues as intellectual property rules are better enforced in developing economies.

In other cases the references to differential treatment for developing member countries of the WTO is extremely vague such as those related to technical barriers, import licensing, the imposition of antidumping countervailing duties and rules and procedures related to dispute settlement. In this latter case the exhortation to take into account different levels of development of economies on whose products AD duties are imposed seems to have been completely disregarded in the recent history of imposition of such countervailing duties.

There is a very strong feeling among developing countries that this has been an unsatisfactory way to assure that some of the WTO disciplines were adequately modulated to cope with the sharp contrasts in development levels among WTO members. The essential difference between the approach adopted in Uruguay Round and these criticisms is that simple extension of implementation periods implies that given time and/or sufficient technical assistance it will be possible to remove inherent disadvantages which affect the competitiveness of developing economies vis à vis developed

economies. Criticisms imply that such difficulties will only be solved by the convergence of the levels of development of developed and developing member countries. The essential problem here is that to reopen the issue of how the S&D issue has been addressed in the Uruguay Round agreements and re-negotiate such terms is likely to have a cost in terms of fresh additional concessions by the developing country members of the WTO. The main proponents of such a move seem to be oblivious to the likely costs of the adoption of such alternatives.

Another pending issue related to S&D refers to preferential treatment accorded to imports of developing countries in the markets of developed economies under GSP schemes. There is also a near consensus in developing countries that rules concerning such preferences should be more automatic and stable overtime so that the concession of preferences is not, as it should be, unilateral and is transformed into a negotiation to extract specific concessions from beneficiaries. There may be scope for a more formal set of rules to be adopted for preferences now granted – or which should be granted – under the umbrella of the GSP and the GSTP. This could include a universal system of variable preferences decreasing with the level of income of the recipient economy until graduation and withdrawal of preferences. Low income countries would receive 100% preferences from all other groups. Countries in an intermediate group would receive, say, 50% preferences from the high income group. The system would be of automatic application as thresholds would be defined by GNP-PPP levels. Promotion and graduation would be once and for all.

## 5. Implementation of Uruguay Round Agreements

Now that efforts to launch the Millennium Round have failed, the dangers of conflict between liberalization timetables agreed under the Uruguay Round and under the new round are much reduced. Two major themes emerge in relation to the implementation timetable of the Uruguay Round results: agriculture, and textile and clothing. The programmed liberalization timetable resulting from the aborted Millennium Round was to be effective from the beginning of 2003. Problems were perhaps less likely to surface in



the case of agriculture as full implementation of reduction commitments for economies other than developing and least-developed country members is set to be complete by the end of 2001. But there many problems do arise from the implementation of results concerning agriculture, especially on expedient notification of allowed subsidies and transparency in relation to quota allocation. There have been complaints by agricultural exporters on the lack of expediency by importers in providing full information on such issues as required under the Uruguay Round agreement on agriculture, especially quotas, with the consequence that agricultural imports are reduced. Even more importantly, the so-called peace clause, which blocks the use of countervailing duties on agricultural is to run until the end of 2004.

In the case of textiles the WTO agreement on Textiles and Clothing involves the operation of a Textiles Monitoring Body which has essentially to supervise the pace of the liberalization according to the three-phase schedule, the enlargement of existing quotas and the use of transitional safeguards. The implementation period is to last until the end of 2004. It is well known that importers have padded their list of products included in the transitional list so as to artificially extend the regime of high protection typical of the MFA. If a Millenium Round had been launched in Seattle it is not unlikely that the period when this backloading came to be affected by liberalization would coincide with the beginning of implementation of the new round results. The issue of the balance of concessions between developed and developing country members was bound to arise due to a possible over lapping and the related danger of procrastination to dismantle the remnants of the MFA. These risks seem to have now receded.

## 6. Rules and related issues

The revision of some WTO rules is essential for the success of a possible next round of multilateral trade negotiations. One of the most important is related to the need to improve international disciplines concerning the application of antidumping duties, whose determination process is often crowned by the imposition of disguised voluntary export restraints. The constraints imposed by present rules on the findings of panels,

which limit their scope to the verification of facts, is a severe curtailment of the capacity to adequately solve grievances related to antidumping at the multilateral level. Given the present rules it is extremely unlikely that multilateral dispute settlement will be able to dilute the asymmetries of bilateral bargaining power involved in the imposition of antidumping countervailing duties.

Another important issue relates to the core of the WTO activities and involves strengthening the multilateral capacity of restraining the ability of specific countries to adopt unilaterally measures without recourse to the full possibilities of the multilateral dispute settlement system. There is a gray area related to the WTO-legality of unilateral actions used in the past by the US under section 301 of the Trade Act of 1974 as amended and of similar EC regulations which may be created. A recent WTO panel found that parts of sections 304, 305 and 306 of US Trade Act of 1974 were not GATT or WTO-inconsistent but with the proviso that its findings were based in full or in part on US undertakings articulated in the Statement of Administrative Action approved by the US Congress at the time it implemented the Uruguay Round agreements and confirmed in the statements by the US to the panel. The panel stated that should those undertakings be repudiated or in any other way removed, its findings of conformity would no longer be warranted. The question of whether the use of such instruments is compatible with WTO's multilaterally agreed disciplines and if these latter contribute to dampen the disparities between the bargaining clout of different WTO member countries remains dormant.<sup>5</sup>

Both in the case of antidumping and of 301-type instruments the more developed and bigger Latin American economies are more likely to consider their inclusion as a priority in their negotiating agenda than the smaller economies, a consequence of their importance as exporters of sensitive products to developed economies.

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<sup>5</sup> See Jackson (1998), sections 4.5 and 4.6. See also the Wto documentation on *United States – Sections 301-310 of the Trade Act of 1974*, complaint by the European Communities (WT/DS152/1). The panel report was adopted on 27 January 2000 and the dispute was dated 25 November 1998.

## 7. Conclusions

Very schematically an attempt can be made to build up taxonomies based on the concrete interests of different Latin American and Caribbean economies based on the material presented in the previous sections. One could perhaps consider three different sets of economies: Mercosur, and perhaps also Colombia; Mexico, and perhaps also Peru and Venezuela; and all small economies of the Caribbean and Central America. The only group with specific emphasis on the issue of access of goods would be Mercosur and Colombia and their interest in agriculture. The more advanced economies, and more prominently Brazil, Mexico, Argentina and Chile, would have common interests in a whole set of access-related issues which would cover services, AD countervailing, and unilateral measures of the 301 type. Finally, possibly almost all economies in Latin America and the Caribbean would converge to a core platform. This concerns the reluctance to accept disciplines concerning the environment and labour standards and the keenness to reopen the transition period agreement concerning TRIPs so as to reduce the cost of intellectual property-related remittances in an extended transition period.

Of course, it does not follow from this rough evaluation of the convergence of interests of different Latin American and Caribbean economies that their role should be limited to a negative agenda centered in attempts to obstruct initiatives concerning the environment and labour rights as well as to attempt to reopen the transitional period agreed in the TRIPs negotiations. Experience on such a strategy has been accumulated during the Uruguay Round and it indicates that it is a mistake to abandon the role of demandeur based on points of principle. It should be recognized, however, that the defensive stance of developing economies concerning harmonization of policies related to labour and the environment seems to provide a much firmer coalition ground than opposition to the inclusion of services in the Uruguay Round negotiations.

From a demandeur point of view there is scope for the Latin American members of the Cairns group to press for a more significant effort to liberalize agricultural trade. There is also scope for an ampler loose coalition mainly of the bigger economies in Latin

America related to services (mainly temporary labour movements), limitations of dispute settlement machinery in the case of AD countervailing and the imposition of unilateral measures of the Section 301 type by the US and the European Union.

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