

The Political Economy of Policy Reform

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## CHAPTER 12

# *Unequal Exchange: Developing Countries in the International Trade Negotiations*

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### **Abstract**

*The results of the Uruguay Round, show that the concessions given by developing countries were generally more valuable than those they received from industrial countries. I suggest that this outcome is explained by aggressive demands from industrial countries, and by the lack of resources at the disposal of developing countries. These and other 'structural factors' weaken the negotiating capacity of developing countries and the outcome of their bargaining is likely to be an 'unequal exchange of concessions'. The chapter discusses the costs of these exchanges, and the structural factors that help to understand the processes leading to these outcomes.*

Keywords: Latin America, Uruguay Round, reciprocity

*JEL classifications:* F13, F15

Developing countries have to have the courage to insist that all reasonable doubt as to the economic effects of a proposed agreement be removed before they allow a decision to be approved. (J. Michael Finger).

### **12.1. Introduction**

The history of the first rounds of multilateral trade negotiations shows that the exchange of market access concessions was a process characterized by reciprocity and mutual benefits among participating countries. More recently, however, the results of the Uruguay Round, where for the first

42 time developing countries negotiated actively, show that the concessions  
43 given by them were more valuable than those they received. In these  
44 negotiations, developing countries did not achieve the degree of  
45 reciprocity expected from the previous history of the trading system.

46 This outcome has been explained in part by increasingly aggressive  
47 demands by industrial countries and in part, by the lack of adequate  
48 resources of least developed countries. These and other ‘structural  
49 factors’ such as lack of negotiating experience and inadequate knowledge  
50 on economic impacts weaken the negotiating capacity of developing  
51 countries and suggest that in multilateral or regional trade negotiations  
52 with industrial countries, they are at a disadvantage. The thesis of this  
53 chapter is that these exchange of concessions are most likely to be  
54 ‘unequal exchanges’.

55 Unequal exchanges result in unbalanced outcomes and this can  
56 have serious consequences for developing countries and the trading  
57 system. For developing countries, an unbalanced outcome as measured by  
58 the difference between the value of concessions given and received has two  
59 economic costs: (a) the costs associated with a degree of access to foreign  
60 markets that is lower than the one that would have resulted from balanced  
61 negotiations, and (b) the costs associated with the weakening of their  
62 bargaining power implied by ‘excessive concessions’ given in past  
63 negotiations. For the trading system, unequal exchange negotiations also  
64 have serious negative consequences. This is illustrated, for example, by  
65 the ‘implementation’ problems faced by developing countries in several of  
66 the Uruguay Round agreements which may have not surfaced under  
67 less unequal negotiations. These implementation problems are one of the  
68 factors that soured relations among WTO members and threatened to  
69 block the launching of a new multilateral round in Doha ([World Trade  
70 Organization, 2001a](#)).

71 The rest of this chapter is arranged as follows. Section 12.2 illustrates  
72 the significant gains that efficient agricultural producers could reap in  
73 international negotiations. Section 12.3 takes up the Uruguay Round  
74 as an example of a negotiation characterized by an unbalanced outcome  
75 explained in part by an ‘unequal exchange’ process. Section 12.4 delineates  
76 some of the elements that help to understand why some trade negotiations  
77 are likely to result in ‘unequal exchanges’. It starts by presenting some  
78 of the ‘structural factors’ that help to understand the weak negotiating  
79 capacity of developing countries. The problems associated with this  
80 weakness are compounded by industrial countries’ ‘aggressive unilateral  
81 policies’ and their ability to prevail in the definition of the negotiating  
82 agendas. One of these negotiations involves the MERCOSUR and the  
European Union and in Section 12.5, I use this case to illustrate how some

83 of developing countries' handicaps appear to be operating in practice.  
84 Finally, Section 12.6 suggests some preliminary lessons.

85  
86 ***12.2. Economic interests of efficient agricultural producers***  
87 ***in trade negotiations***  
88

89 The interests of developing countries in the negotiations on market access  
90 are significant. As an example, I will comment on the gains that efficient  
91 producers, in general, and Argentina, in particular, could reap by negotiating  
92 with countries that provide high protection to their primary sectors and  
93 resource-based manufactures of agricultural origin.<sup>1</sup> These are primarily  
94 industrial countries. As an example, [Table 12.1](#) shows the pattern of  
95 protection of the European Union (EU) for selected chapters of the  
96 harmonized nomenclature. These very high levels of protection affect some  
97 of the goods where efficient producers have a strong comparative advantage.  
98 In 2000 for example, Argentina's exports of agricultural and agro-industrial  
99 products represented 21 and 30% of total exports, respectively.

100  
101 ***12.2.1. Agricultural protection and exports***  
102

103 By how much would exports increase if this protection would be  
104 drastically reduced or eliminated? Traditional comparative static trade  
105 analysis shows that the lifting of agricultural protectionism by OECD  
106 countries would have a significant impact on exports and GDP. The most  
107 recent estimates based on the GTAP model suggest that this liberalization  
108 could increase total exports of goods by a percentage that, depending on  
109 the underlying elasticities, is at a minimum equivalent to 25% ([Casaburi](#)  
110 [and Sánchez, 2000](#)). Most of these gains would come from the liberaliza-  
111 tion of European agricultural trade ([Sánchez, 2001](#)).

112  
113 ***12.2.2. Agricultural protection and financial costs***  
114

115 Agricultural protection also increases financial costs. To see how this  
116 happens, recall that in emerging countries with open capital accounts, the  
117 market clearing interest rate for the government and most prime companies  
118 is equal to the risk free rate plus the rate of country risk. On the margin at

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121 <sup>1</sup> In manufactured products, the comparative advantage of Argentina is determined by its  
122 factor endowment vis-à-vis the country or group of countries with whom it is negotiating, as  
123 well as by the pattern of their protection. Thus for manufactured goods, past research shows  
that vis-à-vis labor-abundant (capital-abundant) countries, Argentina exports more labor-  
intensive (capital-intensive) manufactured products ([Nogués, 1985](#)).

Table 12.1. *Agricultural protection in the European Union*

Chapter	Name	Average Tariffs	Maximum Tariffs
1	Live animals	26.2	106.0
2	Meat and meat products	33.3	236.4
4	Dairy products, etc.	40.3	146.1
7	Vegetables	12.0	140.7
8	Fruits	9.6	130.4
10	Cereals	47.3	179.7
11	Wheat and mill products	24.5	137.8
12	Seeds, etc.	2.3	67.0
15	Animal and vegetable oil and fats	8.2	89.8
16	Meat and fish preparations	18.4	50.1
19	Cereal preparations	17.9	48.5
20	Vegetable and fruit preparations	22.7	161.5

Source: Table AIII.1 in [World Trade Organization \(2000\)](#).

this rate, foreign investors are willing to lend. Therefore, if protectionism increases country risk, then this implies that domestic borrowers are paying interest costs that are above those that would prevail under free agricultural trade.

What are the determinants of country risk? A growing number of analytical and econometric studies have analyzed these determinants and found that some of the important explanatory variables include (i) growth expectations: the higher the growth expectations of an economy, the lower the risk of investing in it; (ii) degree of solvency: the higher the burden of the debt and the lower the capacity to generate higher levels of exports, the higher the perceived degree and risks of insolvency, (iii) structural problems: the more serious the structural problems including most prominently labor-market rigidities and fiscal deficits, the higher the country risk, (iv) contagion: understood as the ‘flight to quality’ triggered by the ‘herd instinct’, also raises the country risk when other developing countries run into financial problems; and (v) political uncertainty: associated, for example, with important differences among leading politicians regarding the set of appropriate economic policies, is also expected to increase risks.

While the literature includes a number of cross-country econometric studies of the determinants of country risk, few of them have focused on single countries. In a recent paper, [Nogués and Grandes \(2001\)](#) studied the determinants of Argentina’s country risk by using explanatory variables discussed above. In our analysis, we chose as the independent variable, the spread of Argentina’s sovereign bonds (in this case, the floating rate bond or FRB), over the US treasury bond of a similar maturity. The selection of

**Table 12.2. Exports and country risk, Argentina 2000**

Elasticity of Country Risk to Debt-Service Ratio	Export Losses from Protectionism (%)	
	25	50
-0.5	10	17
-1.0	20	33

the independent variable was driven by the fact that the most important debtor of Argentina is the national government.

Our study concludes that the elasticity of country risk with respect to the ratio of debt service to exports is  $-0.68$ . It also concludes that all of the other variables mentioned above have a statistically significant impact on Argentina's country risk and enter the regression with expected signs.

The estimate of this elasticity allows an educated guess of the impact of agricultural protectionism on Argentina's excess interest costs paid by both the government and the private sector. Table 12.2 shows simulation results regarding the impact of foregone exports due to agricultural protectionism on country risk. We use two values of the elasticity of country risk with respect to the debt service ratio to exports:  $-0.5$  and  $-1.0\%$ . Likewise, based on the study by Sánchez (2001), I use two estimates of foregone exports due to agricultural protectionism: 25 and 50% of 2000 exports. The results of this simulation indicate that the range by which agricultural protectionism can increase Argentina's country risk goes from 10 to 33%.

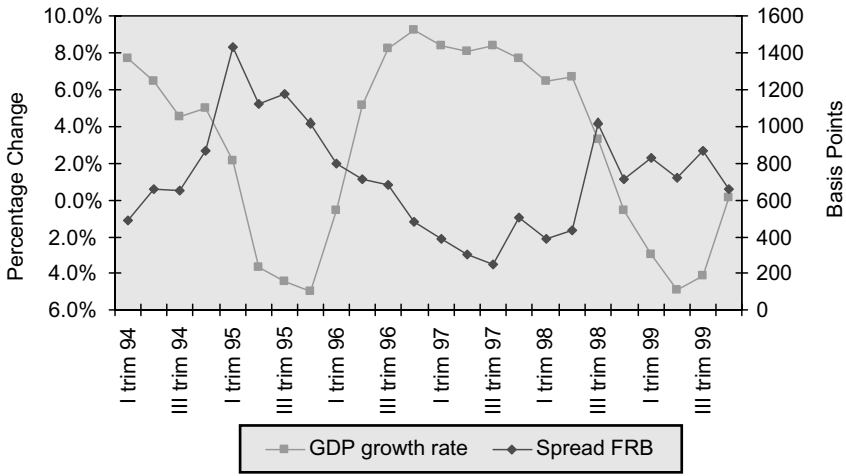
At the end of 2000, the stock of total debt (private and public), stood at around \$280 billions and for the year, the average level of country risk was 672 basis points. Therefore, according to the figures presented above, the excess interest costs paid by Argentina's debtors due to agricultural protectionism was at a minimum in the order of \$1.9 billion ( $0.10 \times 672 \times \$280$  billion), or 0.7% of GDP, but it could also be as high as \$6.3 billion ( $0.33 \times 672 \times \$280$  billion).<sup>2</sup>

### 12.2.3. Agricultural protection and growth

A higher country risk has not only a direct negative financial cost but also a dynamic negative effect as higher interest rates slow growth.

<sup>2</sup> To the extent that some of the debt carries a fixed interest rate, these estimates would need to be adjusted. However, the analysis indicates a sizable negative financial costs of agricultural protectionism that are over and above the negative effects estimated with traditional comparative static trade models.

Figure 12.1. Country risk and interannual GDP growth rate



Source: Nogués and Grandes (2001)

Q1 Figure 12.1 shows a negative relationship between the level of country risk and the quarterly yearly change in GDP. Obviously, the country's long-run growth performance is explained by other factors in addition to the level of real interest rates. This negative growth effect is reinforced by the fact that the dismantling of agricultural protectionism would improve expected export growth and therefore, expected GDP growth that in the Nogués and Grandes study (2001) has a very important effect on the level of country risk. Summing-up, the negative economic and financial consequences on Argentina of agricultural protectionism are sizable.<sup>3</sup>

12.2.4. Agricultural protection and export prices

The literature has also stressed the impact of agricultural protectionism on macroeconomic instability. This is attributed to the perversity of the protectionist policies that attempt to compensate industrial countries' farmers for international price reductions. These compensatory policies widen the fluctuations of international prices which in turn are transmitted

<sup>3</sup> Argentina has been in recession since early 1999 when its level of country risk began to increase steadily mainly due to fiscal imbalances and the weakening of the political base of the government. In 2001, this level was above 1000 basis points and after the collapse of Convertibility in December of 2001 it has reached and stayed at around 5000 basis points which implies that the country has been shut-off from the private financial markets. Mussa (2002) presents one of the first assessments of the financial collapse of Argentina.

247 as one of the determinants of the economic cycles of efficient agricultural  
248 producers. For example, between 1997 and 2000, Argentina's agricultural  
249 export prices declined by 25% while those of agricultural-intensive  
250 manufactures, declined by 24%. Not surprisingly, between 1997 and 1999,  
251 the yearly assistance by OECD countries to their agricultural sectors  
252 increased from \$328.7 billion to \$361.5 billion. Much of this assistance  
253 was provided in order to compensate farmers from the negative income  
254 effects of international commodity price reductions. In 2000, after several  
255 years of uninterrupted growth, this assistance declined. However, the  
256 OECD analysis indicates that this reduction "...reflected international  
257 price and exchange rate movements rather than major agricultural policy  
258 changes. There were no major policy reform initiatives..." (OECD, 2001).  
259  
260

### 261 *12.2.5. Summing-up*

262 For Argentina and other efficient emerging producers, agricultural  
263 protectionism has significant costs that are above those usually estimated.  
264 I have argued that for developing countries with open capital accounts,  
265 the costs of the protectionism encountered by their products in foreign  
266 markets tends to worsen solvency indicators which in turn increases  
267 financial costs paid by residents and slows the country's growth rate.<sup>4</sup>  
268 These effects, plus industrial countries' statements that agricultural policies  
269 could be addressed in international trade negotiations, explain the  
270 significant interests of the country and MERCOSUR (as well as other  
271 developing countries), in these negotiations as the way for reducing this  
272 protectionism.<sup>5</sup>  
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276 <sup>4</sup> *Grandes (2001)* provides additional evidence of the role that exports play as a determinant  
277 of country risk in other developing countries.

278 <sup>5</sup> However, after more than a year of multilateral discussions in the WTO, it is not at all  
279 clear that industrial countries would implement an important reduction of agricultural  
280 protection. The public relation campaign supported by the concept of 'multifunctionality'  
281 has been developed precisely to resist liberalization. Also, at the time of writing this article,  
282 the US Congress is likely to pass another generous farm bill. These actions indicate that  
283 industrial countries have been successful in 'building their case' for continued agricultural  
284 protectionism. In contrast, developing countries have shown a weak capacity to build their  
285 case in order to challenge more effectively, developed countries' protectionist goals. For  
286 example, the concept of multifunctionality could had been challenged by concepts such as  
287 'increased rural poverty' stemming from agricultural protectionism but efforts like this  
have not been attempted. In spite of all, MERCOSUR continues to put hopes on multilateral  
and regional negotiations with industrial countries as a way of increasing its agricultural  
exports and improving growth performance.



### 12.3. *The unbalanced Uruguay Round*

The Uruguay Round is the salient example of an unbalanced negotiation in terms of the value of concessions given and received by developing countries. In the context of the topic of this chapter, it is useful to recall some of the outstanding elements that account for the unbalance.

#### 12.3.1. *The UR promise*

The launching of the Uruguay Round was heralded by most qualified observers and multilateral institutions in part because industrial countries accepted to include textiles, clothing and agricultural protection on the negotiating table. The expectation was that this Round would increase the market access opportunities faced by developing countries in developed country markets. The promise of these new trading opportunities and the lack of negotiating experience help to understand why developing countries accepted an ambitious negotiating agenda that included several ‘new areas’ that had not been the subject of negotiations in the previous MTNs. This agenda included services and intellectual property where comparative advantage is clearly on the side of industrial countries. Therefore, the grand exchange of concessions expected for this Round at its launching ceremony can be characterized as one where developing countries would liberalize their markets in the new areas of interest to industrial countries in exchange for increased market access in agricultural and labor-intensive manufactured products.

The UR results show a clear imbalance between the market opening concessions given and received by developing countries.

#### 12.3.2. *The unbalanced UR outcome*<sup>6</sup>

In order to assess the outcome of the UR, I summarize some of the salient features on the negotiations on market access concessions pertaining to tariff and non-tariff barriers, implementation problems, services and intellectual property.

##### 12.3.2.1. *Market access*

The outcome of these negotiations can be assessed in terms of (i) the proportion of imports whose tariffs are bound and (ii) the depth of the tariff cuts. Estimates show that developing country tariff bindings increased significantly in the UR, and came close to the incidence of bindings that

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<sup>6</sup> This subsection draws from [Finger and Nogués \(2002\)](#).



329 characterizes industrial countries which already was very high before these  
330 negotiations started (Blackhurst *et al.*, 1996). However, most bindings are  
331 at higher levels than applied tariffs.<sup>7</sup>

332 Regarding the proportional depth of the tariff cuts, that of developing  
333 countries has been far more important than that of industrial countries. The  
334 reason for this is that at the start of the UR developing countries protected  
335 their markets more than industrial countries and furthermore, several of  
336 them were implementing significant unilateral liberalization programs.  
337 The proportional tariff cuts indicates that developing countries' import  
338 prices declined by a higher percentage than those of industrial countries  
339 (Finger and Schuknecht, 1999).

340 In regard to non-tariff barriers, the analysis of this UR obligation shows  
341 that developing and industrial countries have generally complied with this  
342 obligation. In this area, there are no major differences between industrial  
343 and developing countries.<sup>8</sup>

344 The market access negotiations included topics where developing  
345 countries could expect to achieve some form of a balanced outcome. The  
346 promise that this would be the case is probably the most significant reason  
347 why developing countries supported the UR negotiations. The fact that  
348 in these negotiations many of them did not achieve their goals implies that  
349 in the other topics where industrial countries appear to have comparative  
350 advantage, the imbalance could only be deepened. In what follows, I  
351 concentrate on implementation issues, services and 'intellectual property'.  
352

#### 353 12.3.2.2. *Implementation issues*

354 Implementation issues include the problems faced by many developing  
355 countries in trying to comply with some UR agreements including the  
356 Agreement on Custom Valuation, the Sanitary and Phitosanitary Agree-  
357 ment, the Agreement on Technical Barriers to Trade and the Agreement  
358 on Trade Related Intellectual Property Rights (TRIPS). Compliance with  
359

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361 <sup>7</sup> As developing countries need to stabilize their trade policies, these bindings entail  
362 benefits even if unrequited. Nevertheless, according to tradition and the GATT rules, even  
363 in tariff bindings developing countries should stand firm and demand reciprocity.

364 <sup>8</sup> Furthermore, while the concessions given by developing countries have already been  
365 implemented, industrial countries' concessions still have to be completed (case of textiles  
366 and clothing), or still has to be negotiated (case of agriculture). The market access  
367 concessions given by developing countries, and driven mainly from unilateral liberalization  
368 efforts, have in many cases accelerated their trade and output growth. The dark side of the  
369 UR imbalance is not here, but in the continued protectionism of industrial countries in  
sectors of the greatest interests to developing countries and also to them as illustrated, for  
example, in Hufbauer and Elliot (1994).

370 these agreements requires investment in capital goods, buildings, and  
371 skills. A preliminary assessment indicates that in order to comply with  
372 these obligations, some developing countries have to make investments  
373 that are higher than their combined development budget (Finger and  
374 Schuler, 2000).

375 At the UR, there was no reflection on development needs, development  
376 stages or development priorities. In many cases, industrial countries  
377 standards became the 'international norm'. Pulling the string has created  
378 serious tensions in the trading system and the hypothesis of this chapter is  
379 that these problems could had been avoided if negotiations would had been  
380 less unequal.

### 381 12.3.2.3. *Services*

383 In most services (not all), it is the industrial countries that have the  
384 comparative advantage to supply them. For example, many services are  
385 essentially non-tradable and in order for them to be supplied, they require  
386 foreign direct investment (FDI). Statistics show that these FDI flows  
387 have come mainly from industrial countries. For these services which  
388 include areas such as power generation and distribution, gas distribution,  
389 telecommunications, water supply, finance, etc., industrial countries sought  
390 the 'right of commercial presence' and many developing countries binded  
391 important concessions of this type (see Hoekman, 1996; Nogués, 2001  
392 for a more detailed discussion of Argentina). As a partial exchange to these  
393 valuable rights to 'commercial presence', developing countries sought to  
394 achieve concessions in the area of 'movement of persons' but industrial  
395 countries have refused to negotiate this topic.<sup>9</sup>

396 Again, the bad side of the services negotiations is not the liberaliza-  
397 tion implemented by developing countries in order to attract FDI. Given  
398 lack of capital and technical skills that characterize most developing  
399 countries, if well regulated, these flows of FDI are expected to have  
400 improved the efficiency of their economies. The bad side is that the  
401 concessions that were given were unrequited. This bad side is made even  
402 worse by the fact that apparently, WTO bindings were not an important  
403 factor in attracting FDI flows to service industries (Finger and Nogués,  
404 2002).

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407  
408 <sup>9</sup> Note the abysmal imbalance between the multilateral rules that govern international  
409 capital movements, the abundant factor of industrial countries, with those that govern labor  
410 movements, the abundant factor of poor countries. On the huge differences in international  
migration flows and the rules that govern them see Lindert and Williamson (2001).

411 *12.3.2.4. Intellectual property: the case of patents*  
412 *for pharmaceutical drugs*

413 The 'agreement' on TRIPS was pushed by industrial countries against the  
414 opposition of several developing countries. This occurred against the lack  
415 of theoretical and empirical analysis showing that policy reforms induced  
416 by the TRIPS will increase world welfare, or the welfare of developing  
417 countries.

418 TRIPS covers several 'intellectual property' topics. Given the size  
419 of the pharmaceutical market and the economic interests at stake, I  
420 concentrate remarks on patents for pharmaceutical drugs.<sup>10</sup> At the time  
421 of the UR, the [World Intellectual Property Organization \(1988\)](#) listed  
422 48 countries, most of them developing, as not providing patent protec-  
423 tion for pharmaceutical drugs. Argentina and Brazil have been included  
424 in this list. In the event, all contracting parties to the GATT/WTO  
425 signed the single undertaking UR agreement that included the TRIPS  
426 stipulating that patents should be available to innovations in all activi-  
427 ties, and should last 20 years from the date of filling.  
428

429 The patent section of the TRIPS has more to do with the issue of  
430 appropriations of the rents generated in developing countries than with  
431 concerns regarding their innovation and growth potential. In countries  
432 with a sizable share of the pharmaceutical market supplied by domestic  
433 companies like Argentina, Brazil and India, the introduction of patents  
434 will result in a significant transfer of rents to industrial countries'  
435 pharmaceutical companies (Nogués, 1993).<sup>11</sup>

436 Finally, it is of interest to recall that as late as the 1970s and 1980s,  
437 several industrial countries still did not provide patent protection to  
438 pharmaceutical drugs. For example, France introduced patent protection  
439 for pharmaceutical drugs in 1960; Germany in 1968; Japan in 1976;  
440 Switzerland in 1977, and Sweden and Italy in 1978. In these countries,  
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443 <sup>10</sup> Pharmaceutical drugs is one of the industries for whom patent protection is important as  
444 an incentive for investing in R&D. Pharmaceutical drug companies have one of the highest  
445 ratios of R&D to sales and most drug products can be easily copied. Nevertheless, given  
446 that the average costs of marketing a successful drug stands in the hundreds of millions of  
447 dollars (some estimates put it in the order of \$400–500 million) there are very few  
448 enterprises if any from developing countries with the financial strength to undertake R&D  
449 activities at this scale. This is why in this industry, patents in these countries will most  
450 likely, not result in greater innovation.

451 <sup>11</sup> A recent estimate based on data for 2000, suggests that Argentina could end up  
transferring rents from granting patents to pharmaceutical drugs in the order of \$425  
million per year (Nogués, 2001). Since October 2000, when Argentina began to grant these  
patents, these rent transfers have begun to increase.

452 patents were introduced when the size of their pharmaceutical drug  
 453 companies was such as to make the likelihood of drug innovation from  
 454 investments in R&D high. Patent protection was implemented somewhere  
 455 along the development process and it was always a domestic policy  
 456 decision taken without regard to foreign interests. For developing countries  
 457 after TRIPS there is no such independence. For them the adjective has been  
 458 ‘pirates’ and on this word, an intelligent public relations campaign was  
 459 built by international companies.<sup>12</sup>

### 461 *12.3.3. Broken promises and principles*

462 The 1986 Ministerial Declaration that launched the Uruguay Round is an  
 463 example of political correctness. Where promises had to be made they  
 464 were made and where principles had to be listed they were listed. The  
 465 problem came later when the outcome of the negotiations showed that  
 466 significant promises and principles had been broken. If there is a new  
 467 multilateral round, the lesson is that promises in the Ministerial  
 468 Declaration do not matter that much. What in fact will matter is the  
 469 capacity of developing countries to oversee that promises and principles be  
 470 respected because there is no one who will do the job for them. Reminding  
 471 some examples from the UR will help to illustrate.

#### 473 *12.3.3.1. Promise of agricultural liberalization*

474 The 1986 Ministerial Declaration asserts that “Negotiations shall aim to  
 475 achieve greater liberalization of trade in agriculture and bring all measures  
 476 affecting import access and export competition under strengthened and  
 477 more operationally effective GATT rules and disciplines...by improving  
 478 market access through inter alia, the reduction of import barriers...”.  
 479 The data and sources cited above indicate that this did not occur. What  
 480 happened?  
 481

482 Some of the core elements of the Agreement on Agriculture included  
 483 the substitution of non-tariff barriers by ad valorem tariffs equivalents  
 484 and for industrial countries, the reduction of these tariffs by 36%. Analysis  
 485 undertaken on the substitution of NTBs with tariffs suggest that developed  
 486 countries used the opportunity to declare base tariffs of their UR obligations

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488  
 489 <sup>12</sup> Before the TRIPS, developing countries in particular granted patent duration of differing  
 490 length, and in some industries including pharmaceutical drugs, where the satisfaction of  
 491 basic needs was an important consideration, they also distinguished between process and  
 492 product patents. Clearly, different countries decided their structure of IPRs policies in terms  
 of what they perceived to be in their interest in much the same way as most developed  
 countries have always done.

493 that in general were higher, sometimes several times higher, than the  
494 ad valorem equivalents. In fact, there have been instances where the height  
495 of tariff declared to the WTO were such that their reduction by 36% would  
496 imply tariff rates that today are higher than the ones prevailing before the  
497 UR. These ‘dirty tariffs’ were the norm and not the exception (Hathaway  
498 and Ingo, 1996).<sup>13</sup>

#### 500 12.3.3.2. *Transparency*

501 On transparency, the 1986 Ministerial Declaration asserts that: “Negotiations shall be conducted in a transparent manner...”. In many cases,  
502 transparency was not there. The agricultural dirty tariffs are one example.  
503 A second example is found in the implementation of the Agreement on  
504 Textiles and Clothing (ATC). While this agreement has complied with the  
505 promise in the Ministerial Declaration that the textiles negotiation should  
506 seek “the eventual integration of this sector into GATT...”, the obscure  
507 part has been in the implementation where some countries have liberalized  
508 much less than the notional liberalization indicated in the ATC.<sup>14</sup>

#### 511 12.3.3.3. *Reciprocity*

512 On this, the Ministerial Declaration included the following language under  
513 Section B on ‘General Principles Governing Negotiations’:

514 “Balanced concessions should be sought within broad trading areas  
515 and subjects to be negotiated in order to avoid unwarranted cross-sectoral  
516 demands”. Furthermore, “...the developed countries do not expect  
517 the developing countries, in the course of trade negotiations, to make  
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521 <sup>13</sup> A puzzling question is why did the Cairns Group allow this to happen? The story I have  
522 been told by an Argentine trade negotiator is that notification of the tariffication exercise to  
523 the WTO was delivered shortly before the deadline. After more than 7 years, negotiators  
524 wanted to wrap-up and there was no interest or spirit in adding another round of exercises  
525 and perhaps negotiations, on what had been a protracted round.

526 <sup>14</sup> The problem lies in the meaning given to the expression ‘integrate into the GATT’ which  
527 is to certify that a textile or clothing product is clean of restrictions to trade such as quotas  
528 that for other manufactured products are illegal under the GATT. According to the ATC,  
529 the indicated proportions are applied to 1990 imports from a list of textile and clothing  
530 products that runs some 30 pages long. During the first stages, countries can choose which  
531 products in the list they ‘integrate into the GATT’. This list includes the products where at  
532 least one industrial country has chosen to protect with GATT illegal instruments under the  
533 MFA. Since not all countries protected all of the products in the list, they can choose to  
integrate into the GATT those products which they were not protecting with quotas. As a  
result, so far liberalization by industrial countries has been smaller than the notional 33%  
that should had been liberalized by now (Finger and Nogués, 2002).

534 contributions which are inconsistent with their individual development,  
535 financial and trade needs...”.

536 This section has argued that reciprocity, in the tradition of the first  
537 seven rounds of the GATT, was not there.

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#### ***12.3.4. Summing-up***

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#### ***12.4. Management, knowledge, agenda and other handicaps of developing countries in international trade negotiations***

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In this section, I summarize some of the handicaps that developing countries face in the international trade negotiations. Most of the comments draw from the experience of Argentina and in some instances, other MERCOSUR countries. Certainly not all of these handicaps characterize other developing countries but some could be quite extended and further research could offer more general findings.

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574

The negative consequences of developing countries' handicaps are compounded by industrial countries' clout to set the negotiating agenda, and by what has been called, their 'aggressive unilateralism' both of which are discussed briefly in Section 12.4.2. The Section 12.4.3 includes some tentative conclusions.

575 *12.4.1. Some developing countries' handicaps*

576 In what follows, I will discuss handicaps associated with the following  
577 issues: (1) experience and domestic managerial arrangements, (2) the pros  
578 and cons of negotiating as a member of a trade agreement, (3) lack of  
579 knowledge on economic impacts of reciprocal concessions in different  
580 areas, (4) role of the private–public sector linkages, and (5) the impact of  
581 financial problems on trade negotiations.  
582

583  
584 *12.4.1.1. Experience and management arrangements*

585 Many developing countries have given the responsibility of administer-  
586 ing the trade negotiations to their Foreign Affairs Ministries and in  
587 some cases, this may have weakened the negotiating strength. First, in  
588 the new agenda of trade negotiations, tariffs and non-tariffs barriers are  
589 only two of the items on the table. Had trade negotiations remained  
590 focused on these barriers, the decision on which ministry is responsible  
591 for the negotiations would not had been that serious. But as seen, the  
592 negotiating agenda that has been expanded considerably since the  
593 Uruguay Round and now includes a number of topics where concessions  
594 granted sometimes may result in net costs and concessions received in  
595 these same areas could be of not much value. Diplomats have not been  
596 trained to assess the economic dimensions of the increasing number of  
597 items that are being included in most negotiating agendas with industrial  
598 countries. As a consequence, they are more likely to agree to unbalanced  
599 outcomes.<sup>15</sup>  
600

601 Second, most career diplomats are lawyers by training and they do not  
602 necessarily share the same kind of concerns that economists and entre-  
603 preneurs might have as they observe a negotiation becoming unbalanced.  
604 Reaching agreement in a negotiation is usually higher in the ranking  
605 order of priorities of a Foreign Affairs Ministry, than walking away from  
606 a meeting because a balanced and mutually beneficial negotiation is not  
607 being reached. This is more likely to occur when those sitting on the other  
608 side of the table have 'political clout'.  
609

610  
611  
612  
613 <sup>15</sup> Obviously, the Ministries of Foreign Affairs are advised by other government offices.  
614 The problem here is that most of these other offices also have no experience in dealing with  
615 trade negotiations and often they feel removed from the long-run consequences of the  
advise they may give. In practice, therefore, except for institutionalized interactions with  
the Ministries of Economy, the Ministries of Foreign Affairs often decide by default.



616 Third, the structure of incentives in their careers, implies that diplomats  
617 usually are keen to obtain a foreign assignment as local wages are  
618 generally lower than those they receive abroad. Under these circumstances,  
619 it is a challenge to train diplomats with the goal of transforming them in the  
620 elite negotiating group of the country. As career diplomats, sooner or later  
621 they will want to leave for a foreign assignment.

622 Finally, Argentina and most developing countries have practically very  
623 little experience with international trade negotiations. I have no doubt that  
624 over time the Foreign Affairs Ministries will gain experience, but say 10  
625 years from now most of the international negotiations now under way will  
626 most likely have been concluded.<sup>16</sup> For these negotiations, the experience  
627 gained by then will have come too late.

#### 629 *12.4.1.2. The pros and cons of negotiating as a member* 630 *of a trade agreement*

632 In some of the trade negotiations including those with the EU and in  
633 the free trade agreement of the Americas (FTAA), Argentina negotiates  
634 as a member of MERCOSUR. This has one strength and one handicap.  
635 On the positive side, the fact that in the WTO Brazil has still to bind  
636 economically important concessions in areas such as services and  
637 intellectual property implies the other members are assisted by Brazil's  
638 bargaining chips. The extent to which this edge is of value also depends  
639 on the capacity of Brazil to internalize the gains from the concessions it  
640 will be giving.

642 On the negative side, in the negotiations of the FTAA and with the EU,  
643 the MERCOSUR members have shown divergent preferences. The reason  
644 apparently lies in the differences in economic structures and patterns  
645 of comparative advantage. Paraguay and Uruguay are more specialized  
646 economies than Argentina and Brazil which shows, for example, in the  
647 concentration of trade. Thus, while in 2000 the first five products accounted  
648 for 28% of Argentina's exports to the EU, in the case of Uruguay they  
649 accounted for 49%.

650 The consequence of this is that Paraguay and Uruguay are willing to  
651 close a trade deal with fewer concessions received than is the case for  
652 Argentina and Brazil. While a few quotas and tariff concessions might  
653

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655 <sup>16</sup> For a country like Argentina, the list includes MERCOSUR–EU, MERCOSUR–US,  
656 MERCOSUR–FTAA, MERCOSUR–Andean Community and the new Doha multilateral  
round.

657 create important export opportunities for the first two countries, for  
658 Argentina and Brazil, it takes more to arrive at an attractive deal.<sup>17</sup>

#### 659 12.4.1.3. *Knowledge and trade negotiations*

661 As said, for trade in goods, the meaning of a balanced exchange is quite  
662 straightforward, but in other areas including services, intellectual property  
663 and many others, the impact of reciprocal concessions is not known and  
664 economic assessment is not straightforward. As far as I have been able  
665 to informally assess this problem, many if not most developing countries  
666 are negotiating without an economic assessment of the probable economic  
667 consequences of the agreements they may end up signing. This contrasts  
668 with the situation of industrial countries that apparently know with  
669 precision what they want to achieve in the negotiations. These specific  
670 objectives are defined in close consultations with interest groups and in  
671 many cases they are supported by a good understanding of economic costs  
672 and benefits. This knowledge comes not only from academic research  
673 but also from government-financed analysis and what is probably most  
674 important, from a long experience of close collaboration and exchange of  
675 ideas between the private and public sectors (Dam, 2001).

#### 677 12.4.1.4. *Private sector–public sector linkages*

679 Many developing countries have no tradition of holding consultations  
680 among public offices and between the public and private sectors for  
681 defining positions for the international trade negotiations. In the Uruguay  
682 Round many countries acted more from the basis of binding unilateral  
683 reforms than from the basis of negotiating an exchange of concessions.  
684 Now these countries find themselves in the midst of several negotiations  
685 without the required institutionalized mechanism for private sector–public  
686 sector consultations. Under present conditions, where many developing  
687 countries no longer have a clear public support for unilateral reforms, the  
688 absence of an appropriate consultative mechanism could become a delicate  
689 problem. To see why, consider that the MERCOSUR has entered into an

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691  
692 <sup>17</sup> The media has reported several instances where these differences apparently show up.  
693 Take for example the Presidential statements on the occasion of the first meeting for a  
694 MERCOSUR–US agreement also known as the 4 + 1 negotiations. Thus, in an article  
695 published by ‘La Nación’ entitled ‘Dividió al MERCOSUR la oferta de Washington’  
696 (August 24, 2001), while President Cardoso is quoted as saying that “...if the US presents  
697 good proposals, we will accept immediately an agreement, but if it doesn’t do so, we will  
never accept an agreement...”, President Battle from Uruguay is quoted as having said that  
he “...strongly favors a MERCOSUR–US agreement...”.

698 important number of international trade negotiations at a moment where  
699 the economies of the region are characterized by declining economic  
700 conditions coupled with very high unemployment rates. This in itself puts  
701 the private sector on guard against governmental decisions in trade  
702 negotiations.

703 Because of this and other factors, the mandate of the private sector to go  
704 ahead with ongoing trade negotiations is not all that clear. This position  
705 plays well with some of the trading partners with whom Argentina and  
706 MERCOSUR are negotiating. In contrast, [Odell \(2000\)](#) considers that a  
707 strong backing by the private sector of the US negotiators has been a key  
708 issue in explaining many of its negotiating successes.

#### 709 *12.4.1.5. Financial problems and trade negotiations*

711 Many developing countries are facing difficult debt repayment problems  
712 which sometimes can become interlinked with international trade  
713 negotiations in ways that are not the best for the multilateral trading  
714 system or the individual countries. For example, during 2001, in its road  
715 to disaster, Argentina walked into the IMF headquarters more often than  
716 ever before as successive financial arrangements failed to convince the  
717 international capital markets that things were moving in the correct  
718 direction. In their efforts to send positive signals, the financial  
719 negotiators sought a bilateral trade agreement with the US and under  
720 the pressing economic conditions, they concluded that any deal which  
721 could offer a signal that exports and GDP will soon start growing was  
722 good. For these negotiators, the sooner an agreement was signed the  
723 better quite irrespective of the its 'content'. In the end, things did not  
724 work either on the finance or the trade side, but if they would had  
725 worked, it is likely that the trade agreement would not had been the best  
726 for the country simply because it would had been negotiated under a  
727 pressing debt and financial situation that was not receptive to trade  
728 negotiations in the interests of the real economy. In any case, I believe  
729 this example illustrates the existence of circumstances where developing  
730 countries' trade negotiations can be weakened by pressing financial  
731 problems.

#### 733 *12.4.1.6. Summing-up*

735 The previous comments illustrate some of the negotiating handicaps that  
736 can characterize developing countries and it is apparent that some  
737 handicaps are serious enough to merit a reappraisal of how they should  
738 approach the trade negotiations. Some of these elements are specific to  
some countries while others could be of a more general nature. These

739 include lack of negotiating experience and appropriate economic  
740 knowledge of reciprocal concessions in most areas of the trade agenda.  
741 These and other handicaps require more research and if the hypothesis  
742 of this chapter is confirmed, then the international community has to  
743 reassess the wisdom of calling developing countries to participate in  
744 international trade negotiations without them been adequately prepared to  
745 sit at the table.

#### 747 ***12.4.2. Aggressive unilateralism and negotiating agendas***

748 In all of the areas mentioned above, industrial countries hold positions  
749 that result in a negotiating edge over developing countries. There are two  
750 other issues increasing their relative negotiating advantage: aggressive  
751 unilateralism and the ability of industrial countries for setting the  
752 negotiating agendas.

##### 754 *12.4.2.1. Aggressive unilateralism: the case of patents* 755 *for pharmaceutical drugs*

756 How did TRIPS came to be? The answer probably varies according to  
757 different types of ‘intellectual property’ protected by this agreement. As  
758 in the previous section, I will concentrate my remarks on patents for  
759 pharmaceutical drugs.

760 Apparently, the main reason why the patent section of the TRIPS  
761 agreement is what it is, can be traced to the power of rent-seeking groups  
762 including the multinational pharmaceutical drug companies. How did  
763 this occur? In March 1987, only a few months after the UR had been  
764 launched, Mr. Gerald Mossinghoff, then President of the US Pharmaceu-  
765 tical Manufacturers Association (PMA), declared that they were working  
766 with the US Congress to get it to enact “...the intellectual property  
767 revisions of the Omnibus Trade Bill that would strengthen the hand of the  
768 US Government in urging all our trading partners to respect our rights in  
769 inventions and trademarks...”, (Mossinghoff, 1987), Shortly after, the  
770 Omnibus Trade Act of 1988 was passed which among other things  
771 adjusted Section 301 of the 1974 Trade Act in the direction of making it  
772 easier to introduce retaliatory trade measures based on “...unfair practices  
773 of foreign governments which can be unjustifiable, unreasonable,  
774 discriminating or which burden or restricts US commerce...”.

775 According to the legislation, lack of patent protection is an example  
776 of an ‘unfair practice’, and at the request of the PMA, supported now by  
777 the new ‘strengthened hand’ of the US Government, the USTR initiated  
778 a series of retaliatory actions, or threatened to retaliate against  
779 several developing countries that did not provide patent protection for

780 pharmaceutical drugs. These included Argentina, Brazil, Korea, India,  
781 among others.

782 Section 301 and its clones have been called aggressive unilateralism  
783 (Bhagwati and Patrick, 1990). Powerful economic groups have shown the  
784 ability of convincing legislators that money redistributed to them by  
785 forcing ‘appropriate intellectual property legislation’ around the world, is  
786 money well redistributed. In this sense, 301 is no different than the rents  
787 internalized by agricultural or textile protectionism. There is no way that  
788 developing countries can confront successfully aggressive unilateralism  
789 and when it is present at the negotiating table as it was during the Uruguay  
790 Round, the negotiations become unequal exchanges. The stick supporting  
791 TRIPS created serious problems and is a clear example of what can happen  
792 when some countries are forced to introduce policies with negative  
793 consequences for their development process. The problems were so serious  
794 that at one point they threatened to derail the launching of a new round in  
795 Doha. It was only after the Ministerial Declaration on public health had  
796 been agreed following a very firm stance by a group of developing  
797 countries, that the round could be launched (World Trade Organization,  
798 2001c).

#### 799 12.4.2.2. *Negotiating agenda and ambitious demands*

801 The UR broke the successful GATT tradition of keeping the negotiating  
802 agenda focused on market access issues. As said, in this round the agenda  
803 began to be expanded to fit the interests of industrial countries’ powerful  
804 economic groups.<sup>18</sup> In contrast, negotiations among developing countries  
805 are not characterized by this heavy agenda or if they include items other  
806 than market access, among themselves they are given plenty of time for  
807 implementation. For example, the agenda of the ongoing MERCOSUR-  
808 Andean Group free trade negotiations only covers trade in goods and  
809 within MERCOSUR, the goal of liberalizing services, is to be achieved in  
810 the long run.

811 Beyond trade in goods, there appears to be no single item in the  
812 ‘new’ and expanded agenda where developing countries have a clear  
813 comparative advantage. As said above, this is an a priori that can only be  
814 cleared with country-specific studies. If true, this would imply that in  
815 the ‘new agenda for international trade negotiations’, the likelihood that  
816 developing countries could reach balanced and mutually beneficial  
817

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818  
819 <sup>18</sup> Exactly what processes explain this expansion is not clear to me. One place to look at in  
820 the US must be the process of ‘getting the votes for fast track’ where powerful lobbies play  
a successful game (Dam, 2001).

821 agreements with industrial countries is very low. This comment applies to  
822 multilateral and regional negotiations alike.<sup>19</sup>

823 Not only the agenda but also the demands within each of the agenda  
824 items are ambitious. Take for example the case of services and  
825 intellectual property. In services, "...the US believes that FTAA countries  
826 should negotiate liberalization according to a top-down (negative list)  
827 approach, whereby all sectors are liberalized except where a particular  
828 FTAA country negotiates a reservation for a particular sector or  
829 measure..." Furthermore, the "...United States excludes immigration  
830 policy and access to employment markets from the scope of the services  
831 chapter of the FTAA agreement...". Certainly, a very ambitious demand  
832 that is nowhere counteracted by an equally aggressive demand by the  
833 Latin American countries ([http://www.ustr.gov/regions/whemisphere/  
834 services.html](http://www.ustr.gov/regions/whemisphere/services.html)).

835 In the patent section of the intellectual property negotiations, the US  
836 proposal requires "...FTAA countries to grant pharmaceutical patent  
837 holders an extension on the term of their patents to compensate for any  
838 unreasonable delay in obtaining marketing approval of their product...".  
839 Furthermore, the US proposal requires FTAA countries that "...holders  
840 of rights be able to recover profits from infringers..."; that government  
841 agencies be given the "...authority to seize suspected pirated and counter-  
842 feit goods...", and that "...maximum criminal fines are high enough  
843 to deter and remove the incentive for infringement..." ([http://ustr.gov.  
844 regions.whemisphere/intel.html](http://ustr.gov.regions.whemisphere/intel.html)).

845 Summing-up, the Uruguay Round implied a significant shift from  
846 the GATT trade negotiating agenda. Both in the multilateral and regional  
847 trade negotiations the contents of this agenda, driven mainly by industrial  
848 countries' interests, continues to be expanded. This implies that trade  
849 negotiations are more likely to result in unbalanced outcomes against  
850 developing countries.

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### 852 *12.4.3. Tentative conclusions*

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854 Developing countries bring to the negotiating table what appears to be  
855 serious structural weaknesses. In some cases, they simply do not have

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857  
858 <sup>19</sup> Take for example, the FTAA. The initial agenda agreed in the 1995 Ministerial Meeting  
859 covered the following items: market access (including non-agricultural tariffs and NTBs,  
860 rules of origin, customs procedures, standards and safeguards), investment and,  
861 antidumping and countervailing duties. More recently, the agenda has been expanded to  
include: government procurement, services, intellectual property, competition policy and  
dispute settlement. The Doha agenda is equally or more complex.

862 the resources that are necessary even to attend the discussions. This  
863 extreme example of ‘unequal exchange capacity’ characterized the  
864 situation of several least developed countries during the Uruguay Round  
865 negotiations (Blackhurst *et al.*, 1999). Apparently, these countries were  
866 asked to sign by the cross and were told that at a later date they would  
867 receive technical assistance explaining them what it was all about.<sup>20</sup>

868 While more advanced developing countries are in a better resource  
869 position, they are also handicapped from what appears to be other weak-  
870 nesses associated with their development stage and lack of experience. A  
871 closer look suggests that there is some room for improvements including  
872 management structure and arrangements for the international trade  
873 negotiations.

874 There is also a significant vacuum in the knowledge of probable  
875 economic effects of exchanging concessions on the vast array of issues on  
876 the table. I fear that this is a handicap that characterizes many developing  
877 countries and if so, they are negotiating blindfolded. In this area, more  
878 research is urgently needed to document this gap but developing countries  
879 could start now investing in necessary knowledge on trade impacts.

880 A third area to look at is the linkages between the private and  
881 public sector, which also represents a barrier for negotiating effectively.  
882 Reforms have to be supported politically and for those induced by trade  
883 negotiations, this requires an efficient public sector–private sector  
884 consultative mechanism which many developing countries must still  
885 develop.

886 Compare this picture with the apparent situation in the US taken  
887 from the FTAA negotiations: “The US positions were developed with input  
888 from the full range of federal executive branch agencies...Advise from  
889 non-governmental sources has been obtained primarily through the formal  
890 private sector advisory committee system...The US International Trade  
891 Commission has performed the economic analysis of the probable  
892 economic effects of an agreement” (<http://www.ustr.gov>). Clearly these  
893 differences indicate the existence of a big gap in organizational arrange-  
894 ments and knowledge between industrial and developing countries.

895 If developing countries can strengthen some of the above-mentioned  
896 areas, they will be in a stronger position to demand reciprocity where it  
897 corresponds. They will also be in a better position to put on the negotiating  
898 table the topics that are of their interest and if they cannot prevail, at least  
899 they will be better prepared to confront ambitious demands for trade  
900 concessions.

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<sup>20</sup> In many cases, this assistance never appeared or has been clearly inadequate.



903 ***12.5. MERCOSUR–EU negotiations: unequal exchange***  
904 ***in the making***  
905

906 The purpose of this section is to illustrate how the handicaps discussed in  
907 Section 12.4 appear to be operating in practice. For this I resort to the  
908 MERCOSUR–EU negotiations that are currently under way. I start by  
909 providing a brief background of these negotiations.  
910

911  
912 ***12.5.1. Background***  
913

914 In December 1995, MERCOSUR and the EU signed an interregional  
915 cooperation agreement, that seeks to create a trade zone. Since then, both  
916 regions have held a number of meetings and in 1999 the Cooperation  
917 Council, the highest level body of this agreement, launched the preparatory  
918 work for the negotiations. This work is undertaken by the Biregional  
919 Negotiating Committee (BNC) which has already met seven times. The  
920 first three meetings dealt essentially with exchanging information and  
921 clearing questions. The fourth meeting of the BNC (BNC IV) held in  
922 Brussels was more substantive in character. Here, the MERCOSUR  
923 informed that in the negotiations, it was seeking a free trade agreement  
924 expressing in this way its goal that the Common Agricultural Policy (CAP)  
925 should not be an obstacle for establishing a free trade agreement. In turn,  
926 the EU expressed that it was working with the goal of presenting to  
927 MERCOSUR in the BNC V, a concrete request and offer for market  
928 access. This proposal would later show to be far from a free trade  
929 agreement.  
930

931  
932 ***12.5.2. Differing negotiating goals and strategies***  
933

934 Between BNC IV and BNC V, MERCOSUR drafted a document  
935 defining its negotiating position while the EU completed the preparatory  
936 work for presenting its proposal at the July 2001 meeting. The  
937 MERCOSUR document titled ‘Modalities for the Tariff Negotiations’,  
938 demanded, in line with its goal of establishing a free trade area, that  
939 “...it is necessary to establish a reference tariff on the basis of which  
940 liberalization would be negotiated...”. It further stated that “...specific  
941 tariffs, mixed tariffs and any other type of tariffs be transformed into an  
942 ad valorem equivalent that for negotiation purposes, would be the  
943 maximum reference tariff...”. In reciprocity to this, the MERCOSUR  
offered to dismantle its common external tariff (CET) that is defined on

944 an ad valorem basis, plus any modifications introduced after its  
945 establishment in 1994.<sup>21</sup>

946 Obviously, in its to the EU for tariffication, the goal of MERCOSUR  
947 was that the many trade measures protecting EU agricultural and agro-  
948 industrial products should not be an impediment for the negotiations. In  
949 essence, by proposing to base market access negotiations on transparent  
950 equivalent ad valorem tariffs and to negotiate their dismantling in  
951 10 years, MERCOSUR was offering full reciprocity. In fact as we shall  
952 see, it was offering more as it was not rejecting to negotiate other issues  
953 put on the table by the EU, some of which could be of doubtful economic  
954 interest to the region.

955 In contrast, the EU never accepted to negotiate on the basis of  
956 equivalent ad valorem tariffs. It argued that this would go against the  
957 CAP, which it has consistently argued, is only prepared to negotiate in  
958 a multilateral round.<sup>22</sup> MERCOSUR in turn argued that its goal was to  
959 put the regional negotiations on an equal footing for both sides, and not  
960 to challenge the CAP. In fact, the EU strategy has been to take the  
961 MERCOSUR to a situation of negotiating specific elements of the CAP on  
962 a product-by-product basis. The differences between the MERCOSUR  
963 proposal and that of the EU are significant.

964

965

966

### 966 *12.5.3. The EU proposal*

967

968 At the July 2001 meeting, the EU presented its proposal. In contrast  
969 to MERCOSUR's offer for a free trade agreement, it is difficult to see  
970 how the EU proposal could had been more mercantilist. The following are  
971 some characteristics of this proposal:

972

- 973 (a) Both sides should dismantle ad valorem tariffs in a period of 10 years  
974 but as we shall see this proposal hides an important imbalance in  
975 market access concessions.
- 976 (b) With this proposal, the EU ensures free access to the MERCOSUR  
977 market for manufactured products, the most protected sector of

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979

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980 <sup>21</sup> The document presented suggestions regarding other 'technical' aspects of the  
981 negotiations. Probably the most important among these other issues was that  
982 MERCOSUR agreed to follow the EU proposal that the agreement could be  
983 implemented in 10 years.

984 <sup>22</sup> In Nogués (2002) I argue that it is very unlikely that the Doha Development Round  
will result in important rather than cosmetic agricultural trade liberalization of OECD  
economies.

- 985 the economies of the region, in exchange for what is already a very  
986 open EU market.
- 987 (c) In agricultural and agro-industrial products the story is very different.  
988 Except for few countervailing measures, agricultural protection in  
989 MERCOSUR is also based on ad valorem tariffs. Therefore, the EU  
990 proposal to dismantle ad valorem tariffs would also imply a high  
991 degree of access to the MERCOSUR market for their agricultural  
992 products but not vice versa.
- 993 (d) Based on equivalent tariffs, [Table 12.1](#) showed the high levels of  
994 protection granted by the EU to agricultural and agro-industrial  
995 products where MERCOSUR has comparative advantage. In addition  
996 to ad valorem tariffs, the EU imposes seasonal tariffs, specific tariffs,  
997 mixed tariffs, export subsidies, budget support, tariff escalation, special  
998 agricultural safeguards and quotas.<sup>23</sup> Among all of these policies, the  
999 EU has offered to dismantle only the ad valorem tariffs. How significant  
1000 is this offer to dismantle ad valorem tariffs? Not very significant.
- 1001 (e) The EU agricultural and agro-industry policies are an example of  
1002 high protection administered in a very intransparent way. It can  
1003 take several months to gain a detailed knowledge of this protection  
1004 and then: how much should MERCOSUR ‘pay’ the EU for it to  
1005 dismantle the ad valorem tariff or other components of its agricultural  
1006 protection? The complexity of this problem increases as we go into a  
1007 product-by-product negotiation. Different instruments protect differ-  
1008 ent products but in general, ad valorem tariffs do not provide the bulk  
1009 of protection to agricultural products.<sup>24</sup>
- 1010
- 
- 1011

1012 <sup>23</sup> Some products of important export value for the MERCOSUR also face sanitary and  
1013 phytosanitary barriers some of which appear to be supported by weak scientific evidence.

1014 <sup>24</sup> The nature of the complexity of EU agricultural protectionism can be seen in two  
1015 examples. The first example is fruits such as pears, apples, oranges, etc. For specific periods  
1016 of the year classified by month or consecutive months, fruits are protected by ad valorem  
1017 and specific tariffs. Given the objective of protecting incomes of their farmers, the EU-  
1018 specific tariffs vary inversely with the level of import prices. The result of this is that for  
1019 pears, for example, there are 10 rates varying between 0 and 10.4%. In addition, specific  
1020 tariffs also vary by time of the year so that the number of possible combinations protecting  
1021 pears is very high. In simulations performed by Argentina’s Secretariat of Trade, the EU ad  
1022 valorem tariff equivalent, including the effects of specific tariffs, protecting pears varies  
1023 between 0 and 77%. In other products like chocolates, protection varies according to  
1024 product contents. Thus, protection for chocolates having 1% starch, 2% fat, 20% milk  
1025 protein and 25% sugar, is defined in a table of codes. For chocolates filled with alcohol, the  
code number is 7161. In another table, this code number defines a specific tariff that has to  
be added to the corresponding ad valorem tariff. Different chocolates have different  
contents and there is a corresponding protection code for each one.

- 1026 (f) Furthermore, in contrast to the initial MERCOSUR proposal that did  
1027 not exclude any product, the EU proposal excludes around 1000 tariff  
1028 lines of which 781 are products of great export interest for Argentina.  
1029 Estimates of the ad valorem equivalent by the Secretariat of Trade  
1030 for a sample of the excluded products show a high average protection  
1031 of 36% with a maximum of 463%. Exclusion of these products  
1032 significantly reduces the MERCOSUR export potential of a trade  
1033 agreement with the EU.
- 1034 (g) In addition to full access to the MERCOSUR goods markets, the EU is  
1035 demanding (i) full reciprocity in textiles and footwear, (ii) standstill  
1036 and rollback, (iii) for fisheries products, liberalization will take into  
1037 account ‘access to water resources’, and (iv) duties on wine will  
1038 be abolished in the framework of a separate agreement including  
1039 ‘protection of geographical indications and traditional expressions’.  
1040 In Argentina, textiles and footwear are two ‘sensitive’ labor-intensive  
1041 sectors. Standstill and rollback have not been discussed in detail  
1042 but given the CAP, there is no way that a realistic rollback by the EU  
1043 can offer gains in market access that could match a similar reform  
1044 by the MERCOSUR. The details on access to water resources and  
1045 intellectual protection for geographical indications have also not  
1046 been specified but Argentina’s national fishing fleet is not significant  
1047 and, although it has good wines, it has not developed a tradition of  
1048 ‘geographical denominations’. Summing-up, reciprocal concessions  
1049 in these areas of the expanded negotiating agenda appear to have  
1050 much greater commercial value for the EU than for the MERCOSUR.
- 1051 (h) In addition, the EU has demanded negotiations on government pro-  
1052 curement and services where it seeks a high degree of access to the  
1053 MERCOSUR markets. In services for example, it seeks access to all  
1054 markets except audio–visual services, national maritime cabotage  
1055 and air transport services. The proposal clarifies that the ‘right of  
1056 commercial presence’ does “...not extend to seeking or taking  
1057 employment in the labor market or confer a right of access to the labor  
1058 market of another party”.<sup>25</sup> Regarding government procurement, the  
1059

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1061  
1062 <sup>25</sup> Quote taken from the EU document entitled ‘European Union Working Text: Trade in  
1063 Services’, draft July 2, 2001. As a contrast, most ancestors of Argentine nationals were  
1064 Europeans and Argentina was, and by international standards remains, an open immigration  
1065 country. [Lindert and Williamson \(2001\)](#) quantify the significant contribution of Argentina  
1066 as a recipient country of European migration during, what they call, the first wave of  
globalization between 1870 and 1910. Rules on ‘movement of persons’ have certainly  
changed drastically.

1067 presumption is that EU multinationals are better positioned to sell to  
1068 MERCOSUR governments than vice versa.

#### 1070 *12.5.4. Interpreting the EU proposal*

1071  
1072 The difference in market access offered by the MERCOSUR (free trade)  
1073 and EU proposals is so big that one wonders what are the underlying  
1074 goals of the latter. For the MERCOSUR the goal has been a free trade  
1075 agreement, while for the EU it has been a mercantilist agreement. How-  
1076 ever, this mercantilism is so unreasonable that under normal conditions  
1077 no country or group of countries should take more than minimal resources  
1078 to reject it. Why did the EU present such an offer?

1079 One interpretation is that, given the bad economic situation of the  
1080 MERCOSUR region, the EU concluded that it has a chance of walking  
1081 away with a trade agreement in favor of its exporters without its import-  
1082 competing industries having to 'pay the costs'. A second interpretation is  
1083 that the EU is not really interested in reaching a trade agreement with the  
1084 MERCOSUR and that when it presented its proposal in the July meeting,  
1085 it was simply filling a diplomatic formality. A third possibility is that  
1086 the proposal represents a negotiating tactic and this is in fact what the  
1087 MERCOSUR has concluded and in line with this, it has agreed to continue  
1088 negotiating. This state of affairs did not change during the sixth and  
1089 seventh meeting of the BNC, this last one held in April 2002.

#### 1091 *12.5.5. Illustrating the working of the handicaps*

1092  
1093 Since the July meeting, some events have taken place that illustrate how  
1094 the handicaps listed in Section 12.4 are working in the MERCOSUR–EU  
1095 negotiations. First, preparing a counter-offer to the EU proposal requires a  
1096 high degree of coordination between the public and private sectors. This  
1097 is needed, for example, to determine in which of the possible timetables  
1098 for tariff dismantling that have been decided on a preliminary basis (0, 4, 7  
1099 and 10 years), each product should be included. Both the public and private  
1100 sectors have shown not to be well prepared for this exercise.

1101 Second, as argued in Section 12.5.4, the discussion within the  
1102 MERCOSUR, has also led to differing interpretations of the EU proposal.  
1103 Thus, while Argentina and Brazil have in general maintained a critical  
1104 stance, Uruguay remains an enthusiastic supporter of the EU offer. As  
1105 said in Section 12.5.4, Uruguay expects more from a product-by-product  
1106 negotiation than do Argentina and Brazil.

1107 Third, within Argentina, there have been inter-agency differences.  
While the trade negotiators want to maintain a strong stance vis-à-vis

1108 the EU, others in government fear that this would be risking an ‘important  
1109 opportunity for the country’.

1110 Fourth, the European lobby has been aggressive in pressing  
1111 MERCOSUR. This lobby includes visits to the region by Mr. Pascal  
1112 Lamy and Mr. Fischler. For example, Mr. Fischler, the EU agricultural  
1113 commissioner, has been quoted as saying that the EU “...has shown to be a  
1114 good client and friend of MERCOSUR...” as it has presented an ample  
1115 offer to liberalize agricultural trade. Furthermore, the EU “...is waiting a  
1116 constructive counter-offer”, and “...it is seeking to arrive at a balanced  
1117 agreement...”.<sup>26</sup> Quite sarcastic.

1118 Finally, there is little if no knowledge of possible economic impact  
1119 in practically all of the subjects that have been put on the table by the  
1120 EU. Except for some aggregate estimates of economic impacts for  
1121 liberalizing trade in goods, there is no knowledge regarding the possible  
1122 effects of negotiating reciprocal concessions with the EU in services,  
1123 government procurement, geographical denominations, access to fishing  
1124 waters, etc.

#### 1127 *12.5.6. Summing-up*

1128 The MERCOSUR–EU negotiations represent an example of a negotia-  
1129 tion where on one side of the table are developing countries with their  
1130 handicaps and on the other side are trading partners with clout that  
1131 know very well what they want from the agreement, i.e. an example of  
1132 an ‘unequal exchange’ negotiation leading most likely to an unbalanced  
1133 outcome. While MERCOSUR entered this negotiation candidly expect-  
1134 ing to arrive at a free trade agreement, this never appears to have been  
1135 the goal of the EU. Instead, this goal is for a highly mercantilist  
1136 agreement of little economic value in relation to what MERCOSUR  
1137 could internalize in a reciprocal and mutually beneficial agreement.  
1138 The apparent strategy of the EU has been to take the MERCOSUR to  
1139 negotiate on a product-by-product basis: “I give you minimal conces-  
1140 sions and the honor of having completed a negotiation with the EU, and  
1141 you give me your markets. This is a fair deal”. I believe that the only  
1142 way that MERCOSUR could conclude a reasonable negotiation is by  
1143 standing firm on its initial proposal of negotiating a free trade agreement  
1144 on the basis of clear principles and transparent instruments.

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1146  
1147  
1148  
<sup>26</sup> ‘Intenta la UE negociar sobre agricultura’, La Nación October 4, 2001.

## 1149 **12.6. Drawing some lessons**

1150  
1151 The Uruguay Round opened a divide in the trading system in such a way  
1152 that we can talk of the ‘before’ and ‘after’ it. The GATT trading system, in  
1153 which developing countries did not participate much, was more transparent  
1154 and balanced than the WTO system. In the old system, the weaker  
1155 countries could feel quite assured that the hegemonic countries would not  
1156 make an abuse of their power. This appears to be no longer the case and  
1157 now differences in resources, experience, managerial capacity, knowledge,  
1158 and negotiating strength matter. This matters not only in multilateral  
1159 negotiations but also in regional negotiations involving developed and  
1160 developing countries. Differences in these factors are so important that  
1161 sitting both groups of countries together in international trade negotiations  
1162 is likely to generate an ‘unequal exchange process’ that results in  
1163 unbalanced outcomes with costs to developing countries and the trading  
1164 system. This analysis indicates some suggestions.

### 1166 **12.6.1. Principles in trade negotiations**

1167  
1168 It would appear that one way of modifying at least partly the outcome of  
1169 these negotiations, would be to go back to respect the fundamental GATT  
1170 principle, now included in the WTO, of negotiating on the basis of  
1171 reciprocity and mutual benefits. Who should ensure that this basic principle  
1172 is respected? The answer is that it is up to the developing countries to  
1173 defend their interests which takes me to a second suggestion.

### 1174 **12.6.2. Blocking negotiations: a defensive strategy**

1176  
1177 This one is borrowed from Mike Finger in a personal communication:  
1178 “Developing countries have to have the courage to insist that all reasonable  
1179 doubt as to the economic effects of a proposed agreement be removed  
1180 before they allow a decision to be approved”. This is a defensive strategy  
1181 that, if repeated every time there is ‘reasonable doubt’, might eventually  
1182 generate forces in favor of rebalancing the odds in trade negotiations.

### 1183 **12.6.3. Management arrangements, knowledge** 1184 **and other domestic reforms**

1186  
1187 In addition to ‘blocking’, developing countries should look into their  
1188 negotiating arrangements. In some, there appears to be room for improving  
1189 the management and skills allocated to the negotiations. They can also  
increase their internal cohesiveness by inter alia, strengthening the public  
sector–private sector consultation process. Additionally, with relatively



1190 few resources, developing countries can gain greater knowledge on net  
1191 gains associated with reciprocal negotiations in the different areas of the  
1192 agenda. These are some suggestions which I think would strengthen the  
1193 negotiating capacity of developing countries.

1194

#### 1195 ***12.6.4. Congressional oversight***

1196

1197 I have argued that many countries are ill equipped for meeting the  
1198 challenges of trade negotiations successfully and this implies that they are  
1199 assuming risks that are higher than necessary. In these circumstances, as  
1200 is the case in the US, the Congress of developing countries could assume  
1201 the responsibility of providing an oversight function to ensure that the  
1202 negotiations undertaken by the Executive Power are balanced and, in fact,  
1203 result in a mutually beneficial exchange of concessions for their countries.  
1204 Such an oversight role would hopefully result in a better outcome and  
1205 would also strengthen the negotiating positions of developing countries  
1206 vis-à-vis developed countries' trading partners.

1207

#### 1208 ***12.6.5. Aggressive unilateralism***

1209

1210 Regarding the trading system, the 'implementation problem' encountered  
1211 by many developing countries is the result of the 'unequal exchange'  
1212 in the Uruguay Round negotiations where industrial countries knew with a  
1213 high degree of precision what they were signing and developing countries  
1214 often did not have a clue. One message of this chapter is that if these  
1215 types of exchanges are not rebalanced, the trade negotiations will continue  
1216 generating 'implementation and other problems'. In this regard, one salient  
1217 characteristic of the Uruguay Round negotiations was the presence of  
1218 'aggressive unilateralism'. We live in a new world where the strengthening  
1219 of core economic interlinkages between countries, are a core ingredient  
1220 of successful diplomacy. These interlinkages are also built in trade  
1221 negotiations but if these are to be successful, aggressive unilateralism  
1222 must go and give room to a constructive dialogue between countries  
1223 in different development stages. This dialogue should be open enough  
1224 to define agendas of interests to all countries without the presence of a  
1225 big stick.

1226

#### 1227 ***12.6.6. Learning more about decision mechanism***

1228

1229 Ever since the completion of the Uruguay Round, well-intentioned  
1230 researchers, politicians and other people of influence have been suggesting  
ways of 'fixing' the trading system. This research has uncovered many  
problem areas that have led to several reform proposals. If the hypothesis

1231 of this chapter is correct, the suggestion is to take this research one step  
1232 back and ask what elements of our decision-making mechanisms explain  
1233 why the system evolved from negotiations with reciprocity and mutual  
1234 benefits, to 'unequal exchange negotiations'. I believe we need to get a  
1235 better grasp of this if we want to make suggestions for lasting reforms to  
1236 the nature of negotiations. On the developing country side, I have  
1237 supported my thesis of 'unequal exchange' by looking into some of the  
1238 elements that characterize the decision process of a few developing  
1239 countries. It is crucial for this research to incorporate industrial countries  
1240 as well. We need to enquire, for example, about the underlying forces that  
1241 explain why these countries have been moving away from the basic GATT  
1242 principles they once created and protected. Is, for example, the process of  
1243 'buying the votes for fast track' important for explaining the expansion of  
1244 the trade negotiating agenda?  
1245

1246 ***12.6.7. 'Smoke and mirrors' of trade negotiations***  
1247 ***versus unilateral reforms***  
1248

1249 For some developing countries, the potential gains to be achieved by  
1250 participating in international trade negotiations are very high. This comes  
1251 out very clearly for efficient agricultural producers. Because of these gains,  
1252 many developing countries appear to be paralyzed by the promise of these  
1253 negotiations and may have put aside unilateral reforms. Nevertheless,  
1254 developing countries must learn to see behind the 'smoke and mirrors' of  
1255 these negotiations.

1256 The lesson here is that in the absence of reforms to the process of  
1257 multilateral trade negotiations, the priorities of these alternative strategies  
1258 have to be reassessed. Many developing countries have to assume that they  
1259 will gain little in this process and put unilateral reforms again as national  
1260 priorities. Developing countries should continue implementing all the  
1261 necessary liberalization reforms supported by their societies, but they  
1262 should consider binding in the WTO only those that bring clear economic  
1263 gains. Binding additional concessions, as many did in the Uruguay Round,  
1264 should be considered only in the event of clear reciprocity.  
1265

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1267

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1270 greater precision how the political economy forces operate to influence  
1271 for the good and bad, unilateral and multilateral trade policies. I am also  
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1272 the ‘The Political Economy of Policy Reform’ where this chapter was  
 1273 presented.

1274

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## Author Queries

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- Q1** Kindly check the citation of Figure 12.1
- Q2** Kindly check the phrase ‘quarterly yearly’ change here
- Q3** Kindly approve the change of ‘numbers’ to ‘features’
- Q4** Author, these references are not cited in the text. Please add or delete from reference list. Finger and Nogués 2001, Martin and Winters 1996, World Bank 2002, and World Trade Organization 2001b