

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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EVALUATION ON THE SITUATION OF THE URUGUAY ROUND

Communication from the Permanent Representative  
of Uruguay on behalf of SELA<sup>1</sup>

As Chairman of the VI Consultation Meeting of SELA on the Uruguay Round of Multilateral Trade Negotiations, I am pleased to inform you that an evaluation of the situation of the MTNs has been conducted and updated to 23 November 1990. This evaluation is contained in the attached document entitled "Evaluation on the Situation of the Uruguay Round of Multilateral Trade Negotiations prepared by the Latin American and Caribbean Countries as of 23 November 1990".

The VI Consultation Meeting has decided to request the circulation of this document to the TNC and GNG. This document should be part of the documentation for the TNC Ministerial Meeting in Brussels.

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<sup>1</sup> Annexes A to D are contained in MTN.TNC/W/41/Add.1  
MTN.GNG/W/27/Add.1

EVALUATION ON THE SITUATION OF THE URUGUAY ROUND OF  
MULTILATERAL TRADE NEGOTIATIONS PREPARED BY  
THE LATIN AMERICAN AND CARIBBEAN COUNTRIES  
AS OF 23 NOVEMBER 1990

At the VI Consultation Meeting of SELA on the Uruguay Round of Multilateral Trade Negotiations, the countries of Latin America and the Caribbean have assessed the situation of the negotiations as of 23 November 1990.

In view of the lack of texts or bases for negotiation in key areas of the Uruguay Round and of the many questions left pending in other equally important areas, this evaluation is of a preliminary nature. For this reason, the countries of the region have decided to keep the VI Consultation Meeting of SELA open in order to keep the evolution of the Uruguay Round and its results under constant and close scrutiny. This will make it possible to evaluate the final results and to determine whether those results are acceptable as a whole.

In accordance with Decision 300 of the XVI Latin American Council of SELA, and as part of this process of evaluation, the VI Consultation Meeting will meet at Ministerial level in Brussels.

TABLE OF CONTENTS

	<u>Page</u>
I. <u>INTRODUCTION</u>	5
A. GENERAL GUIDELINES	5
B. OVERALL ASSESSMENT	7
II. <u>MARKET ACCESS</u>	9
A. STANDSTILL AND ROLLBACK	9
B. OVERALL ASSESSMENT OF THE MARKET ACCESS NEGOTIATIONS	9
C. TARIFFS	10
D. NON-TARIFF MEASURES	18
E. AGRICULTURE	19
F. TEXTILES AND CLOTHING	20
G. TROPICAL PRODUCTS	22
H. NATURAL RESOURCE-BASED PRODUCTS	23
III. <u>RULES OF THE INTERNATIONAL TRADING SYSTEM</u>	23
A. OVERALL ASSESSMENT	23
B. SAFEGUARDS	24
C. ANTI-DUMPING, SUBSIDIES AND COUNTERVAILING MEASURES	25
D. ARTICLES OF THE GENERAL AGREEMENT	26
E. TOKYO ROUND AGREEMENTS	26
F. DISPUTE SETTLEMENT	27
G. FUNCTIONING OF THE GATT SYSTEM	28
IV. <u>NEW ISSUES</u>	28
A. TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS, INCLUDING TRADE IN COUNTERFEIT GOODS	28
B. ASPECTS OF TRADE-RELATED INVESTMENT MEASURES	29
V. <u>SERVICES</u>	30
A. OVERALL ASSESSMENT	30

	<u>Page</u>
VI. <u>DIFFERENTIAL AND MORE FAVOURABLE TREATMENT</u>	31
VII. <u>INTERNATIONAL IMPLEMENTATION OF RESULTS</u>	33

ANNEXES

ANNEX A STATUS OF THE STANDSTILL AND ROLLBACK  
COMMITMENTS BASED ON THE NOTIFICATIONS MADE BY  
THE LATIN AMERICAN AND CARIBBEAN COUNTRIES

ANNEX B AUTONOMOUS TRADE LIBERALIZATION MEASURES  
IMPLEMENTED BY THE LATIN AMERICAN AND  
CARIBBEAN COUNTRIES

Tariff bindings  
Tariff reductions  
Elimination of non-tariff measures

ANNEX C EVALUATION OF THE TARIFF OFFERS OF THE  
MAJOR TRADING PARTNERS

SELA Group  
Argentina  
Brazil  
Colombia  
Costa Rica  
Cuba  
Jamaica  
Nicaragua  
Mexico  
Peru  
Uruguay

ANNEX D TARIFF OFFERS WITH REGARD TO PRODUCTS  
OF PRINCIPAL INTEREST TO THE REGION

## I. INTRODUCTION

### A. GENERAL GUIDELINES

The evaluation exercise is undertaken on the basis of the Objectives and General Principles set out in Part I-A and B of the Ministerial Declaration of Punta del Este, and the assessment of the results of the Uruguay Round should measure the degree to which these Objectives have been met under the relevant General Principles, and in accordance with the provisions of Part I, Section G of the Declaration. The results of the Uruguay Round should also respect the negotiating mandates agreed in Punta del Este. In this connection, it is useful to recall the Objectives and General Principles, as follows:

#### "A. OBJECTIVES

Negotiations shall aim to:

- (i) bring about further liberalization and expansion of world trade to the benefit of all countries, especially less-developed contracting parties, including the improvement of access to markets by the reduction and elimination of tariffs, quantitative restrictions and other non-tariff measures and obstacles;
- (ii) strengthen the rôle of GATT, improve the multilateral trading system based on the principles and rules of the GATT and bring about a wider coverage of world trade under agreed, effective and enforceable multilateral disciplines;
- (iii) increase the responsiveness of the GATT system to the evolving international economic environment, through facilitating necessary structural adjustment, enhancing the relationship of the GATT with the relevant international organizations and taking account of changes in trade patterns and prospects, including the growing importance of trade in high-technology products, serious difficulties in commodity markets and the importance of an improved trading environment providing, inter alia, for the ability of indebted countries to meet their financial obligations;
- (iv) foster concurrent co-operative action at the national and international levels to strengthen the interrelationship between trade policies and other economic policies affecting growth and development, and to contribute towards continued, effective and determined efforts to improve the functioning of the international monetary system and the flow of financial and real investment resources to less-developed countries."

"B. GENERAL PRINCIPLES GOVERNING NEGOTIATIONS

- (i) Negotiations shall be conducted in a transparent manner, and consistent with the objectives and commitments agreed in this Declaration and with the principles of the General Agreement in order to ensure mutual advantage and increased benefits to all participants.
- (ii) The launching, the conduct and the implementation of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis by agreement prior to the formal conclusion of the negotiations. Early agreements shall be taken into account in assessing the overall balance of the negotiations.
- (iii) Balanced concessions should be sought within broad trading areas and subjects to be negotiated in order to avoid unwarranted cross-sectoral demands.
- (iv) CONTRACTING PARTIES agree that the principle of differential and more favourable treatment embodied in Part IV and other relevant provisions of the General Agreement and in the Decision of the CONTRACTING PARTIES of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of less-developed countries applies to the negotiations. In the implementation of standstill and rollback, particular care should be given to avoiding disruptive effects on the trade of less-developed contracting parties.
- (v) The developed countries do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of developing countries, i.e. the developed countries do not expect the less-developed, in the course of trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs. Developed contracting parties shall therefore not seek, neither shall less-developed contracting parties be required to make, concessions that are inconsistent with the latter's development, financial and trade needs.
- (vi) Less-developed contracting parties expect that their capacity to make contributions or negotiated concessions or take other mutually agreed action under the provisions and procedures of the General Agreement would improve with the progressive development of their economies and improvement in their trade situation and they would accordingly expect to participate more fully in the framework of rights and obligations under the General Agreement.

- (vii) Special attention shall be given to the particular situation and problems of the least-developed countries and to the need to encourage positive measures to facilitate expansion of their trading opportunities. Expeditious implementation of the relevant provisions of the 1982 Ministerial Declaration concerning the least-developed countries shall also be given appropriate attention."

For its part, the last paragraph of Section G in Part I of the Declaration of Punta del Este provides that:

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

#### B. OVERALL ASSESSMENT

The Chairman of the Trade Negotiations Committee (TNC), at its eleventh meeting (9 April 1990), stated that: "the great majority of the participants had recognized that the July deadline was crucial for the success of the Round because there was a wide-spread awareness that if, by that time, it was not possible to draw up the profile of a package, the rendezvous of Brussels would be in great jeopardy" (MTN.TNC/14).

At the twelfth meeting of the TNC (23-26 July 1990), the Chairman observed, with regard to the profiles, that: "many represent a compendium of positions, rather than draft agreements", and in addition, that "we are collectively behind schedule". He added that there were two reasons for this: "The first is the absence of new instructions from a number of capitals in key areas of the Round on the adjustments in positions that are needed in order that divergent interests are reconciled. The second is the phenomenon of linkages within and among subjects which arise from the Uruguay Round being one single undertaking. Linkages can, and should, be used positively to push the whole process forward. Unfortunately, up until now, they have been used negatively with negotiators largely playing hide-and-seek with each other and not revealing their hand" (MTN.TNC/16).

The countries of Latin America and the Caribbean proposed to the TNC at its July meeting, among other things, that in order to "... rectify the direction and scope of the Uruguay Round ..."

"(b) ... all efforts should be directed towards results that:

- ° are fully conducive to the attainment of the objectives of the Punta del Este Declaration and, in particular, to the economic development of the less-developed countries;

- ° contribute to a substantial improvement in conditions of market access for all products without exception, so as to ensure that the less-developed countries have an increasing share in world exports;
- ° include reinforced and objective multilateral disciplines that strengthen the multilateral trading system and that protect and underpin trade liberalization through: (i) full respect for the principle of non-discrimination, including the automatic and unconditional application of most-favoured-nation treatment; (ii) effective differential and more favourable treatment for the less-developed countries; (iii) the prohibition of all arrangements for market sharing and managed trade; (iv) the prohibition of any unilateral action outside the legal framework of the General Agreement; and (v) the maintenance of a strengthened and fully effective system for dispute settlement" (MTN.TNC/W/22).

The countries of Latin America and the Caribbean note that the accelerated process of the negotiations since July and the significant effort made have not led to the results they aim at, although a calendar of meetings with deadlines was established and the informal TNC and "Green Room" process was intensified. This effort has merely resulted in some final texts on certain issues which, although important, are not key areas. In vital areas of great importance to Latin America the situation continues to be critical, and involves the risk of arriving at Brussels with texts that entail intensive and complex negotiations or, in some cases, without any text at all, which would constitute a serious imbalance.

The VI Consultation Meeting of SELA on the Uruguay Round of Multilateral Trade Negotiations issued a Declaration on 12 November (doc. MTN.GNG/W/25 and MTN/TNC/W/33) noting the undefined state of the negotiations which had made it impossible, up to that date, to arrive at a definitive assessment of the results.

In fact, the Chairman of the TNC himself stated on 12 November that the major political breakthroughs necessary to bring the Round to a positive conclusion had not yet been made. He added that: "It is obvious that we are now in a very grave situation. Until and unless some major political decisions are taken, the negotiations will not move forward. These decisions are therefore urgent and essential and it is not an exaggeration to say that the Brussels meeting is now in jeopardy. Unless there are some basic changes in present positions in the next hours or, at most, the next days, I do not see how we will be able to bring to Brussels a workable basis for final and truly multilateral decisions by Ministers".

In this respect, it should be emphasized that in Decision 300 of the XVI Latin American Council of SELA (3-7 September 1990) the Latin American and Caribbean Ministers stated that: "... if the present situation is maintained, we shall arrive at Brussels with a partial and inadequate set of results. The negotiations constitute a "single undertaking" based on a delicate balance reflected in the Punta del Este Declaration. A set of limited or partial results, especially if they do not correspond to the objectives that are most important for our countries, would therefore be totally unacceptable".



## II. MARKET ACCESS

### A. STANDSTILL AND ROLLBACK

- ° As regards the fulfilment of these commitments, market access for products originating in the region has been affected by measures that violate the standstill commitment. (See Annex A based on notifications to the Surveillance Body.)
- ° Moreover, little progress has been seen in the fulfilment of the rollback commitment, although it is the expression of a political will to comply with and honour the obligations of the General Agreement. If this situation continues, a serious imbalance will persist between the rights and obligations of contracting parties. For this reason, and considering the objectives of the Round to liberalize trade and strengthen the system, the final results must not have the effect of legitimizing measures that are presently inconsistent with GATT.
- ° The countries of the region oppose any attempt to postpone the fulfilment of the rollback commitment until after the close of the Uruguay Round since it would violate the terms of the Punta del Este Declaration.
- ° The argument of some participants regarding the apparent difficulty of determining which measures are contrary to the General Agreement or to the instruments negotiated within the framework of GATT or under its auspices has prevented rollback from being fully achieved. The measures that have been examined and on which findings taken have been reflected in the reports of Panels approved by the Council or Code Committees do not cause any difficulty and should be rolled back, as laid down in the relevant reports and recommendations. The others should be rolled back on the basis of the principle (i) that any trade-restrictive measure should be notified (or subject to reverse notification) and justified under the General Agreement; and (ii) that in the absence of a justification its illegality is presumed. The catalogue of quantitative restrictions and other non-tariff measures (NTM/W/6/Rev.4 and Adds.) is a suitable point of departure, since it identifies a large number of measures for which no justification has been given under the GATT.

### B. OVERALL ASSESSMENT OF THE MARKET ACCESS NEGOTIATIONS

- ° It should be noted that the assessments made up to now with regard to market access indicate that the first objective of Part A of the Declaration of Punta del Este is far from being realized. This objective is as follows:

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

- ° Consistent with the objectives and principles of the General Agreement and with the objectives of the Uruguay Round as embodied in the Ministerial Declaration of Punta del Este, the region has substantially and autonomously liberalized the conditions of access to its markets. Several countries of the region have bound the totality of their tariffs and eliminated their non-tariff measures. (See Annex B.) The application of these open-market policies and measures has been very costly and involved heavy sacrifices in both the economic and social spheres. But, in breach of the provisions in the chapters on Tariffs (2,c) and Non-tariff Measures (2,h) of the Decision resulting from the Mid-term Review, these efforts have not received recognition and the concept of credits has not been applied. This situation must be remedied. The benefits of this liberalization must be compensated if balanced and equitable results are to be achieved.
- ° Moreover, countries of the region have made offers with regard to the total or partial binding of its tariffs and to tariff cuts that in some cases go further than the levels of commitment offered by the major developed countries.
- ° Those developed countries have conditioned their offers inconsistently with section B:(v) of the Punta del Este Declaration, such as demands for reciprocity or contributions in the areas of tropical products, textiles and clothing, tariffs, non-tariff measures, and natural resource-based products. Furthermore, certain sectors have been excluded from the negotiations in one group under the argument that they should be dealt with in another group, while in the latter they are either excluded or the conditions of negotiation are modified.
- ° The issue of coverage has not been solved, although it should have been settled by 15 October, because not all of the improved offers had been tabled by that date. In conformity with the Declaration of Punta del Este all products are subject to negotiation in whatever group; therefore there cannot be exclusions and this should be reflected in the offers on access.
- ° Given the economic situation of the countries of the region and the adjustment processes in their economies, the improvement of the access conditions for products of interest to them must be substantial and applied under special and accelerated conditions in order to realize the objective of Punta del Este and the essential expectations and needs of the countries of Latin America and the Caribbean.

C. TARIFFS

- ° The tariff offers presented by the major developed countries are not satisfactory. A considerable interest of the countries of the region is farm trade. In this sector the offers are still provisional and contingent upon specific results in border measures, reductions in internal supports, and in subsidies.

- ° As regards the tariff reductions proposed so far in chapters 25-97, some have limited coverage and their effects on escalation and tariff peaks are insufficient.
- ° The tariff offers presented by the major developed countries contrast with the wide coverage and scope of the commitments embodied in the tariff offers made by countries of the region taking part in the tariff negotiations; and also with the autonomous liberalization in the tariff and non-tariff spheres that countries of the region have been putting into effect in the last few years.
- ° The decision adopted by the Ministers at Montreal to devise an approach to enable credit to be given for bindings and adequate recognition of the liberalization measures adopted since 1 June 1986 should be reflected in tangible results and not merely in declarations.
- ° Every binding should be given not only the corresponding product-by-product credit, as is the usual practice in GATT, but also the credit deriving from the overall coverage of the bindings and from the increases in their coverage implemented by the developing countries in the context of the Uruguay Round.
- ° As regards the recognition of autonomous measures that are not bound, mechanisms should be set up to enable access benefits to be granted with a degree of predictability consonant with that of the benefits inherent in the measures in question.
- ° Some developed participants have asked for tariff concessions from the countries of the region on the basis of the tariffs currently applied, thus ignoring the agreement reached at Montreal to use as the base the bound or applied tariffs in force in September 1986.
- ° The implementation of the tariff reductions would, in certain cases, have the effect of eroding the preferential margins that benefit products of interest to the region. To compensate partially and temporarily for this erosion, and to fulfil the objectives of A(i) of the Punta del Este Declaration, it is necessary, at the very least, for the tariff reductions relating to products of interest to the region to be applied in a comprehensive and accelerated manner.
- ° Annex C to the present document contains a quantitative evaluation of the offers on access made by the European Community, Japan, Canada, Sweden and the United States. The following are the conclusions stemming from the evaluation in that Annex:

#### EUROPEAN COMMUNITY

The region's total exports to the EC in 1988 amounted to US\$26 billion, of which 46 per cent, or US\$12 billion, were dutiable. The weighted average tariff faced by the region in the EC market was 9.8 per cent in the same year, which would be brought down to 7.6 per cent by the EC's offer; the overall weighted average cut is 22.5 per cent.

However, there is a disproportionate variation between the average cut in tariffs for NRBPs and agricultural exports and the average tariff cut for manufactures. Whereas for agricultural products the cut is 1.7 per cent (from an average weighted tariff of 13.5 per cent to 13.2 per cent), for manufactures the EC's tariff reduction offer, weighted by the trade of the countries of the region, is 28.4 per cent for industrial products and 30.5 per cent for textiles. On both industrial products and textiles, the EC's offer falls short of the Montreal target.

However, the weighted average reduction is smaller for specific manufactured products of interest to the region in terms of export value and share in total EC imports. The average weighted tariff reduction for some of these products is as follows:

- chemical products, 27 per cent;
- leather manufactures, 25.5 per cent;
- paper products, 28.0 per cent;
- yarns and fibres, 28.0 per cent;
- footwear and related products, 27.5 per cent;
- glass and ceramic manufactures, 27.0 per cent;
- articles of jewellery and of precious and semi-precious stones and metals, 24.7 per cent;
- industrial metal products, 25.0 per cent;
- engines, parts of engines and pumps, 25.0 per cent;
- parts of turbo jet or turboprop engines, 25.0 per cent;
- sewing machines, 25.0 per cent;
- electric and non-electric typewriters, 23.9 per cent;
- electrical resistors, 24.5 per cent;
- motor vehicles, 30.0 per cent.

The impact of the EC offer on agriculture is very negative for the region: on the one hand, the weighted average tariff cut offered for the region's agricultural exports to the EC market is insignificant (1.7 per cent). On the other hand, the EC's rebalancing, or the introduction of tariff equivalents in exchange for opening up the tariff quotas, affects products that are of great export interest for the countries of the region. Rebalancing will dramatically increase the tariffs applicable up to now on key products. For instance,

Brazil exports 18 per cent of the EC soy bean market (12010090), whose value was US\$701 million in 1988. This product faces quantitative restrictions and/or national quotas, but a zero tariff. The disappearance of these barriers will result in a tariffication that will increase the tariff rate from 0 per cent to 6 per cent. For Argentina, tariff lines 23040000; 23062000; 23063000; 23089030, with an export value of US\$763 million, will also be subject to a 6 per cent tariff; and chick peas (07132090) in which Mexico supplies 51 per cent of the EC market, will go from a zero tariff to a tariff of 12 per cent; for Chile and Peru, whose exports of fishmeal (23012000) amount to US\$231 million and US\$49 million, respectively, the tariff will increase from 2 per cent to 12 per cent.

Other agricultural products of export interest to the region which are subject to high tariffs are not included in the groups in which there will be tariff reductions; for instance natural honey, in which the region supplies 42 per cent of the EC market and which faces a tariff of 25 per cent; orange juice in which Brazil supplies 78 per cent of the EC market and which faces a 19 per cent tariff.

The variation in tariff cuts offered by the EC for different products, which is reasonable for manufactures and minimal for agriculture, accounts for the fact that the tariff offer is much more advantageous for some countries in the region than for others. For instance, for Mexico, the overall weighted average cut in tariffs offered by the EC is 22.3 per cent (from 8.0 per cent to 6.2 per cent), whereas for Argentina, whose exports are heavily concentrated in agricultural products, the weighted average tariff reduction is 7.4 per cent (from 10.4 per cent to 9.6 per cent).

#### JAPAN

Japan is an important market for the countries of the region, and one, given its growth trend that has enormous potential for the future. Total exports from the region to Japan amounted to US\$7 billion in 1988, of which US\$4.6 billion were dutiable. The average tariff reductions implicit in the Japanese offer, weighted by the trade interests of the Latin American and Caribbean countries, are very small, although they fluctuate widely, from a minimum of 0.1 per cent for Costa Rica to 59.5 per cent for Colombia. For the countries of the region as a whole the average cut is 19.7 per cent. An examination of the structure of the region's exports to Japan reveals that the Japanese offer is not very significant. Firstly, in relation to agricultural products, which are of fundamental importance to the region, not only is the tariff reduction much lower on average, but these products face considerably higher tariff levels. For the countries of Latin America and the Caribbean, exports of agricultural products to Japan amounted to US\$336 million in 1988. The weighted average of the base rate was 22.8 per cent; the Japanese offer would result in a cut of 1.0 per cent and a weighted average tariff of 22.6 per cent.

This unsatisfactory picture in the agricultural sector can be illustrated by some of the agricultural tariff peaks (all expressed as weighted averages of applied rates) faced by Latin America and the Caribbean in some of their exports to Japan:

- fowls (020721), 20 per cent tariff with exports accounting for 54.5 per cent of the Japanese market;
- natural honey (040900), 30 per cent tariff and 13.4 per cent of the market;
- mushrooms and truffles (071230), 25 per cent tariff and 41.7 per cent of the market;
- fresh melons and watermelons (080710), 20 per cent tariff and 31.6 per cent of the market;
- raw sugar, cane (170111), 111.1 per cent tariff and 15.1 per cent of the market;
- orange juice (290930), 30 per cent tariff and 73.7 per cent of the market;
- rum and tafia (220840), 45 per cent tariff and 67 per cent of the market.

Somewhat better than the offer on agriculture is the Japanese offer on natural resource-based products (NRBPs); the tariffs for these are reduced by an average of 13.4 per cent (from 8.0 per cent to 6.9 per cent).

Regarding tropical products, the recent offer made by Japan would bring the weighted average tariff base from its current level of 21.9 per cent down to 13.7 per cent. This amounts to an average cut of 37.3 per cent for the region.

The situation as regards manufactures is more attractive than for agriculture and tropical products. But the reduction offered does not apply to many lines of interest to the region, or where current tariffs are high. For example, some products for which no tariff reduction is offered and which are of interest for the region are:

- equine and bovine leather (410439) in which the Latin American and Caribbean countries face a tariff of 28.8 per cent and have 26.2 per cent of the market;
- tanned or dressed furskins not assembled (430219) with a tariff of 15 per cent and 26.6 per cent of the market;
- non-coniferous wood (440339) with a tariff of 5 per cent and 12.1 per cent of the market;
- raw silk (500200) with a tariff of 7.5 per cent and 9.1 per cent of the market.

On textiles, the Japanese offer is less than for manufactures, with an average reduction of 29.3 per cent. The offer is of a reduction in the average weighted tariff from 8.1 per cent to 5.1 per cent.

#### CANADA

In the case of Canada, total exports from the countries of the region amount to US\$3 billion, of which US\$1.6 million are dutiable. The Canadian offer is the most favourable one for Latin America and the Caribbean. The reduction results in a weighted average cut of 38.0 per cent for all dutiable items. The weighted average of the reduction of tariffs for the region's tropical products is 36.3 per cent; for natural resource-based products, a significant cut of 49.7 per cent; for agricultural exports, 31.2 per cent; for textiles, 36.0 per cent, and for other products, 37.9 per cent.

However, in certain tariff lines of interest to the region, the Canadian offer is a reduction of only 20 per cent. These lines are related to footwear, 640319 to 640510.

#### SWEDEN

Latin America's total exports to the Swedish market amount to US\$909 million in all, and only a very small proportion, US\$154 million or 17 per cent, are dutiable.

The average weighted tariff faced by the countries of the region in the Swedish market is 7.4 per cent, and the offer would bring this down to 5.4 per cent. This would represent an average cut of 27.3 per cent.

However, it is the region's manufactures in general and textiles in particular that fare best in the Swedish offer: the average weighted reduction for manufactures is 28.3 per cent, from 5.9 per cent to 4.2 per cent, and for textiles the weighted average cut is 32.6 per cent, from a current tariff of 11.2 per cent to 7.6 per cent. On the other hand, the average weighted tariff for tropical products would be cut by only 9 per cent, from 8.6 per cent to 7.8 per cent; while for NRBP's, which face a very low average weighted tariff of 1.8 per cent, the level would be cut by 17.5 per cent, to bring it down to an average of 1.5 per cent. The average weighted cut offered for agricultural products is 19.6 per cent, from 5.3 per cent to 4.2 per cent.

#### UNITED STATES

The United States market is undoubtedly the most important for the Latin American countries. The region's total exports to that market in 1988 amounted to US\$43 billion, of which 74.4 per cent, or US\$32 billion, were subject to tariffs.

The United States has based its negotiating strategy on the offer/request approach; it is consequently subject to bilateralism and directed towards specific products and practices (in the case of non-tariff measures).

The depth of tariff cut offered by the United States is 27.3 per cent for the region as a whole.<sup>1/2</sup> In the case of some countries of the region the Montreal target is met, for instance: the weighted average cut in the case of all products for Brazil is 35 per cent, and for Argentina 36 per cent. Under the "menu" approach adopted by the United States for its offer each cut is subject to conditions, by product and by measure, based on reciprocity, either in obtaining tariff reductions or in the elimination of non-tariff measures.

On agriculture the United States proposes an integral and indivisible package aimed at:

- (i) Converting all non-tariff measures to tariff equivalents;
- (ii) Binding all tariffs and tariff equivalents, and reducing them to a trade-weighted average of 75 per cent over the next 10 years with a ceiling of 50 per cent ad valorem;
- (iii) Permitting the use of tariff quotas to facilitate the transition period.

If the United States offer in agriculture is implemented (reduction of 75 per cent) it will have some interesting results, as the following examples illustrate:

- cheeses, imports of which are subject to relatively high tariffs as well as bilateral quotas (under section 22); the cheeses include tariff offers for Goya cheese (04069030) with a 25 per cent bound tariff and an offer to 6.25 per cent. In 1988 exports of this product amounted to US\$146,000 on value for Uruguay and US\$1.5 million for Argentina. In the case of Romano cheese (04069040), the base tariff (bound) is 15 per cent and the offer is to 3.75 per cent. In value terms exports are US\$1.8 million for Uruguay and US\$11 million for Argentina, which together supply 40 per cent of the total imports of this product.
- melons and watermelons (08071010-20-30-40), which have an average tariff of 23 per cent (in three out of the four lines the tariff is unbound) and for which reductions are offered to new rates of 5 per cent for three of the lines and of 8.75 per cent for 08071020. Mexico and Costa Rica supply nearly 100 per cent of United States imports of these items, at a value of US\$74.4 million and, of US\$7 million, respectively.

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<sup>1</sup>The analysis is based on the United States offer excluding its Annex A.2, which contains the "zero/zero" sectoral offer, in order to avoid distortions in the overall assessment.

<sup>2</sup>The analysis excludes the sugar sector which, because of its complexity, could introduce distortions in the overall assessment.



- meat. Some important products are 06025010-20-60, on which there is a bound tariff of 7.5 per cent, 3.0 per cent and 4.0 per cent, respectively. The offer results in new tariffs of 1.8 per cent, 0.75 per cent and 1.0 per cent respectively. Argentina, Brazil and Uruguay supply about 99 per cent of United States' imports and in 1988 accounted in terms of value, for US\$139 million, US\$51 million and US\$5.5 million respectively.
- orange and other fruit juices, on which there are very high tariffs, for instance bound base tariffs of 31.9 per cent, 14 per cent, 28.5 per cent and 26.9 per cent on 20091100, 20091920, 20091940 and 20096000 respectively, which the United States offers to reduce by 75 per cent. The region supplies between 93 per cent and 99.3 per cent of United States' imports for a value of US\$497.5 million.
- tobacco and similar products. The United States applies tariffs with varying levels. For example, a partially bound tariff of 9.7 per cent on line 24011060, which the United States offers to reduce to a new level of 2.4 per cent. For line 24011080 on which there is a partially bound tariff of 32.9 per cent, a rate of 8.2 per cent is offered. In the latter line, the region supplies 72 per cent of the United States' imports. The value of these exports for the major suppliers in the region is US\$109 million for Brazil, US\$6.4 million for Mexico, US\$15.6 million for Argentina and US\$8 million for Guatemala.

The United States tariff offer for some industrial products exported by Latin America and the Caribbean is insignificant. For instance (1988 figures):

- for ethylene glycol (29053100) a 10 per cent reduction from a base tariff of 12.0 per cent to 10.8 per cent. The region supplied 45.6 per cent of total imports into the United States, for a value of US\$66.2 million;
- for carboxylic acids (29109020) a 20 per cent reduction from a tariff of 13.5 per cent to 10.8 per cent. The region exported 52.9 per cent of the total, for a value of US\$22.5 million;
- for polyethylene (39011000) a 10 per cent reduction from a bound tariff of 12.5 per cent to 11.25 per cent. The value of the region's exports was US\$18 million;
- for tyres (40111000-2000) a 15 per cent reduction from a bound tariff of 4.0 per cent to 3.4 per cent. The value of the region's exports in these two lines was US\$164 million;
- travel goods, trunks, suitcases, etc., (42021280), 12 per cent reduction, from a 20 per cent tariff which the United States offers to reduce to 17.6 per cent. The value of these exports was US\$21.6 million, of which Mexico exported US\$15.9 million.

The following are examples of some of the conditions imposed by the United States in its offer for certain products of importance in the region's trade:

- monosodium glutamate (29224210), tariff base 12 per cent the countries of the region export to the United States 40.4 per cent of the total, for a value of US\$20.7 million was transferred from Annex IIA to Annex III as result of the revision of "zero-for-zero" offer for pharmaceutical products. The United States invites its partners to make requests in the case of these products.
- inner tubes for tyres (40131000, bound tariff base of 3.7 per cent). In this case the United States conditions its offer on (i) a bilateral request by the principal supplier of this product or (ii) in cases in which the United States is not conducting bilateral negotiations with the country in question, the granting of concessions by that country to the United States that are equal to the MFN value of bilateral trade.

D. NON-TARIFF MEASURES

- ° From the standpoint of the region's interests, the negotiations in this area have not led to any result consistent with the objectives of the Punta del Este Declaration and the commitments agreed at Montreal.
- ° In the proceedings of the negotiating group, no specific understanding has been reached on the application of a multilateral approach based on a formula to lessen the impact of non-tariff measures on conditions of market access.
- ° With regard to a rule-making multilateral approach, the measures covered (pre-shipment inspection and rules of origin) are of limited interest to the region, and it was decided to deal with them on the basis of the understanding agreed in Montreal in the sense that all the issues covered by this negotiating group should be directed towards the achievement of substantial results in order to guarantee the effective liberalization of trade.
- ° The countries of the region have made requests to the major developed countries. However, in the light of the meagre response they have received there is objectively no real improvement in the conditions of market access for the products in which they are interested. The maintenance of non-tariff measures cancels out the benefits of the nominal access defined in terms of tariffs as well as those that may derive from tariff offers.
- ° The autonomous liberalization undertaken by several countries of the region as regards non-tariff measures has not been given adequate recognition or credit in the negotiating process in spite of the decisions by Ministers in Montreal (see para. 2h of the non-tariff measures section of the Mid-term Decision).

- ° The implementation of disciplines and mechanisms that contribute to the greater security of the concessions remains pending. In this regard proposals have been tabled with the aim of preventing the access conditions negotiated from being undermined or cancelled out by the application of non-tariff measures.

E. AGRICULTURE

- ° The European Community's delay in presenting its offer and country list in spite of the October 15 deadline established, has prevented the negotiations from advancing and has had a very negative impact not only in this area but also in other areas of negotiation such as access and rules.
- ° The offers made by some developed countries such as Japan and the EC are minimal and incompatible with the purpose of achieving commitments aimed at fulfilling the objective of launching a process of reform, to achieve substantial trade liberalization and a fair and market-oriented system. The EC offer, in particular, is disappointing and insufficient. The 30 per cent reduction in internal support is very small and relates to certain products only. In real terms the offer is still less if projected over the next five years. For products such as fruits and vegetables, which are of great interest to the region, the offer is only 10 per cent. In addition, for a large number of products there will be no reduction at all in internal support. The offer makes no mention of commitments for the period after 1995/1996; it does not include investment aids in the AMS, nor does it include, in the case of non-AMS products, expenditures for subsidizing producers for withdrawals of surpluses from the market.

With regard to border protection, the EC does not offer to reduce tariffs or to eliminate non-tariff barriers, including quotas, nor does it provide for a maximum rate of protection. As to variable levies, the EC offers to convert them into a fixed but bound component plus a corrective element or factor, without providing for any reduction in the former. In this respect, the offer does not appear to improve on the present situation of very high protection. In fact, in some areas the situation would worsen under the rebalancing concept, which is unacceptable since it would radically alter the balance of rights and obligations and would contradict all the purposes and objectives of the Round with serious economic consequences for various countries of the region. As regards processed products, the EC would keep the system of encouraging the use of raw materials produced in the Community, and offers to reduce tariffs on them to the same extent as foreseen for industrial products.

With respect to export subsidies, the EC proposes to fix prices so that subsidies do not exceed the difference between domestic and world market prices. This is not an effective limitation since, for example, it would imply an increase in subsidies if world market prices fall.

- ° The state of paralysis in this area, whose solution is largely dependent on the very high-level discussions between the United States and the EC outside the framework of the Round, has prevented effective negotiations from being held in Geneva and militated against any progress in the consideration of key questions for the countries of the region. Among these are substantial liberalization and elimination of distortions in the case of all products, differential and more favourable treatment for the agricultural sector, the necessary measures to alleviate the negative effects for the net-food-importing developing countries and measures that make adequate provision for programmes to eradicate and diversify illicit crops.
- ° The negotiating process in Geneva has concluded without an accepted negotiating base. The Ministers must take into account, in making their statements, the note of July by the Chairman of the Negotiating Group on Agriculture, a comparative analysis of the proposals made by the GATT Secretariat and a list of points and questions to be prepared by the Director-General of GATT. The latter should reflect the vital questions of interest to the region such as those mentioned in the previous paragraph.
- ° The negotiations on sanitary and phytosanitary regulations and barriers have progressed, although some important questions remain to be settled. The text provides for differential and more favourable treatment for the less-developed countries. It is essential for the negotiations in this area to reach a positive conclusion so as to prevent such regulations from being used in a discriminatory manner or transformed into disguised non-tariff barriers. To avoid this it is necessary for harmonized rules to be adopted that are internationally accepted and backed by scientific evidence.
- ° This is a key sector in the multilateral trade negotiations, since, as the countries of the region have stated: "It is a necessary condition for the success of the Uruguay Round and the consequent acceptance of results in a final package that positive results be achieved in this field, which lead to a substantial trade liberalization, to curb and rollback the prevailing high protection and distortions, and to reinforce multilateral disciplines and rules covering all measures affecting import access and export competition". (Annex to doc. MTN/TNC/W/22.)

F. TEXTILES AND CLOTHING

- ° Another area of the greatest importance for the countries of the region is that of textiles and clothing. The satisfactory conclusion of the Round requires compliance with the results embodied in the mandate of Punta del Este to formulate modalities that would permit the eventual integration of this sector into GATT.

- ° This objective has, moreover, been distorted by the insistence of the main importing countries imposing restrictions that the countries affected by these should grant concessions in this area as a prerequisite for agreeing on a MFA rollback. This is tantamount to asking for concessions in exchange for the rollback of a system that is a departure from the General Agreement. This has not been envisaged in the Punta del Este Declaration.
- ° Special attention should be given to a real opening of the markets resulting from the effective rollback of restrictive measures imposed under the MFA together with reductions in the existing levels of tariff protection in the markets of the importing countries. In this context, it should be stressed<sup>3</sup> that the tariff reductions in some of the major developed countries, although in the neighbourhood of the objective established by the Ministers at Montreal, are inadequate for two reasons:
  - First, this is a sector subject to high tariff levels,<sup>4</sup> that is, in this sector the problems of tariff escalation and peaks are widespread;
  - Second, the result of the negotiations on the integration of the sector in GATT will, in any case, entail a transitional clause that would constitute a selective safeguard.
- ° Moreover, the situation of the United States tariff offer in this sector is disappointing, since, apart from offering an insufficient average reduction of 7 per cent, which starts from a high average tariff level, of 18.4 per cent, it is linked to results in the Negotiating Group on Textiles and Clothing.
- ° Some developed importing participants have made results in this area contingent upon acceptance of their proposals in other areas which, in many cases, would weaken the rules and disciplines of the General Agreement such as acceptance of selective safeguards, changes in Article XVIII:B, easing of the relevant disciplines in order to facilitate and broaden the investigations of anti-dumping and subsidies and enforcement of anti-dumping and countervailing measures, among other things.
- ° This is one of the areas in which, as a result of the development of the negotiations in an atmosphere of crisis, there is a risk of arriving at Brussels with an incomplete and unbalanced text that is contrary to the interests of the countries of the region.

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<sup>3</sup> Japan, 29.3 per cent cut; EC, 30.5 per cent cut; Sweden, 32.6 per cent cut; Canada, 36.0 per cent cut; USA, 7 per cent cut.

<sup>4</sup> Pre-Uruguay Round tariff: Sweden, 11.2 per cent; Japan, 11.7 per cent; EC, 10.9 per cent; Canada, 20.5 per cent; USA, 18.4 per cent.

Text incomplete because it presents an outline for the integration of the sector into GATT by stages, where the time frame is unknown and its approach might allow for the integration of a maximum of 45 per cent of total imports at the end of the final stage of the process, leaving 55 per cent of trade to be integrated immediately, at that very time, which lacks credibility. Moreover, in practice, it would give greater possibilities of protection to the importing participants. Text unbalanced because the transitional safeguard proposal contains more flexible disciplines as regards the introduction of restrictions than the MFA itself and, lastly, because the proposed product coverage is very complex and seems to be wider than that of the present MFA, since it includes the whole of Section IX of the Harmonized System, which covers textile raw materials such as natural fibres, raw, processed and unprocessed.

- ° In the rollback of the existing restrictions in international trade in textiles and clothing, the inclusion of measures favouring the developing countries that are small suppliers is particularly important for the region. Furthermore, the rollback process must not lead to the application of restrictions or the imposition of bilateral agreements on developing countries that are not at present parties to the MFA.

#### G. TROPICAL PRODUCTS

- ° As regards tropical products the advances made are far from solving the problems and satisfying the trading interests of the region. The offers by the major developed countries are limited and do not cover all the products of special interest to the region. The priority accorded to tropical products in the Declaration of Punta del Este, which should lead to the fullest liberalization of the conditions of market access, has not been realized, as is demonstrated by the offers of certain developed countries. For example, Japan offers to reduce the tariffs for tropical products from the region by 37 per cent while its offer for the others (all products except agricultural commodities, natural resources, and textiles) is equivalent to a cut of 42 per cent. In the case of the EC, the figures are 38 per cent and 28 per cent respectively. In Canada's case they are 36 per cent and 37 per cent and in Sweden's case 9 per cent and 28.3 per cent. The United States, for its part offers a cut of 69 per cent in this sector, and of 17.8 per cent for the other products. In particular the countries of the region are interested in obtaining an accelerated application of concessions, in view of the priority status for tropical products. Also, the objective agreed upon in Montreal to eliminate the duties on unprocessed products is not fully reflected in the offer.
- ° Moreover, the major developed countries have made their offers contingent upon contributions by countries of the region that are incompatible with the trade, financial and development needs of the latter and out of proportion with the offers themselves.

- ° Some major developed countries have limited the possibilities of achieving positive results still more by making an unacceptable linkage between the negotiations on tropical agricultural products and the agricultural negotiations themselves.

#### H. NATURAL RESOURCE-BASED PRODUCTS

- ° The countries of the region note with concern the lack of progress in this area of great importance for their economies.
- ° Their possibilities of advancing have been impeded by the proposals of the major developed countries to include measures relating both to access and to the management of the supply of natural resources, as well as to extend the Group's coverage to product areas not envisaged in the preparatory process or at the launching of the Uruguay Round.
- ° The countries of Latin America and the Caribbean reaffirm that it is indispensable to achieve concrete results in the area of natural resources and are prepared to give positive consideration to any initiative seeking to reduce and/or eliminate tariffs and non-tariff measures, and to effectively attack tariff progression in the sectors fisheries and fisheries products, non-ferrous metals and minerals.
- ° Furthermore, provision should be made for differential and more favourable treatment for the developing countries.
- ° As regards tariff offers in this area, some are extremely small. In terms of the weighted trade of the region, Sweden offers a cut of 17.5 per cent; Japan of 13.4 per cent; the EC of 9.3 per cent; and the United States of 30.9 per cent, Canada's offer amounts to 49.7 per cent.

### III. RULES OF THE INTERNATIONAL TRADING SYSTEM

#### A. OVERALL ASSESSMENT

The results in these areas must:

- (a) Contribute towards improved market access conditions, and their security and reliability;
- (b) Support and reinforce the multilateral trading system, in particular by:
  - (i) guaranteeing respect for the principle of non-discrimination;
  - (ii) guarding against the establishment of market-sharing arrangements or other types of managed trade;

- (iii) maintaining an efficient and fully effective system for the settlement of disputes based on multilateral due process; and
  - (iv) also ensuring the increased responsiveness of the GATT system to the needs of developing countries by guaranteeing that developed countries' economic policies, including in the monetary and financial fields, are fully consistent with the liberalization and adjustment efforts undertaken by the countries of the region to ensure the success of their economic programmes; in other words, developed countries should not engage in protectionist policies and measures or financial, monetary, or other economic policies which would constitute an obstacle to the structural adjustment efforts of the Latin American and Caribbean countries;
- (c) Conduce to the growth and development of developing countries in each of the areas of negotiation, and strengthen the effective application of differential and more favourable treatment for those countries.

In the negotiations on rule-making areas, some of the major developed countries have put forward proposals that would weaken the multilateral trading system and that run counter to the objectives of the Punta del Este Declaration as well as to the intent and political will that helped to launch the Uruguay Round of Multilateral Trade Negotiations (Safeguards, countervailing measures and anti-dumping). Such proposals are unacceptable to the region because they would have a negative effect on the security, stability and predictability of the conditions of market access, introduce discriminatory elements, seriously disturb the balance of the contracting parties' rights and obligations (Article XVIII:B), and hamper the activities of the economic agents operating at the international level.

#### B. SAFEGUARDS

- ° Although the negotiations have resulted in a Chairman's text that contains a legal structure for an agreement on safeguards, the region is concerned that significant differences still exist over questions bearing on elements that are vital for the multilateral trading system such as those relating to selectivity and the rollback of grey-area measures.
- ° The objectives of the Uruguay Round of Multilateral Trade Negotiations can only be fulfilled through a safeguards agreement that is based strictly on non-discrimination and includes a programme for the elimination of grey-area measures. Any other results would not be acceptable to the countries of the region.



C. ANTI-DUMPING, SUBSIDIES AND COUNTERVAILING MEASURES

1. ANTI-DUMPING AGREEMENT

- ° Wide differences remain in the negotiations and consultations because of two opposing approaches. On the one hand, an approach aimed at multilateralizing practices and instruments that have been incorporated into the national legislation of some of the major developed countries. On the other hand, an approach that seeks stricter disciplines for anti-dumping investigations and duties in order to prevent their abuse and use for protectionist purposes.
- ° This is a key question in the Uruguay Round, given the proliferating use of these measures as well as their use as a surrogate for selective safeguards. In particular, the introduction of such questions as the broadening of the definition of similar products, recurrent anti-dumping treatment, the possibility of establishing more flexible conditions for imposing retroactive and provisional duties, and the adoption of new rules against the so-called circumvention, would, as a corollary, give an exaggeratedly protectionist character to the Agreement and legitimize precisely those practices and instruments that should be prohibited or, where appropriate, disciplined.
- ° The lack of a text with a basis for negotiation seriously jeopardizes the achievement of the aims of the negotiation.

2. SUBSIDIES AND COUNTERVAILING MEASURES

- ° The Chairman's text of 7 November 1990 (MTN.GNG/NG10/23) contains some provisions that are a cause of concern to the region, including:
  - the persistence of an imbalance between stricter disciplines on those measures that could be used by the countries of the region to promote their development and more flexible disciplines on internal subsidies applied by the major developed countries;
  - the attempt to erode differential and more favourable treatment by linking the disciplines on subsidies with commitments by the developing countries to a graded reduction of export subsidies based on per capita GNP and with competitiveness criteria by sector of production. These approaches have no economic rationale and involve the risk of altering an efficient distribution of resources. Moreover, recognition that subsidies are legitimate instruments for the development of developing countries has been lost;

- similarly, the proposals tending to erode the comparative advantages enjoyed by the countries of the region as a result of their natural resource endowment are a special cause for concern.
- ° Successful conclusion of the negotiations in this area require:
  - a strengthened differential and more favourable treatment to be fully applied with respect to subsidies that developing countries grant or maintain as legitimate instruments and an integral part of their development objectives and plans in all sectors;
  - that disciplines on subsidies be fully and integrally applied to all products, including agricultural products.

D. ARTICLES OF THE GENERAL AGREEMENT

- ° The region takes note of the results relating to Articles II:1.b, XVII, XXV:5, XXVIII : bis, and in the Protocol of Provisional Application. As regards Article XXIV, the proposed text, despite certain limitations, could be acceptable as a contribution to the improvement of the disciplines. Its rejection by the EC threatens to obstruct the achievement of any result. The amendment of Article XXXV is a source of concern since it can affect the countries of the region that have not yet acceded to the General Agreement.
- ° It should be noted that the result achieved in relation to Article II.1.b. implies a substantially greater contribution by those countries that have bound the totality of their tariffs and should therefore be given specific recognition.
- ° The region considers that the proposals relating to Article XVIII:B are negative as they would limit the rights of the developing countries, and cannot accept results that would have the effect of modifying the balance of rights and obligations of the contracting parties.

E. TOKYO ROUND AGREEMENTS

1. Agreement on Technical Barriers to Trade

The negotiations have reached the point of achieving positive results in such important areas as the conformity assessment procedures applied by central government institutions; a code of conduct for the elaboration, adoption and application of standards; and the extension of the coverage of the Agreement to production processes and methods that are particularly important for agricultural products.

However, it is important to find a satisfactory solution to some outstanding questions, such as the obligations with respect to the activities of local government bodies, dispute settlement and the relation of the Agreement to the outcome of the negotiations on sanitary and phytosanitary measures.

2. Agreement on Import Licensing Procedures

The negotiations have resulted in a consensus that will reinforce the disciplines in this area by improving transparency and clarifying certain terms.

3. Agreement on Customs Valuation

The result of the negotiations has been a broad consensus on changes that would introduce greater flexibility in their application. Notable among these is the reversal of the burden of proof, which now falls on importers, when the customs authorities have reason to believe that there is over -or under-valuation.

4. Agreement on Government Procurement

No results.

5. General comment

Without prejudice to the foregoing, the issue of the relation between the Tokyo Round Agreements and the GATT remains pending, since there is still a valid concern about the maintenance of a fragmented system with different levels of obligations, which threatens the unity and consistency of the system, as the great majority of contracting parties, both developed and developing, recognize. In order to achieve the objective of strengthening the multilateral trading system, such instruments should, where appropriate, be fully integrated into the General Agreement and made subject to the authority of the CONTRACTING PARTIES.

F. DISPUTE SETTLEMENT

- ° The text of 22 November 1990 has a small number of points still to be settled.
- ° The draft amendments to the mechanism in force are aimed at strengthening it and giving it greater automaticity by considerably reducing the possibilities of impeding it, and including elements intended to counteract unilateralism. It may be assumed that inasmuch as it strengthens the system it will benefit the developing countries by giving them greater guarantees for the protection of their interests. Special and differential treatment for the developing and least-developed countries is provided for in the draft.
- ° The questions still pending include provisions on the requirements for a consensus in the case of certain Council decisions, and the rules on complaints against measures that do not violate the General Agreement.

G. FUNCTIONING OF THE GATT SYSTEM

- ° Agreement has been reached on several points, such as the mechanism for the review of trade policies, the general review of the evolution of the international trading environment, transparency at the national level and notification procedures.
- ° As regards the work on the institutional strengthening of GATT, agreement has also been reached on the need for a ministerial meeting to be held at least every two years to examine the activities and institutional role of GATT in the context of the multilateral trading system.
- ° However, the initiatives on other institutional aspects of GATT, such as a multilateral trade organization and the establishment of a small Group of Ministers are still controversial, and no decisions have been taken in this respect. The countries of the region endorse the proposal to improve decision-making procedures in the GATT system. Consequently, they will not accept any proposal that disregards the interests and weakens or marginalises the representation of the developing contracting parties, and therefore categorically reject the proposal to create a Committee of Ministers composed of a small number of contracting parties.
- ° Concerning GATT's contribution to the achievement of greater coherence in economic policy formulation at the international level, the political declaration must incorporate the linkage between trade, monetary and financial policies, which constitutes one of the fundamental concerns raised by the countries of the region. The results should reflect in a positive manner the interdependence of trade and external debt problems, so as to guarantee that the economic policies of the developed contracting parties, including in the monetary and financial spheres, will be fully coherent with the adjustment and liberalization efforts undertaken by countries of the region to ensure the success of their economic programmes. In no case will results that would lead to or facilitate cross-conditionality be acceptable.

IV. NEW ISSUES

A. TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS, INCLUDING TRADE IN COUNTERFEIT GOODS

- ° The Chairman's text provides for two agreements: one on trade-related aspects of intellectual property rights, including trade in counterfeit goods, and the other on trade in counterfeit and pirated goods.
- ° As regards the first, the Chairman's text takes up pending questions of fundamental importance, notably the structure and international implementation of an eventual agreement; dispute settlement; patents; protection of certain aspects of copyright; geographical

denominations; the protection of undisclosed information; control of abusive and anti-competitive practices; and questions relevant to treatment for the developing countries.

- ° In keeping with their position and interest in safeguarding the multilateral trading system and achieving a successful conclusion to the Uruguay Round, the countries of the region have made a substantial and constructive contribution in the search for a common understanding in this domain. However, the results of the negotiations do not yet reflect the main concerns of the countries of the region as indicated below.

The strengthening of intellectual property rights, through which society confers and protects a monopolistic and exclusive right, must be counter-balanced by stronger protection for the interests of society, including those of the users, such as the public interest; the need for technological development and access to this; and the protection of free and fair competition among national and international markets, among other issues. Consequently, for the final results to be acceptable, provisions should be envisaged that would enable restrictions to be imposed on intellectual property rights in order to protect the higher interests referred to above.

- ° As regards the mechanisms for the observance of intellectual property rights, the rôle and competence of the national legal and administrative systems must be respected. The dispute settlement system must not allow for the possibility of retaliation in the area of trade in goods and the negotiations should take into consideration the work being done by WIPO in this connection.
- ° Geographical denominations or denominations of origin will not be the subject of protection in the territory of a participant when such denominations are considered to be generic within their territory; they have been in use for a long time; or they have become a part of common speech.
- ° International application continues to be one of the most controversial elements. The decision in this respect, especially as regards questions not related to trade, should recognize the competence and guarantee the functions and rôle of the relevant international bodies such as WIPO.

#### B. ASPECTS OF TRADE-RELATED INVESTMENT MEASURES

- ° The negotiations in Geneva concluded on 22 November 1990 without reaching an agreement on a text to serve as a negotiating base in Brussels. It is foreseeable that the Ministers at Brussels will have to take up the following questions:
  - whether a prohibition approach or a case-by-case approach is required;
  - coverage;
  - transition periods;

- restrictive business practices; and
  - the relation between aspects of trade-related investment measures and industrial policy.
- ° The negotiations in this area have revealed a fundamental imbalance since, while the major developed countries are seeking tighter disciplines for investment measures, they take the opposite attitude towards disciplines on trade policy that affect investment policies such as the subsidies they apply, anti-dumping and countervailing measures, quantitative restrictions and other non-tariff measures.
- ° The region considers that an approach designed to correct the negative effects of investment measures on trade based on case-by-case study would fully comply with the objectives established by the Ministers at Punta del Este and would avoid all the destabilizing effects of a prohibition approach.

## V. SERVICES

### A. OVERALL ASSESSMENT

The evaluation of the final results in this area is made as a function of the fundamental interests of the countries of the region, taking into account the essential elements and principles proposed by eleven countries of the region to the Group on Negotiations on Services (doc. MTN.GNS/W/95). Among these elements and principles they highlight unconditional and immediate application of the most-favoured-nation principle; progressive liberalization; relative reciprocity; universal coverage of all traded and tradeable services; a delimitation of trade in services that covers the cross-border movement of services, of consumers, and of factors of production under conditions of specificity of purpose, discreteness of transactions and limited duration; increased participation of developing countries ; commitments on market access that should be expressed as the degree of national treatment among other elements; a positive list approach to such commitments reflected in individual country lists; institutional and legal structures that keep the Framework as an instrument that is clearly separate from the General Agreement; and operational provisions that reflect the development dimension. This proposal constituted a significant effort by and a substantial and constructive contribution from the region to the negotiations on services.

The negotiations have been held at two levels. One relates to the text of the Framework Agreement while the other covers a number of sectors: telecommunications, transport (air, maritime, land), construction and engineering, tourism, audiovisual services, professional services, financial service, insurance, and labour mobility.

The negotiations have suffered a serious setback, mainly owing to the attempt to dilute the most-favoured nation clause to its minimum expression and to make it conditional, as well as the intention to exclude important sectors (shipping, air transport, basic telecommunications, financial services, etc) from the scope of application of the framework. In this respect, any initiative designed to convert this vital question into negotiating elements is unacceptable to the countries of the region, since it would transform the multilateral framework into an international agreement of little value.

The concept of freezing has also been reintroduced, and other countries have gone back on their positions on matters that appeared to have been settled.

The Chairman's text of 22 November 1990 reflects these and other serious divergencies. The backsliding observed is of concern to the countries of the region since, despite these countries' contribution and constructive participation, the latest proposals by the major developed countries envisage a discriminatory and limited instrument which would confine itself to acting as a framework for the negotiation of bilateral sectoral agreements. This approach is not acceptable to the region.

#### VI. DIFFERENTIAL AND MORE FAVOURABLE TREATMENT

In the light of the findings of this evaluation, the countries of the region consider:

##### MARKET ACCESS

- ° In relation to standstill and rollback, the principle has not been observed that, in applying them, "particular care should be given to avoiding disruptive effects on the trade of less-developed contracting parties".
- ° The objective to "bring about further liberalization and expansion of world trade to the benefit of all countries, especially less-developed contracting parties..." has not been fully realized.
- ° Moreover, the demand for full reciprocity put forward by some developed participants violates principle B(v) of the Punta del Este Declaration.
- ° All the tariff concessions in negotiation should be applied immediately to the developing contracting parties in order to compensate in a partial and temporary manner for the erosion of preferential margins under the GSP and other schemes.
- ° As regards non-tariff measures there has been no real improvement in conditions of market access for the products of the countries of the region, thereby violating the objective set out in Section A(i) and the principles of B(i) and (iv) of the Punta del Este Declaration.

- ° The commitments of the Mid-term Decision on credits and recognition in tariff and non-tariff matters have not been implemented.
- ° In agriculture there is no agreed negotiating base. The results achieved should provide for differential and more favourable treatment.
- ° In textiles and clothing, differential and more favourable treatment is advantageous for the developed countries, and the results indicate that the existing system will persist for a long time.
- ° In tropical products, the commitment to the fullest liberalization has not been fulfilled nor has differential and more favourable treatment been applied due to demands for substantial concessions.
- ° In natural resources, no result has been achieved for products of major interest because of the stagnation of the negotiations and the commitment to the fullest liberalization has not been fulfilled.

#### RULES OF THE TRADING SYSTEM

- ° With regard to safeguards, no decision has been taken concerning the proposals for special and differential treatment that have been presented. Moreover, eventual acceptance of selectivity and legitimization of the present grey-area measures would constitute more favourable treatment for the developed participants.
- ° In anti-dumping and countervailing measures, the failure to define such essential questions as cumulation, de minimis, definition of industry and circumvention, among others, is the negation of equitable treatment for the developing contracting parties.
- ° As regards subsidies there is an endeavour to erode differential and more favourable treatment. Moreover, the recognition that subsidies are legitimate instruments for promoting the development of the developing countries disappears.
- ° Concerning the GATT Articles, the proposals on Article XVIII.B are a negation of differential and special treatment.
- ° Such treatment is not provided for in the other Articles.
- ° With regard to the Agreements on Technical Barriers to Trade, Import Licencing Procedures and Customs Valuation, the existing provisions on special and differential treatment have not been substantially altered.
- ° In dispute settlement special and differential treatment is provided for.



° As regards the functioning of the GATT system:

- The time periods for the revisions of trade policies constitute a form of special and more favourable treatment for the developing countries.
- The proposal on a small Group of Ministers would be prejudicial to the participation and representation of the developing countries, in contradiction of special and differential treatment.
- The political declaration on greater coherence in global economic policy-making should recognize the importance of special and differential treatment, particularly in view of the interdependence of trade and external debt problems.

NEW ISSUES

- ° In TRIPs no results have been obtained that reflect special and differential treatment, despite the proposals presented by developing countries.
- ° In TRIMs a similar situation exists as in TRIPs.
- ° In Services, in accordance with the mandate of Punta del Este, the developing countries' approach has not been based on special and differential treatment by means of exemptions but on proposals that would lead to the development dimension becoming one of the main pillars of the Multilateral Framework and fully incorporated into it. This approach has made it possible to accept concepts such as that of "increasing participation", and should form the basis for remedying the significant inadequacies in the present negotiating text.

VII. INTERNATIONAL IMPLEMENTATION OF RESULTS

In accordance with the Declaration of Punta del Este, the international implementation of the results of the multilateral trade negotiations provided for in Parts I and II should be decided by the Ministers, meeting in a Special Session of CONTRACTING PARTIES, once the results of the negotiations have been established in all areas.

These issues cannot be evaluated at the present stage of the negotiations.

In this respect the Latin American and Caribbean countries shall be attentive to the fulfilment of the objectives of the Declaration of Punta del Este and the observance of the rights and obligations of the General Agreement.