

Großmann, Harald

Article — Digitized Version

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Intereconomics

Suggested Citation: Großmann, Harald (1994) : Uruguay Round: All well that ends well?, Intereconomics, ISSN 0020-5346, Nomos Verlagsgesellschaft, Baden-Baden, Vol. 29, Iss. 1, pp. 1-2, <https://doi.org/10.1007/BF02929804>

This Version is available at:

<https://hdl.handle.net/10419/140429>

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Uruguay Round: All Well That Ends Well?

The Uruguay Round of the GATT formally came to an end on 15th December 1993. The Final Act is to be signed in the Moroccan city of Marrakech in mid-April 1994. The fact that the Uruguay Round was brought to a generally successful conclusion is evidence that the GATT members understand the necessity of a multilateral trade regime which undergoes continual improvement. This involves both specific measures toward trade liberalization and the extension and improvement of the body of rules and regulations.

In fact, the limits, deficits and gaps in the "old" GATT could no longer be disregarded. Some of the rules and regulations were simply ignored by trading partners. Thus, for example, instead of non-discriminatory, temporary safeguard measures according to Art. 19 of GATT there was an increasing trend towards bilaterally agreed voluntary export restraints with a strong tendency to permanence which were not covered by GATT. Conflicts between GATT members were often not resolved on the basis of Arts. 22 & 23 of the General Agreement but "out of court" without regard to the trading interests of third countries.

Other GATT regulations were so ambiguous and vague that they left considerable room for protectionist misuse and discrimination. Examples of this are the anti-dumping clauses, the rules on subsidies and countervailing measures and the regulations on customs unions and free trade areas. The indecisiveness of the GATT members was particularly obvious here: scarcely any of the numerous preferential trade agreements violating the most-favoured-nation principle were found to meet fully the requirements of GATT Art. 24, but in no single case was it possible to come to an understanding on recommendations for the modification of the agreement which the countries involved would have had to follow.

Several branches of economic activity were largely exempted from the application of the general GATT provisions either by means of special rules or waivers, or due to the pure arbitrariness of powerful GATT members: agriculture, textiles and clothing, and civil aircraft. The GATT was simply not applicable from the beginning to a number of other sectors, activities and problems of greatly increasing relevance. These "blind spots" in the traditional trade regime included primarily services, international direct investment and cooperation among firms, restrictive business practices, protection of intellectual property rights, links between trade and environment, and possibly also differing social standards.

The GATT was successful in reducing border measures, especially customs duties, but less effective in preventing the re-erection of trade barriers and – above all – in controlling domestic measures relevant to trade such as subsidies, public procurement, norms and standards, regulations and private restraints of competition. In this field at the same time individual GATT members have made considerable progress in a regional framework by means of coordination, harmonization and mutual recognition. Thus, while the GATT was losing competence at the global level, or failing to achieve it, it was being overtaken at the regional level. This coexistence of "GATT minus" and "GATT plus" drew its particular dialectic from the fact that the regional groupings threatened to increase the erosion of the GATT by exporting their integration costs, giving rise to the nightmare of the world's collapsing into rival trading blocs.

The conclusion of the Uruguay Round will certainly not stop the process of regional integration, which is gathering strength worldwide, but it will contribute towards keeping regions and countries open. The new GATT agreement provides for an extensive liberalization of

merchandise trade. Customs duties for industrial products are to be reduced on average by more than a third. International trade in textiles and clothing, which until the end of 1994 is regulated by the Multifibre Arrangement (MFA), is gradually to be subjected to the general GATT rules. All quotas are to be abolished completely within a transitional period of at most ten years. In agriculture, among other things import protection is to be reduced by 36% on average within a space of six years.

The existing GATT articles, regulations and disciplines were subjected to thorough examination. The anti-dumping rules were made more restrictive, and the rules on subsidies and countervailing measures and the regulations regarding customs unions and free trade areas were made more precise. The agreement on safeguards requires that existing "grey area" measures be phased out within four years, but allows each importing member one exception under extraordinary circumstances, which can continue until 1999. At the same time the attractiveness of temporary safeguard measures according to GATT Art. 19 has been increased. In addition to a three-year period of exemption from compensation or retaliation the agreement introduces in particular the possibility of selective protectionist measures against individual countries.

For international trade in services an agreement (GATS) was negotiated for the first time which lays down basic obligations such as most-favoured-nation treatment, national treatment and market access. However, it is recognized that MFN-treatment may not be possible for every service activity. Furthermore, the principle of national treatment does not preclude the different treatment of foreign and domestic service providers. With regard to the opening up of markets in the services sector, few concrete results have been achieved so far. Steps towards liberalization which had originally been aimed at were withdrawn in the audio-visual sector, in financial services and in shipping. Negotiations are still continuing here, as is also the case for market access for goods.

The agreement on trade-related aspects of intellectual property rights (TRIPs), including trade in counterfeit goods, includes provisions which go far beyond previous international agreements. It establishes certain minimum standards of protection for all types of intellectual property: patents, copyrights, trademarks, geographical indications, industrial designs, integrated circuits and trade secrets. Combined with this are regulations concerning the imposing of these standards both internally and at the border.

The GATT, which from an organizational point of view is still provisional, is to be transformed into a world trade organization (WTO), uniting all existing agreements and codes under one roof. WTO members commit themselves in case of dispute to follow the regulations and procedures of the common dispute-settlement system and to bring their laws into line with the multilateral rules. The dispute-settlement system provides for "crossretaliation" (withdrawal of benefits in one sector for violation of rules in another sector). It is aimed in this way to defuse trade conflicts jointly as far as possible and to contain unilateral measures.

The generally successful conclusion of the Uruguay Round should not blind us to the agreement's numerous shortcomings. Firstly, the agreement shows deficits where areas have been left out. This is the case not only for trade in services but also for merchandise trade, where four special agreements (civil aircraft, public procurement, dairy produce, beef) are maintained. And secondly, from the very beginning the Uruguay Round did not have on its agenda the subjects of the creation of international regulations on competition, the politically explosive question of social standards, or trade-related aspects of environmental protection.

Whether it will prove possible in future to contain the misuse of anti-dumping and countervailing measures also appears to be anything but certain. The fact that the safeguard clause has been made more flexible could offer further encouragement for protectionism to come in by the back door. It is also to be feared that domestic measures will increasingly replace border measures. To what extent the WTO will be successful in these and other questions remains to be seen. In the final analysis, the liberalization of world trade requires that all countries realize and accept that the opening up of their markets does not at all mean the sellout of domestic interests.

Harald Großmann